

# 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.<sup>1</sup>

*Final rules:*

- *Final Rule: Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (Regulation V).* In June 2022, the CFPB finalized an amendment to Regulation V, which implements the Fair Credit Reporting Act (FCRA), as mandated by the National Defense Authorization Act for Fiscal Year 2022 to assist consumers who are victims of trafficking in building or rebuilding financial stability and personal independence.<sup>2</sup> The final rule established a method for a victim of trafficking to submit documentation to consumer reporting agencies, including information identifying any adverse item of information about the consumer that resulted from certain types of human trafficking, and prohibited the consumer reporting agencies from furnishing a consumer report containing the adverse item(s) of information.
- *Final Rule: Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination; Public Release of Decisions and Orders.* In November 2022, the CFPB finalized changes to its procedures for establishing supervisory authority based on a risk determination.<sup>3</sup> The changes added a mechanism for the CFPB to make public final decisions and orders in these proceedings.
- *Final Rule: Small Business Lending Under the Equal Credit Opportunity Act (Regulation B).* In March 2023, the CFPB finalized an amendment to Regulation B to

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<sup>1</sup> 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/>.

<sup>2</sup> "Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (Regulation V)," Consumer Financial Protection Bureau, June 23, 2022, [https://files.consumerfinance.gov/f/documents/cfpb\\_fcra-trafficking\\_final-rule\\_2022-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_fcra-trafficking_final-rule_2022-06.pdf).

<sup>3</sup> "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](https://files.consumerfinance.gov/f/documents/cfpb_supervisory-risk-determinations-rule_2022-11.pdf).

implement changes to the Equal Credit Opportunity Act (ECOA), as mandated by section 1071 of the Consumer Financial Protection Act (CFPA).<sup>4</sup> Consistent with section 1071, covered financial institutions are required to collect and report to the CFPB data on applications for credit for small businesses, including those that are owned by women or minorities. The final rule also addresses the CFPB’s approach to shielding certain demographic data from underwriters and other persons; recordkeeping requirements; and enforcement provisions.

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<sup>4</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_1071-final-rule.pdf).

The CFPB released the following significant proposed rules and pre-rule materials:

- *Proposed Rule: Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking.* In April 2022, the CFPB proposed to implement an amendment to the Fair Credit Reporting Act, which would establish a method for a victim of trafficking to submit documentation to consumer reporting agencies, including information identifying any adverse item of information about the consumer that resulted from certain types of human trafficking, and prohibit the consumer reporting agencies from furnishing a consumer report containing the adverse item(s) of information.<sup>5</sup> The CFPB took this action as mandated by the National Defense Authorization Act for Fiscal Year 2022 and to assist consumers who are victims of trafficking in building or rebuilding financial stability and personal independence.
- *SBREFA Outline: Small Business Advisory Review Panel for the Required Rulemaking on Personal Financial Data Rights – Outline of Proposals and Alternatives Under Consideration.* In October 2022, the CFPB outlined options to strengthen consumers’ access to, and control over, their financial data as a first step before issuing a proposed data rights rule that would implement section 1033 of the CFPA.<sup>6</sup>
- *Proposed Rule: Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders.* In December 2022, the CFPB proposed to require certain nonbank covered person entities (with exclusions for insured depository institutions, insured credit unions, related persons, States, certain other entities, and natural persons) that are under certain final public orders obtained or issued by a Federal, State, or local agency in connection with the offering or provision of a consumer financial product or service to report the existence of such orders to a CFPB registry.<sup>7</sup> Pursuant to its authority under the CFPA, the CFPB also proposed to require certain supervised nonbanks to submit annual written statements regarding compliance with each underlying order, signed by an attesting executive who has knowledge of the entity’s

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<sup>5</sup> “Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (Regulation V),” Consumer Financial Protection Bureau, Apr. 7, 2022, [https://files.consumerfinance.gov/f/documents/cfpb\\_consumer-reporting-cases-of-human-trafficking\\_nprm\\_2022-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-cases-of-human-trafficking_nprm_2022-04.pdf).

<sup>6</sup> “Small Business Advisory Review Panel For Required Rulemaking on Personal Financial Data Rights: Outline of Proposals and Alternatives Under Consideration,” Consumer Financial Protection Bureau, Oct. 27, 2022, [https://files.consumerfinance.gov/f/documents/cfpb\\_data-rights-rulemaking-1033-SBREFA\\_outline\\_2022-10.pdf](https://files.consumerfinance.gov/f/documents/cfpb_data-rights-rulemaking-1033-SBREFA_outline_2022-10.pdf).

<sup>7</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_proposed-rule_registry-of-nonbank-covered-persons_2022.pdf).

relevant systems and procedures for achieving compliance and control over the entity's compliance efforts.

- *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 require that nonbanks subject to its supervisory authority, with limited exceptions, register each year in a nonbank registration system established by the CFPB and include information about their use of certain terms and conditions in form contracts for consumer financial products and services that pose risks to consumers.<sup>8</sup> In particular, these nonbanks would be required to register if they use specific terms and conditions defined in the proposed rule that attempt to waive consumers' legal protections, to limit how consumers enforce their rights, or to restrict consumers' ability to file complaints or post reviews. To facilitate public awareness and oversight by other regulators including the States, the CFPB proposed to publish information identifying registrants and their use of these terms and conditions.
- *Proposed Rule: Credit Card Penalty Fees.* In February 2023, the CFPB proposed to amend Regulation Z, which implements the Truth in Lending Act (TILA), to better ensure that the late fees charged on credit card accounts are "reasonable and proportional" to the late payment, as required under the TILA.<sup>9</sup> The CFPB proposed to adjust the safe harbor dollar amount for late fees to \$8 and eliminate a higher safe harbor dollar amount for late fees for subsequent violations of the same type; provide that the current provision that provides for annual inflation adjustments for the safe harbor dollar amounts would not apply to the late fee safe harbor amount; and provide that late fee amounts must not exceed 25 percent of the required payment.

#### *Orders:*

- *Preemption Determination: Truth in Lending; Determination of Effect on State Laws (California, New York, Utah, and Virginia).* In March 2023, the CFPB, after considering

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<sup>8</sup> "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](https://files.consumerfinance.gov/f/documents/cfpb_registry-of-supervised-nonbanks_2023-01.pdf).

<sup>9</sup> "Credit Card Penalty Fees (Regulation Z)," Consumer Financial Protection Bureau, Feb. 1, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_credit-card-penalty-fees-nprm\\_2023-02.pdf](https://files.consumerfinance.gov/f/documents/cfpb_credit-card-penalty-fees-nprm_2023-02.pdf).

public comments, determined that commercial financing disclosure laws in California, New York, Utah, and Virginia are not preempted by TILA.<sup>10</sup>

## 1.2 List of significant initiatives conducted by the CFPB

### 1.2.1 Reports

- *Data Spotlight: Challenges in Rural Banking Access.* In April 2022, the CFPB issued a Data Spotlight on the challenges faced by Americans in rural communities.<sup>11</sup> The report highlights that many of these communities lack access to physical bank branches, are more likely to seek credit from nonbanks, and are heavily affected by medical bills.
- *Complaint Bulletin: Medical Billing and Collection Issues Described in Consumer Complaints.* In April 2022, the CFPB issued a Complaint Bulletin that analyzes consumer complaints submitted to the CFPB.<sup>12</sup> In 2021, the CFPB sent more than 750,000 complaints to approximately 3,400 companies for review and response. The topic of medical debt typically arose in complaints about debt collection and complaints about credit or consumer reporting. In 2021, approximately 15 percent of debt collection complaints were about attempts to collect a medical debt.
- *Fair Lending Annual Report to Congress:* In May 2022, the CFPB published its Annual Fair Lending Report to Congress describing the CFPB’s fair lending activities in enforcement and supervision; guidance and rulemaking; interagency coordination; and outreach and education for calendar year 2021.<sup>13</sup>

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<sup>10</sup> “Truth in Lending; Determination of Effect on State Laws (California, New York, Utah, and Virginia),” Consumer Financial Protection Bureau, Mar. 28, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_truth-in-lending-determination-of-effect-on-state-laws\\_2023-03.pdf](https://files.consumerfinance.gov/f/documents/cfpb_truth-in-lending-determination-of-effect-on-state-laws_2023-03.pdf).

<sup>11</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_data-spotlight_challenges-in-rural-banking_2022-04.pdf).

<sup>12</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin-medical-billing_report_2022-04.pdf).

<sup>13</sup> “Fair Lending Report of the Consumer Financial Protection Bureau,” Consumer Financial Protection Bureau, May 6, 2022, [https://files.consumerfinance.gov/f/documents/cfpb\\_2021-fair-lending\\_report\\_2022-05.pdf](https://files.consumerfinance.gov/f/documents/cfpb_2021-fair-lending_report_2022-05.pdf).



- *Report: Mortgage Servicing Metrics.* In May 2022, the CFPB published a report examining mortgage servicers’ responses to the COVID-19 pandemic.<sup>14</sup> The data, collected across 16 large servicers from May through December 2021, reveal homeowners continue to face significant risks and challenges connected to working with their mortgage servicers. This problem is particularly acute for those borrowers struggling to make their mortgage payments after exiting COVID-19 hardship forbearances.
- *Report: Paid and Low-Balance Medical Collections on Consumer Credit Reports.* In July 2022, the CFPB released a report highlighting how changes announced by the three largest national consumer reporting companies – Experian, Equifax, and TransUnion – will affect people who have allegedly unpaid medical debt on their credit reports.<sup>15</sup> The report found that nearly half of consumers with medical collections appearing on their credit reports will likely continue to have medical collections reported after the changes fully go into effect in 2023.
- *Report: Buy Now, Pay Later: Market Trends and Consumer Impacts.* In September 2022, the CFPB released a report with insights on the Buy Now, Pay Later industry.<sup>16</sup> The report finds that industry grew rapidly during the pandemic, but borrowers may receive uneven disclosures and protections. The five firms surveyed in the report originated 180 million loans totaling over \$24 billion in 2021, a near tenfold increase from 2019.
- *Report: Tenant Background Checks Market Report.* In November 2022, the CFPB released a report about the rental housing landscape and the tenant screening industry, the features of tenant screening reports, the regulatory landscape, and the participants in the tenant screening data ecosystem.<sup>17</sup> The report examines market challenges where longstanding issues have the potential to create or reinforce market distortions and harms for landlords and renters.

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<sup>14</sup> “Mortgage Servicing COVID-19 Pandemic Response Metrics: New Observations from Data Reported by Sixteen Servicers for May-December 2021,” Consumer Financial Protection Bureau, May 16, 2022, [https://files.consumerfinance.gov/f/documents/cfpb\\_mortgage-servicing-covid-19-pandemic-response-metrics\\_report\\_2022-05.pdf](https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-covid-19-pandemic-response-metrics_report_2022-05.pdf).

<sup>15</sup> “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/>.

<sup>16</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_buy-now-pay-later-market-trends-consumer-impacts_report_2022-09.pdf).

<sup>17</sup> “Tenant Background Checks Market Report,” Consumer Financial Protection Bureau, Nov. 1, 2022, [https://files.consumerfinance.gov/f/documents/cfpb\\_tenant-background-checks-market\\_report\\_2022-11.pdf](https://files.consumerfinance.gov/f/documents/cfpb_tenant-background-checks-market_report_2022-11.pdf).

- *Report: Annual Report of Credit and Consumer Reporting Complaints.* In January 2023, the CFPB issued a report, released pursuant to Section 611(e)(5) of the FCRA, summarizing information gathered by the CFPB regarding certain consumer complaints transmitted by the CFPB to the three largest nationwide consumer reporting agencies (NCRAs)—Equifax, Experian, and TransUnion.<sup>18</sup> The CFPB concluded that, in most instances, the NCRAs did not satisfy their FCRA obligations to review certain complaints and to report outcomes to the CFPB. As a result, in 2021, the NCRAs closed complaints faster and with lower rates of reported relief. Reported relief, which typically consists of changes to a consumer’s credit report, fell to less than 2 percent of complaints down from nearly 25 percent of complaints in 2019.
- *Market Snapshot: Trends in Third-Party Debt Collections Tradelines Reporting.* In February 2023, the CFPB released a report that provides an overview of the trends in third-party debt collections tradelines on consumer credit reports from the first quarter of 2018 to the first quarter of 2022.<sup>19</sup>
- *Report: Consumer Use of Buy Now, Pay Later – Insights from the CFPB Making Ends Meet Survey.* In March 2023, the CFPB released a report examining the consumer financial profiles of Buy Now, Pay Later (BNPL) borrowers using the CFPB’s Making Ends Meet survey and its association with credit bureau data.<sup>20</sup> While many BNPL borrowers used the product without any noticeable indications of financial stress, BNPL borrowers were, on average, much more likely to be highly indebted, revolve on their credit cards, have delinquencies in traditional credit products, and use high-interest financial services such as payday, pawn, and overdraft compared to non-BNPL borrowers. BNPL borrowers also had higher credit card utilization rates and lower credit scores compared to non-BNPL borrowers.

## 1.2.2 Guidance

- *Advisory Opinion: Revocations or Unfavorable Changes to the Terms of Existing Credit Arrangements.* In May 2022, the CFPB issued an advisory opinion affirming 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

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<sup>18</sup> “Annual Report of Credit And Consumer Reporting Complaints,” Consumer Financial Protection Bureau, Jan. 3, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_fcra-611-e\\_report\\_2023-01.pdf](https://files.consumerfinance.gov/f/documents/cfpb_fcra-611-e_report_2023-01.pdf).

<sup>19</sup> “Market Snapshot: An Update on Third-Party Debt Collections Tradelines Reporting,” Consumer Financial Protection Bureau, Feb. 14, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_market-snapshot-third-party-debt-collections-tradelines-reporting\\_2023-02.pdf](https://files.consumerfinance.gov/f/documents/cfpb_market-snapshot-third-party-debt-collections-tradelines-reporting_2023-02.pdf).

<sup>20</sup> “Consumer Use of Buy Now, Pay Later: Insights from the CFPB Making Ends Meet Survey,” Consumer Financial Protection Bureau, Mar. 2, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_consumer-use-of-buy-now-pay-later\\_2023-03.pdf](https://files.consumerfinance.gov/f/documents/cfpb_consumer-use-of-buy-now-pay-later_2023-03.pdf).

those who are in the process of applying for credit.<sup>21</sup> This includes the requirement to provide “adverse action notices” to borrowers with existing credit.

- *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.<sup>22</sup> 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 ECOA.<sup>23</sup> 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.
- *Interpretive Rule: The Fair Credit Reporting Act’s Limited Preemption of State Laws.* In June 2022, the CFPB issued an interpretive rule affirming states’ abilities to protect their residents through their own fair credit reporting laws.<sup>24</sup> With limited preemption exceptions, states have the flexibility to preserve fair and competitive credit reporting markets by enacting state-level laws that are stricter than the federal protections in FCRA.
- *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

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<sup>21</sup> “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\\_advisoryopinion\\_2022-05.pdf](https://files.consumerfinance.gov/f/documents/cfpb_revoking-terms-of-existing-credit-arrangement_advisoryopinion_2022-05.pdf).

<sup>22</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_2022-02_circular_2022-05.pdf).

<sup>23</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_2022-03_circular_2022-05.pdf).

<sup>24</sup> “The Fair Credit Reporting Act’s Limited Preemption of State Laws,” Consumer Financial Protection Bureau, June 28, 2022, [https://files.consumerfinance.gov/f/documents/cfpb\\_fcra-preemption\\_interpretive-rule\\_2022-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_fcra-preemption_interpretive-rule_2022-06.pdf).

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.<sup>25</sup> 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 issued an advisory opinion outlining certain obligations of consumer reporting agencies and consumer report users under section 604 of FCRA.<sup>26</sup> The advisory opinion explains that the permissible purposes listed in FCRA section 604(a)(3) are consumer specific, and it affirms that a consumer reporting agency may not provide a consumer report to a user under the FCRA section 604(a)(3) unless it has reason to believe that all of the consumer report information it includes pertains to the consumer who is the subject of the user’s request. The advisory opinion notes that disclaimers will not cure a failure to have a reason to believe that a user has a permissible purpose for a consumer report provided pursuant to the FCRA section 604(a)(3). The advisory opinion also reminds consumer report users that the FCRA section 604(f) strictly prohibits a person who uses or obtains a consumer report from doing so without a permissible purpose.
- *Interpretive Rule: Limited Applicability of the CFPA’s “Time or Space” Exception with Respect to Digital Marketing Providers.* In August 2022, the CFPB issued an interpretive rule clarifying when digital marketing providers for financial firms must comply with federal consumer financial protection law.<sup>27</sup> As laid out in the interpretive rule, 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. Digital marketers acting as service providers can be held liable by the CFPB or other law enforcers for committing unfair, deceptive, or abusive acts or practices as well as other consumer financial protection violations.

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<sup>25</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_convenience-fees_advisory-opinion_2022-06.pdf).

<sup>26</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_fair-credit-reporting_advisory-opinion_2022-07.pdf).

<sup>27</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_time-or-space_interpretive-rule_signed_2022-08.pdf).

- *Consumer Financial Protection Circular 2022-06: Unanticipated Overdraft Fee Assessment Practices.* In October 2022, the CFPB issued a *Circular* stating that overdraft fees assessed by financial institutions on transactions that a consumer would not reasonably anticipate are likely unfair.<sup>28</sup> 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.
- *Bulletin 2022-06: Unfair Returned Deposited Item Fee Assessment Practices.* In October 2022, the CFPB issued a Bulletin warning that blanket policies of charging Returned Deposited Item fees to consumers for all returned transactions regardless of the circumstances or patterns of behavior on the account are likely unfair.<sup>29</sup> The bulletin explained that as a matter of prosecutorial discretion, the CFPB would not intend to seek monetary relief for potential unfair practices regarding these fees assessed prior to November 1, 2023.
- *Advisory Opinion: Facially False Data in Consumer Reports.* In October 2022, the CFPB issued guidance to consumer reporting companies about their obligation to screen for and eliminate obviously false “junk data” from consumers’ credit reports.<sup>30</sup>
- *Consumer Financial Protection Circular 2023-01: Unlawful Negative Option Marketing Practices.* In January 2023, the CFPB issued a *Circular* stating that negative option marketing practices may violate that prohibition where a seller (1) misrepresents or fails to clearly and conspicuously disclose the material terms of a negative option program; (2) fails to obtain consumers’ informed consent; or (3) misleads consumers who want to cancel, erects unreasonable barriers to cancellation, or fails to honor cancellation requests that comply with its promised cancellation procedures.<sup>31</sup>

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<sup>28</sup> “Consumer Financial Protection Circular 2022-06: Unanticipated Overdraft Fee Assessment Practices,” Consumer Financial Protection Bureau, Oct. 26, 2022, [https://files.consumerfinance.gov/f/documents/cfpb\\_unanticipatedoverdraft-fee-assessment-practices\\_circular\\_2022-10.pdf](https://files.consumerfinance.gov/f/documents/cfpb_unanticipatedoverdraft-fee-assessment-practices_circular_2022-10.pdf).

<sup>29</sup> “Bulletin 2022-06: Unfair Returned Deposited item Fee Assessment Practices,” Consumer Financial Protection Bureau, Oct. 26, 2022, [https://files.consumerfinance.gov/f/documents/cfpb\\_returned-deposited-item-fee-assessment-practice\\_compliance-bulletin\\_2022-10.pdf](https://files.consumerfinance.gov/f/documents/cfpb_returned-deposited-item-fee-assessment-practice_compliance-bulletin_2022-10.pdf).

<sup>30</sup> “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](https://files.consumerfinance.gov/f/documents/cfpb_fair-credit-reporting-facially-false-data_advisory-opinion_2022-10.pdf).

<sup>31</sup> “Consumer Financial Protection Circular 2023-1: 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](https://files.consumerfinance.gov/f/documents/cfpb_unlawful-negative-option-marketing-practices-circular_2023-01.pdf).

- *Bulletin 2023-01: Unfair Billing and Collection Practices After Bankruptcy Discharges of Certain Student Loan Debts.* In March 2023, the CFPB issued a bulletin warning student loan servicers of their obligation to halt unlawful conduct with respect to private student loans that have been discharged by bankruptcy courts, including attempting to collect on such discharged loans.<sup>32</sup> The CFPB directed these servicers to return illegally collected payments to affected consumers and cease these unlawful collection tactics.

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

### 1.3.1 Rules and orders

Upcoming Period:

- *Interim Final Rule: Facilitating the LIBOR Transition Consistent with the LIBOR Act (Regulation Z).* In April 2023, the CFPB issued an interim final rule amending Regulation Z to reflect the enactment of the Adjustable Interest Rate (LIBOR) Act (the LIBOR Act or Act) and its implementing regulation promulgated by the Board of Governors of the Federal Reserve System (Board).<sup>33</sup> The interim final rule further addresses the planned cessation of most U.S. Dollar (USD) LIBOR tenors after June 30, 2023, by incorporating the Board-selected benchmark replacement for consumer loans into Regulation Z. The interim final rule conforms the terminology from the LIBOR Act and the Board's implementing regulation into relevant Regulation Z open-end and closed-end credit provisions and also addresses treatment of the 12-month USD LIBOR index and its replacement index, including permitting creditors to use alternative language in change-in-terms notice content requirements for situations where the 12-month tenor of the LIBOR index is being replaced consistent with the LIBOR Act.
- *Proposed Rule: Residential Property Assessed Clean Energy Financing (Regulation Z).* In May 2023, the CFPB proposed rules to prescribe ability-to-repay rules for Property Assessed Clean Energy (PACE) financing and to apply the civil liability provisions of the

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<sup>32</sup> “Bulletin 2023-01: Unfair Billing and Collection Practices After Bankruptcy Discharges of Certain Student Loan Debts,” Consumer Financial Protection Bureau, Mar. 16, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_unfair-billing-collection-bankruptcy-student-loan-debt\\_2023-01.pdf](https://files.consumerfinance.gov/f/documents/cfpb_unfair-billing-collection-bankruptcy-student-loan-debt_2023-01.pdf).

<sup>33</sup> “Facilitating the LIBOR Transition Consistent with the LIBOR Act (Regulation Z),” Consumer Financial Protection Bureau, Apr. 28, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_facilitating-libor-transition-libor-act-regulation-z\\_2023-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_facilitating-libor-transition-libor-act-regulation-z_2023-04.pdf).



TILA for violations.<sup>34</sup> The rulemaking is required by section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). PACE financing is used to cover the costs of home improvements that results in a tax assessment on the real property of the consumer. The CFPB proposed to implement EGRRCPA section 307 and to amend Regulation Z to address how the TILA applies to PACE transactions to account for the unique nature of PACE.

- *Proposed Interagency Rule: Quality Control Standards for Automated Valuation Models.* In June 2023, the CFPB, the Board, FDIC, National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), and Federal Housing Finance Agency (FHFA) (collectively, the agencies) proposed a rule to implement the quality control standards mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) for the use of automated valuation models (AVMs) by mortgage originators and secondary market issuers in determining the collateral worth of a mortgage secured by a consumer's principal dwelling.<sup>35</sup> Under the proposal, the agencies would require institutions that engage in certain credit decisions or securitization determinations to adopt policies, practices, procedures, and control systems to ensure that AVMs used in these transactions to determine the value of mortgage collateral adhere to quality control standards designed to ensure a high level of confidence in the estimates produced by AVMs; protect against the manipulation of data; seek to avoid conflicts of interest; require random sample testing and reviews; and comply with applicable nondiscrimination laws.
- *Proposed Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations.* In June 2023, the CFPB, along with the OCC, FDIC, FRB, and NCUA requested public comment on proposed guidance addressing reconsiderations of value (ROV) for residential real estate transactions.<sup>36</sup> The proposed guidance advises on policies that financial institutions may implement to allow consumers to provide financial institutions with information that may not have been considered during an appraisal or if deficiencies are identified in the original appraisal.

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<sup>34</sup> “Residential Property Assessed Clean Energy Financing (Regulation Z),” Consumer Financial Protection Bureau, May 1, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_residential-property-assessed-clean-energy-financing-regulation-z\\_2023-05.pdf](https://files.consumerfinance.gov/f/documents/cfpb_residential-property-assessed-clean-energy-financing-regulation-z_2023-05.pdf).

<sup>35</sup> “Quality Control Standards for Automated Valuation Models,” Consumer Financial Protection Bureau, June 1, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_automated-valuation-models\\_proposed-rule-request-for-comment\\_2023-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_automated-valuation-models_proposed-rule-request-for-comment_2023-06.pdf).

<sup>36</sup> “Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations,” Consumer Financial Protection Bureau, et al., June 8, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_interagency-guidance-reconsiderations-of-value-of-residential-real-estate\\_2023-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_interagency-guidance-reconsiderations-of-value-of-residential-real-estate_2023-06.pdf).

- *SBREFA Outline: Small Business Advisory Review Panel for Consumer Reporting Rulemaking - Outline of Proposals and Alternatives Under Consideration.* In September 2023, the CFPB outlined proposals and alternatives under consideration for the CFPB’s consumer reporting rulemaking.<sup>37</sup> The CFPB is considering, for example: (1) proposals to regulate many data broker activities as covered under the FCRA, which would prohibit the sale of covered data for purposes other than those authorized under the FCRA; (2) proposals to address the problem of unreliable or unnecessary medical collection tradelines appearing on consumer reports that creditors use in making underwriting decisions; and (3) proposals to address other issues that have arisen in the years since the FCRA’s enactment, or that are areas of particular risk for consumer harm.

### 1.3.2 Other initiatives

#### Upcoming Period:

- *Policy Statement: Abusive Acts or Practices.* In April 2023, the CFPB issued a policy statement that discusses the legal prohibition on abusive conduct in consumer financial markets and summarizes over a decade of precedent.<sup>38</sup>
- *Notice of Availability: Notice of Availability of Revised Methodology for Determining Average Prime Offer Rates.* In April 2023, the CFPB announced the availability of a revised version of its “Methodology for Determining Average Prime Offer Rates,” which describes the data and methodology used to calculate the average prime offer rate (APOR) for purposes of Regulation C and Regulation Z.<sup>39</sup> The methodology statement was revised to address the imminent unavailability of certain data the CFPB previously relied on to calculate APORs as a result of a recent decision by Freddie Mac to make changes to its Primary Mortgage Market Survey® (PMMS). The CFPB identified a suitable alternative source of the relevant data and began relying on those data to calculate APORs on or after April 21, 2023.
- *Advisory Opinion: “Fair Debt Collection Practices Act (Regulation F); Time-Barred Debt.* In April 2023, the CFPB issued an advisory opinion affirming that the Fair Debt Collection Practices Act (FDCPA) and its implementing regulation, Regulation F,

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<sup>37</sup> “Small Business Advisory Review Panel for Consumer Reporting Rulemaking: Outline of Proposals and Alternative Under Consideration,” Consumer Financial Protection Bureau, Sept. 15, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_consumer-reporting-rule-sbrefa\\_outline-of-proposals.pdf](https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-rule-sbrefa_outline-of-proposals.pdf).

<sup>38</sup> “Policy Statement on Abusive Acts or Practices,” Consumer Financial Protection Bureau, Apr. 3, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_policy-statement-of-abusiveness\\_2023-03.pdf](https://files.consumerfinance.gov/f/documents/cfpb_policy-statement-of-abusiveness_2023-03.pdf).

<sup>39</sup> “Methodology for Determining Average Prime Offer Rates,” Consumer Financial Protection Bureau, Apr. 14, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_methodology-for-determining-average-prime-offer-rates\\_2023-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_methodology-for-determining-average-prime-offer-rates_2023-04.pdf).



prohibit a debt collector, as that term is defined in the statute and regulation, from suing or threatening to sue to collect a time-barred debt.<sup>40</sup> Accordingly, an FDCPA debt collector who brings or threatens to bring a State court foreclosure action to collect a time-barred mortgage debt may violate the FDCPA and Regulation F.

- *Report: Medical Credit Cards and Financing Plans.* In May 2023, the CFPB released a report that highlights some of the risks to consumers of using financing products such as medical credit cards and installment loans to pay for medical procedures and services.<sup>41</sup> The report provides a background on these products, highlights potential lack of transparency and financial risks to consumers, analyzes data on deferred interest healthcare credit cards, and offers a summary of the terms for a sample of medical financing products.
- *Joint Statement: CFPB and Federal Partners Statement on Enforcement Efforts Against Discrimination and Bias in Automated Systems.* In May 2023, the CFPB, in conjunction with the Civil Rights Division of the United States Department of Justice (DOJ), the Federal Trade Commission (FTC), and the U.S. Equal Employment Opportunity Commission, released a Joint Statement outlining a commitment to apply their respective laws and regulations to the use of automated systems and innovative new technologies just as they apply to other practices.<sup>42</sup>
- *Issue Spotlight: Medical Billing and Collections Among Older Americans.* In May 2023, the CFPB released an Issue Spotlight from the Office for Older Americans showing that older adults, most of whom have health insurance coverage, are among the millions of Americans who experience problems with reporting and collection of inaccurate medical bills.<sup>43</sup> The Issue Spotlight describes how medical billing practices can lead to inaccurate bills and attempts to collect amounts that are not owed from people 65 and older. It also describes the impact of inaccurate medical bills, including coercive credit reporting on older adults.

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<sup>40</sup> “Fair Debt Collection Practices Act (Regulation F); Time-Barred Debt,” Consumer Financial Protection Bureau, Apr. 26, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_regulation-f-time-barred-debt\\_advisory-opinion\\_2023-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_regulation-f-time-barred-debt_advisory-opinion_2023-04.pdf).

<sup>41</sup> “Medical Credit Cards and Financing Plans,” Consumer Financial Protection Bureau, May 4, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_medical-credit-cards-and-financing-plans\\_2023-05.pdf](https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf).

<sup>42</sup> “Joint Statement on Enforcement Against Discrimination and Bias in Automated Systems,” Consumer Financial Protection Bureau, et al., May 30, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_joint-statement-enforcement-against-discrimination-bias-automated-systems\\_2023-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_joint-statement-enforcement-against-discrimination-bias-automated-systems_2023-04.pdf).

<sup>43</sup> “Issue Spotlight: Medical Billing and Collection Among Older Americans,” Consumer Financial Protection Bureau, May 30, 2023, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/full-report/>.

- *Issue Spotlight: Analysis of Deposit Insurance Coverage on Funds Stored Through Payment Apps.* In June 2023, the CFPB released an Issue Spotlight from the Office of Competition & Innovation and the Office of Markets on digital payment apps heavily used by consumers and businesses.<sup>44</sup> The analysis found that funds stored on these apps may not be safe in the event of financial distress, since the funds may not be held in accounts with federal deposit insurance coverage. The CFPB also issued a related consumer advisory for customers holding funds in these apps, highlighting how consumers can make sure their funds remain safe.
- *Report: Office of Servicemember Affairs 2022 Annual Report.* In June 2023, the CFPB released the Office of Servicemember Affairs’ Annual Report on the top financial concerns facing military families.<sup>45</sup> This report highlights the growth of digital payment app usage in the servicemember community, the unique risks to servicemembers from these services, and the potential for abuse by bad actors.
- *Data Spotlight: Banking and Credit Access in the Southern Region of the U.S.* In June 2023, the CFPB released a Data Spotlight analyzing banking and credit access in the southern region of the United States.<sup>46</sup> The Data Spotlight identifies gaps in credit access, as well as opportunities to increase financial access in the region, particularly branch presence and bank account access, and capital access such as mortgage lending and small business lending. The spotlight analyzes trends in the region as a whole, and differences between rural and non-rural areas.
- *Report: Consumer Finances in Rural Areas of the Southern Region.* In June 2023, the CFPB released a report that takes a broad look at consumer financial profiles in the southern region of the United States compared to other geographies, including credit scores, financial distress, medical debt, and other debt categories.<sup>47</sup> Covering the nearly 48 million people living in Alabama, Arkansas, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, this report provides a starting point in better

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<sup>44</sup> “Issue Spotlight: Analysis of Deposit Insurance Coverage on Funds Stored Through Payment Apps,” Consumer Financial Protection Bureau, June 1 2023, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-analysis-of-deposit-insurance-coverage-on-funds-stored-through-payment-apps/full-report/>.

<sup>45</sup> “Consumer Financial Protection Bureau Report: Office of Servicemember Affairs 2022 Annual Report,” Consumer Financial Protection Bureau, June 20, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_osa-annual-report\\_2022.pdf](https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report_2022.pdf).

<sup>46</sup> “Data Spotlight: Banking and Credit Access in the Southern Region of the U.S.,” Consumer Financial Protection Bureau, June 21, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_ocp-data-spotlight\\_banking-and-credit-access\\_2023-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_ocp-data-spotlight_banking-and-credit-access_2023-06.pdf).

<sup>47</sup> “Consumer Finances in Rural Areas of the Southern Region,” Consumer Financial Protection Bureau, June 21, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_or-data-point\\_consumer-finances-in-rural-south\\_2023-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_or-data-point_consumer-finances-in-rural-south_2023-06.pdf).

understanding the financial situations, needs, and challenges of consumers in rural areas in the southern region.

- *Report: Fair Lending Annual Report to Congress.* In June 2023, the CFPB published its annual Fair Lending Report to Congress describing the CFPB’s fair lending activities in enforcement and supervision; guidance and rulemaking; interagency coordination; and outreach and education for calendar year 2022.<sup>48</sup>
- *Issue Spotlight: Consumer Risks Posed by Employer-Driven Debt.* In July 2023, the CFPB released an Issue Spotlight highlighting the risks employer-driven debt poses to workers.<sup>49</sup> The report highlights the findings from a public inquiry the CFPB conducted in June 2022 seeking data about, and worker experiences with, employer-driven debt. It presents highlights derived from workers’ individual experiences and examines findings based on market-level research on employer-driven debts.
- *Issue Spotlight: Big Tech’s Role in Contactless Payments: Analysis of Mobile Device Operating Systems and Tap-to-Pay Practices.* In September 2023, the CFPB released an Issue Spotlight from the Office of Competition & Innovation and the Office of Markets highlighting the impacts of Big Tech companies’ policies and practices that govern tap-to-pay on mobile devices like smartphones and watches.<sup>50</sup> The Issue spotlight highlights Apple’s current policies that forbid banks and payment apps from accessing the tap-to-pay functionality on Apple iOS devices and impose fees on card issuers for transactions through Apple Pay. The Issue spotlight also examines how restrictions imposed by mobile operating systems can have a significant impact on innovation, consumer choice, and the growth of open and decentralized banking and payments in the U.S.
- *Report: Tuition Payment Plans in Higher Education.* In September 2023, the CFPB released a report finding that students face risk when entering into agreements with colleges to spread the upfront cost of tuition into several, interest-free loan payments.<sup>51</sup> The report looks at tuition payment plans offered by nearly 450 institutions, finding that

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<sup>48</sup> “Fair Lending Report of the Consumer Financial Protection Bureau,” Consumer Financial Protection Bureau, June 29, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_fair-lending-report\\_2023-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_fair-lending-report_2023-06.pdf).

<sup>49</sup> “Issue Spotlight Consumer Risks Posed By Employer Driven Debt,” Consumer Financial Protection Bureau, July 20, 2023, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-consumer-risks-posed-by-employer-driven-debt/full-report/>.

<sup>50</sup> “Big Tech’s Role in Contactless Payments: Analysis of Mobile Device Operating Systems and Tap-to-Pay Practices,” Consumer Financial Protection Bureau, Sept. 7, 2023, <https://www.consumerfinance.gov/data-research/research-reports/big-techs-role-in-contactless-payments-analysis-of-mobile-device-operating-systems-and-tap-to-pay-practices/full-report/>.

<sup>51</sup> “Tuition Payment Plans in Higher Education,” Consumer Financial Protection Bureau, Sept. 14, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_tuition\\_payment\\_plan\\_report\\_2023-09.pdf](https://files.consumerfinance.gov/f/documents/cfpb_tuition_payment_plan_report_2023-09.pdf).

many plans have inconsistent disclosures and confusing repayment terms, putting students at risk of missing payments, incurring late fees, and accumulating debt. The analysis also uncovered that many institutions withhold transcripts from students as a debt collection tool—a potentially illegal practice that can have severe consequences for students trying to begin their careers or finish their education.

- *Consumer Financial Protection Circular 2023-03: Adverse Action Notification Requirements and the Proper Use of the CFPB’s Sample Forms Provided in Regulation B.* In September 2023, the CFPB issued a *Circular* affirming that lenders must use specific and accurate reasons when taking adverse actions against consumers, including when using artificial intelligence and other complex models.<sup>52</sup>

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<sup>52</sup> “Consumer Financial Protection Circular 2023-03: Adverse Action Notification Requirements and the Proper Use of the CFPB’s Sample Forms Provided in Regulation B,” Consumer Financial Protection Bureau, Sept. 19, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_adverse\\_action\\_notice\\_circular\\_2023-09.pdf](https://files.consumerfinance.gov/f/documents/cfpb_adverse_action_notice_circular_2023-09.pdf).

## 2. Complaints

The CFPB has a statutory obligation to collect and monitor consumer complaints.<sup>53</sup> 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 compliance 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 April 1, 2022, through March 31, 2023, the CFPB received approximately 1,346,800 consumer complaints.<sup>54</sup> Consumers submitted approximately 96 percent of these complaints through the CFPB's website and three percent via telephone calls. Referrals from other state and federal agencies accounted for one 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 categorize 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.

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<sup>53</sup> 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).

<sup>54</sup> Complaint data in this report are current as October 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 CFPB's website at: <https://www.consumerfinance.gov/complaint/process>.

**FIGURE 1: COMPLAINT VOLUME BY FINANCIAL PRODUCT OR SERVICE**



The CFPB sent approximately 944,300 of the complaints it received to companies for review and response.<sup>55</sup> Companies responded to approximately 99 percent of complaints referred by the CFPB during the period. Of these, more than 920,000 have been published in the CFPB’s public-facing Consumer Complaint Database.<sup>56</sup> Company responses typically include: descriptions of steps that have been or 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

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<sup>55</sup> The CFPB referred 5 percent of the complaints it received to other regulatory agencies and found 25 percent to be not actionable. Complaints that are not actionable include incomplete submissions, withdrawn complaints, and complaints 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 percent were pending with the CFPB.

<sup>56</sup> See “Consumer Complaint Database,” Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/data-research/consumer-complaints/>. See also Disclosure of Consumer Complaint Narrative Data, 80 FR 15572, Mar. 24, 2015, <https://www.federalregister.gov/documents/2015/03/24/2015-06722/disclosure-of-consumer-complaint-narrative-data>.

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' 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 its "Annual report of consumer and credit reporting complaints: An analysis of complaint responses by Equifax, Experian, TransUnion," which is required by Section 611(e) of the Fair Credit Reporting Act.<sup>57</sup> In March 2022, the CFPB also published the Consumer Response Annual Report, which is required by Section 1013(b)(3)(C) of the Dodd-Frank Act.<sup>58</sup> 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).<sup>59</sup> 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.

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<sup>57</sup> "Annual Report of Consumer and Credit Reporting Complaints: An Analysis of Complaint Responses by Equifax, Experian, TransUnion," Consumer Financial Protection Bureau, Jan. 5, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_fcra-611-e\\_report\\_2022-01.pdf](https://files.consumerfinance.gov/f/documents/cfpb_fcra-611-e_report_2022-01.pdf).

<sup>58</sup> See "Consumer Response Annual Report," Consumer Financial Protection Bureau, Consumer Response Annual Mar. 31, 2022, [https://files.consumerfinance.gov/f/documents/cfpb\\_2021-consumer-response-annual-report\\_2022-03.pdf](https://files.consumerfinance.gov/f/documents/cfpb_2021-consumer-response-annual-report_2022-03.pdf).

<sup>59</sup> See "Consumer Complaint Database," Consumer Financial Protection Bureau, <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 reporting period, which are described below. Public enforcement actions during the reporting period to which the CFPB was a party are also 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 April 1, 2022, through March 31, 2023, which are listed in descending chronological order by filing date.

- *Consumer Financial Protection Bureau v. Portfolio Recovery Associates, LLC* (E.D. Va. No. 2:23-cv-00110). On March 23, 2023, the CFPB filed a complaint and proposed stipulated final judgment and order to resolve the CFPB’s claims against Portfolio Recovery Associates, LLC, one of the largest debt collectors in the United States. On September 9, 2015, the CFPB issued an order against Portfolio Recovery Associates (2015 Order) to address the CFPB’s findings that Portfolio Recovery Associates violated the Consumer Financial Protection Act of 2010 (CFPA) and the Fair Debt Collection Practices Act (FDCPA) in connection with Portfolio Recovery Associates’ debt collection practices. The CFPB alleges that Portfolio Recovery Associates violated the 2015 Order, the CFPA, the FDCPA, and the Fair Credit Reporting Act (FCRA) and its implementing Regulation V. Specifically, the CFPB alleges that Portfolio Recovery Associates violated the CFPA and, in some instances, the FDCPA, when it violated multiple conduct provisions from the 2015 Order, including prohibitions on (1) representing the amount or validity of unsubstantiated debt; (2) collecting on debt without offering to provide necessary documentation to consumers; (3) misrepresenting that it would provide the offered documents within thirty days; (4) collecting on time-barred debt without making required disclosures; (5) initiating debt collection lawsuits without possessing required



documentation; and (6) suing to collect time-barred debt. The CFPB also alleges that several of Portfolio Recovery Associates' practices for resolving disputes about information it furnished to consumer reporting agencies (CRAs) violated FCRA, Regulation V, and the CFPA. Specifically, the CFPB claims that Portfolio Recovery Associates failed to (1) timely resolve disputes submitted by consumers directly to Portfolio Recovery Associates; (2) properly respond to disputes that Portfolio Recovery Associates deemed frivolous; (3) conduct reasonable investigations of consumer's disputes; and (4) maintain reasonable policies and procedures regarding the accuracy and integrity of consumer information that it furnished to CRAs. The CFPB alleges that Portfolio Recovery Associates illegally collected millions of dollars through its unlawful conduct, and that its illegal dispute resolution practices impacted at least tens of thousands of consumers. The proposed order would require Portfolio Recovery Associates to pay at least \$12.18 million in redress to harmed consumers and a \$12 million civil money penalty. It would also impose broad injunctive relief designed to prevent Portfolio Recovery Associates from violating the law in the future. As of the end of the reporting period, the case remained pending.<sup>60</sup>

- *In the Matter of RMK Financial Corp. d/b/a Majestic Home Loan or MHL (2023-CFPB-0002) (not a credit union or depository institution).* On February 27, 2023, the CFPB issued an order against RMK Financial Corp. (RMK), a California-based mortgage lender that also does business under the name Majestic Home Loans. RMK, which is licensed as a mortgage broker or lender in at least 30 states, originates consumer mortgages, including mortgages guaranteed by the Department of Veterans Affairs (VA) and mortgages insured by the Federal Housing Administration (FHA). The CFPB previously issued an order against RMK on April 8, 2015 (2015 Order). The CFPB's 2015 Order was based on the CFPB's finding that RMK disseminated numerous advertisements for mortgages that contained deceptive representations in violation of the CFPA and the Mortgage Acts and Practices – Advertising Rule (Regulation N) or failed to include required disclosures in violation of the Truth in Lending Act (TILA) and its implementing regulation, Regulation Z. These included advertisements that RMK sent to U.S. military servicemembers and veterans that used the names and logos of the VA and FHA in a way that falsely implied that the advertisements were sent by the VA or FHA and advertisements that misrepresented the loan's terms. The 2015 Order required RMK to abide by a series of prohibitions against the types of misrepresentations and other violations the CFPB found in the 2015 Order. The CFPB found that, after the 2015 Consent Order went into effect, RMK disseminated millions of mortgage advertisements

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<sup>60</sup> 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/portfolio-recovery-associates-llc/>.

that made deceptive representations or contained inadequate or impermissible disclosures in violation of the 2015 Order, as well as the CFPA, Regulation N, and Regulation Z. These included, for example, advertisements that misrepresented that RMK was the VA or the FHA or that RMK was affiliated with the VA or the FHA, advertisements that misrepresented they were sent by the VA or FHA, advertisements that misrepresented that benefits available to those who qualified for VA or FHA loans were time limited, and advertisements that misrepresented the amount of the monthly payments for the advertised loan. Many of these advertisements reflected the same types of deceptive and other unlawful advertising practices that were the subject of the CFPB's findings in the 2015 Order and expressly prohibited by the 2015 Order. This order permanently bans RMK from the mortgage lending business by permanently prohibiting RMK from engaging in any mortgage lending activities, including advertising, marketing, promoting, offering, providing, originating, administering, servicing, or selling mortgage loans, or otherwise participating in or receiving remuneration from mortgage lending, or assisting others in doing so. The order also requires RMK to pay a \$1 million civil money penalty.

- *In the Matter of TMX Finance LLC (2023-CFPB-0001) (not a credit union or depository institution)*. On February 23, 2023, the CFPB issued an order against TitleMax's TMX Finance LLC, which extends consumer loans that are secured by the title to the borrower's car. The Military Lending Act (MLA) contains a number of protections for active-duty servicemembers, their spouses, children, and other dependents, defined as "covered borrowers." Among other protections, the MLA prohibits nonbank creditors from using vehicle titles to secure loans to covered borrowers. The CFPB found that TitleMax violated the MLA by extending thousands of title loans to covered borrowers; extending loans that exceeded the MLA's 36 percent Military Annual Percentage Rate (MAPR) cap; failing to make disclosures required under the MLA; extending loans to covered borrowers with MLA-prohibited arbitration clauses; and extending loans to covered borrowers with onerous notice requirements. The CFPB also found that TitleMax engaged in unfair acts or practices in violation of the CFPA by charging borrowers for an insurance product that provided no coverage on over 15,000 loans. The CFPB further found that in doing so, TitleMax understated the finance charges and annual percentage rates of those loans, violating TILA and the CFPA. The order requires TitleMax to stop its unlawful activities, pay \$5,050,000 in consumer redress, and pay a \$10,000,000 penalty.
- *Consumer Financial Protection Bureau and the People of the State of New York, by Letitia James, the Attorney General of the State of New York v. Credit Acceptance Corporation (S.D.N.Y. No. 1:23-cv-00038)*. On January 4, 2023, the CFPB and New

York Attorney General Letitia James filed a joint lawsuit against Credit Acceptance Corporation, an indirect auto lender that funds and services car loans for subprime and deep-subprime consumers. Credit Acceptance is one of the country's largest publicly traded auto lenders, doing business with a network of more than 12,000 affiliated used-car dealers. The joint complaint alleges that Credit Acceptance pushes dealers to sell cars with hidden interest costs and surreptitiously include expensive add-on products with vehicle sales. The complaint further alleges that Credit Acceptance applies complicated algorithms to predict how much it is likely to collect from borrowers to determine how much to offer dealers for each loan, resulting in high-cost loans – with annual percentage rates often exceeding state usury caps – made without regard for borrowers' ability to repay, while still yielding profits for Credit Acceptance. A significant number of Credit Acceptance's most credit-constrained borrowers become delinquent on their loans within the first year, and many also lose their cars to repossession and auction or suffer other negative effects from the loans. The joint complaint alleges that Credit Acceptance is engaging in deceptive acts or practices in violation of the CFPB by misrepresenting key loan terms, including the true principal, finance charge, and APR. The joint complaint further alleges that Credit Acceptance is engaging in abusive acts or practices by taking unreasonable advantage of consumers' lack of understanding of the risk of default and the severity of the consequences associated with its loans, and taking unreasonable advantage of consumers' inability to protect their interests in selecting or using Credit Acceptance's loans. The joint complaint also alleges that Credit Acceptance substantially assists dealers in the deceptive sale of add-on products. The complaint seeks permanent injunctive relief, damages, and civil money penalties. As of the end of the reporting period, the case remains pending.

- *In the Matter of Servicio UniTeller, Inc. (2022-CFPB-0012) (not a credit union or depository institution)*. On December 22, 2022, the CFPB issued an order against Servicio UniTeller, Inc. (UniTeller), a nonbank remittance transfer provider headquartered in Rochelle Park, New Jersey. UniTeller offers and provides to consumers international money transfer services, known as remittance transfers, in 48 states and the District of Columbia and has more than 200,000 payment locations in more than 70 countries. The CFPB found that since 2013, UniTeller has engaged in wide-ranging failures to comply with the Electronic Fund Transfer Act (EFTA) and its implementing Regulation E, including Subpart B, known as the Remittance Transfer Rule. These include failures to: (1) provide tax and fee refunds when required to remedy errors; (2) accurately inform senders of cancellation rights; (3) accurately disclose the date funds would be available; (4) accurately characterize key terms; (5) use required minimum font sizes; (6) develop and maintain compliant written error resolution policies and procedures; and (7) retain evidence showing its compliance with the

Remittance Transfer Rule and EFTA. These violations also constitute violations of the CFPB. The order requires UniTeller to provide approximately \$30,000 in redress to consumers harmed by UniTeller's failures to provide timely remittance-transfer funds and to pay a civil money penalty of \$700,000. UniTeller must also take measures to ensure future compliance.

- *In the Matter of Wells Fargo Bank, N.A. (2022-CFPB-0011)*. On December 20, 2022, the CFPB issued an order against Wells Fargo Bank, N.A., which is a national bank headquartered in Sioux Falls, South Dakota. Wells Fargo is the third largest bank in the United States, with nearly \$1.8 trillion in assets, and the largest provider of consumer financial products. The CFPB identified multiple violations across several of the bank's largest consumer product lines, which led to billions of dollars in financial harm and, in thousands of cases, the loss of customers' vehicles and homes. Specifically, with respect to auto loan servicing Wells Fargo engaged in unfair acts and practices in violation of the CFPB by incorrectly applying consumer payments; charging borrowers incorrect fees, interest, or other amounts; wrongly repossessing borrowers' vehicles; and failing to ensure consumers who had paid certain fees upfront to automobile dealers received refunds when the loan ended early. Wells Fargo also engaged in unfair practices by improperly denying mortgage loan modifications, miscalculating fees and other charges, and assessing unwarranted charges and fees. With respect to deposit accounts, Wells Fargo: unfairly froze consumer accounts in instances of suspected fraud based largely on an automated fraud filter when lesser restraints were available; made deceptive claims as to the availability of waivers of monthly service fees; and unfairly charged overdraft fees even if the consumer had enough funds available in their account to cover the amount of the transaction at the time they made it. The order requires Wells Fargo to come into compliance with federal consumer financial law, pay more than \$2 billion in consumer redress, and to pay a \$1.7 billion penalty.
- *In the Matter of Carrington Mortgage Services, LLC (2022-CFPB-0010) (not a credit union or depository institution)*. On November 17, 2022, the CFPB issued an order against Carrington Mortgage Services, LLC, a California-based mortgage servicer operating in all fifty states. Carrington services a large number of federally backed mortgage loans, which are made or guaranteed by federal agencies or government-sponsored entities (GSEs). In 2020, Congress passed the CARES Act, which provided borrowers with federally backed mortgage loans who were experiencing financial hardship during the COVID-19 emergency with certain assistance, including forbearances of up to 180-days each upon request and protections for credit reporting. The federal agencies and GSEs also issued guidelines to their servicers relating to assistance to borrowers during the pandemic. The CFPB found that Carrington failed to

implement a number of those protections through misrepresentations to consumers, including by: representing that borrowers could not have 180 days of forbearance on request or that certain borrowers could not have forbearance at all; representing that consumers had to make more detailed attestations than were actually required by law; representing that late fees for amounts in forbearance would be charged when they were not permitted; and providing incorrect or confusing information about forbearance and repayment options. The CFPB also found that Carrington did not accurately report the status of borrowers on forbearance to CRAs and failed to maintain and update its written policies and procedures relating to furnishing to CRAs in connection with the CARES Act. As a result, the CFPB determined that Carrington violated the CFPA's prohibition on deceptive conduct, as well as certain provisions of FCRA and its implementing regulation, Regulation V. The order requires Carrington to, among other things, conduct an audit to ensure any improperly charged late fees have been refunded to consumers, and if not, to refund them; to assess customer service staffing and provide training relating to applicable CARES Act and agency and GSE guidelines; to establish policies and procedures to prevent the issues from recurring; and to pay a civil money penalty of \$5.25 million.

- *Consumer Financial Protection Bureau v. ACTIVE Network, LLC (E.D. Tex. No. 4:22-cv-00898)*. On October 18, 2022, the CFPB filed a lawsuit against ACTIVE Network, LLC, a payment processor owned by Global Payments, Inc., with its headquarters in Plano, Texas. ACTIVE provides enrollment and payment processing services to organizers of charity races, youth camps, and other events. The CFPB alleges that ACTIVE engaged in deceptive and abusive acts and practices in violation of the CFPA by enrolling consumers in and charging them for discount club memberships without their knowledge, consent, or a full understanding of the material terms of the transaction. ACTIVE does this by inserting a webpage into the online event registration and payment process that provides an offer for a free trial enrollment in a discount club membership called "Active Advantage." Many consumers click on the highlighted call to action button – which is typically labeled "Accept" – because they believe that by doing so, they are accepting charges to participate in an event. Instead, consumers are enrolling in a trial membership in Active Advantage, which automatically converts to a paid subscription with an annual fee, unless consumers opt out by canceling their membership within 30 days. The CFPB also alleges that ACTIVE violated EFTA and Regulation E when it increased consumers' membership fees without sending the consumer written notice of the new amount and the date of the new payment at least 10 days before initiating the new payment. The violations of EFTA and Regulation E also constitute violations of the CFPA. The CFPB seeks redress to consumers, disgorgement, appropriate injunctive relief, and the imposition of civil money penalties. On November 29, 2022, the court

stayed the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22448. As of the end of the reporting period, the case remains pending.

- *In the matter of Choice Money Transfer, Inc. d/b/a Small World Money Transfer (2022-CFPB-0009) (not a credit union or depository institution).* On October 4, 2022, the CFPB issued an order against Choice Money Transfer, Inc., which does business as Small World Money Transfer (Choice Money). Choice Money is a nonbank remittance transfer provider incorporated in New York and headquartered in New Jersey which offers remittances in at least 27 states and the District of Columbia. It provides remittances to over 90 countries worldwide through a nationwide network of over 2,000 agents and handles more than 500,000 transactions each month. The CFPB found that since the 2013 effective date of the Remittance Transfer Rule, Choice Money engaged in practices that violated numerous provisions of EFTA and its implementing Regulation E, including the Remittance Transfer Rule. Specifically, the CFPB found that Choice Money failed to comply with a wide range of disclosure requirements set out in EFTA and the Remittance Transfer Rule. Choice Money failed to disclose accurately certain required information, including when funds would be available to recipients, exchange rates, and transfer fees. Its disclosures also failed to use proper terms, to adequately disclose other key terms, to clearly and conspicuously disclose the exchange rate, and to provide disclosures in both English and Spanish as required by the Remittance Transfer Rule. Choice Money also failed to refund fees after senders properly submitted error resolution requests; failed to obtain consumer consent prior to providing receipts in electronic form on its mobile application and website platforms; failed to develop and maintain required policies and procedures for error resolution and to retain evidence demonstrating that it complied with error resolution requirements; and included in its disclosures an improper waiver of consumer rights under EFTA. These violations also constituted violations of the CFPA. The consent order requires Choice Money to come into compliance and to pay a civil money penalty of \$950,000.
  
- *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 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 CFPB 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. On January 10, 2023, the defendants moved to dismiss the complaint. As of the end of the reporting period, 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 CFPA 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 \$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, 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 prohibits 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 TILA, the 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 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; unwanted accounts; 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 Equal Credit Opportunity Act (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 CRAs 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 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 CFPB 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. On December 5, 2022, the court stayed the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22448. As of the end of the reporting period, 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 CFPB. 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 CFPA 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 CFPA. 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, 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. On December 12, 2022, the court stayed the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22448. As of the end of the reporting period, 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](http://annualcreditreport.com), a website intended to provide consumers access to free credit reports, undermined the purpose of 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 motions to dismiss on July 8, 2022, which the court denied on November 18, 2022. In addition, on December 19, 2022, defendant Danaher filed a motion for the court to certify for interlocutory appeal the question of whether an individual who was not named in a consent order can be liable for violating it; on January 24, 2023, the CFPB moved to amend the complaint to allege a substantial assistance claim against Danaher; and on February 28, 2023, the defendants filed a motion to stay the case. Decisions on these motions remained pending as of the end of the reporting period. As of the end of the reporting period, the case remains pending.

- *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, which remained pending as of the end of the reporting period. As of the end of the reporting period, the case remains 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. On June 21, 2022, the CFPB filed an amended complaint naming additional FirstCash subsidiaries as defendants. On October 24, 2022, FirstCash and the FirstCash subsidiaries filed a motion for judgment on the pleadings. On November 4, 2022, the court stayed the case, pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22448. As of the end of the reporting period, the case remains pending.

- *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 CFPA. 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. On January 3, 2023, the court stayed the case pending the Ninth Circuit's decision in *CFPB v. Nationwide Biweekly Admin., Inc.*, Nos. 18-15431, 18-15887. On February 13, 2023 and March 29, 2023, the court continued the stay until the Supreme Court decides *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22448. As of the end of the reporting period, the case remains pending.
- *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-00537). 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. As of the end of the reporting period, 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. Defendants filed a motion to dismiss and a motion to stay pending the Supreme Court's decision in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22448 (U.S. cert. granted Feb. 27, 2023); on March 6, 2023, the court continued the motion to dismiss

and granted the motion to stay. As of the end of the reporting period, 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' 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. On February 7, 2023, the magistrate judge ordered defendants to show cause why the district court should not sanction them—including through entrance of default judgment—for various violations of court orders. As of the end of the reporting period, 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 1<sup>st</sup> 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. On March 13, 2023, the parties filed a joint stipulation dismissing certain counts and all claims against defendant Socrates Aramburu, which the court docketed on March 14, 2023. As of the end of the reporting period, the case remains pending against the remaining defendants.

- *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. As of the end of the reporting period, the case remains pending against Tucci.
  
- *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 CFPA; 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 the CFPA 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 Sturmer* (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 Sturmer, 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, which the court granted on February 3, 2023. The CFPB filed a notice of appeal on April 3, 2023; oral argument is scheduled for December 8. As of the end of the reporting period, the appeal and case remain pending.

- *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 CFPA’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. On December 9, 2022, the court entered a stipulated final judgment and order which requires defendants to pay a civil money penalty of \$391,530, of which \$241,530 will be remitted because of defendants’ satisfaction of their obligation to pay that amount in penalties to the Securities and Exchange Commission for related conduct in *SEC v. Radjabli et al.*, 2:21-cv-01761. The order also requires redress to consumers in the form of a refund of all the deposits made with defendants, including all interest due to consumers under the advertised terms of the purchased financial products and services. Defendants have represented to the CFPB that they have already satisfied the obligation to provide redress because they already refunded the full amount received from consumers, plus all interest due to consumers under the terms advertised. The CFPB estimates the redress amount to be approximately \$19 million, but an exact calculation has not yet been completed. The order also permanently bans the defendants from engaging or assisting others in any deposit-taking activities.
  
- *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. On February 17, 2023, the defendants filed a motion for judgment on the pleadings, and on March 22, 2023, they filed a motion to stay the case. Those motions remained pending as of the end of the reporting period. As of the end of the reporting period, 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, as well as TILA, the TISA, and their 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 January 25, 2023, Fifth Third filed a motion for judgment on the pleadings. The motion remained pending as of the end of the reporting period. As of the end of the reporting period, the case remains 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. As of the end of the reporting period, the case remained pending.<sup>61</sup>

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<sup>61</sup> 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/citizens-bank/>.



*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 CFPA 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. On December 27, 2022, the Ninth Circuit affirmed the district court’s grant of summary judgment and award of restitution, civil penalties, and injunctive relief to the CFPB. Defendant Nesheiwat filed a petition for en banc review, which the Ninth Circuit denied on February 23, 2023.

- *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 along with the states of Minnesota, North Carolina, and California 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. The preliminary injunction order prohibited defendants from collecting illegal advance fees and engaging in deception, and extended a receivership and asset freeze that was imposed by the temporary restraining order. 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 (1<sup>st</sup> Generation) and Infinite Management Corp (Infinite Management). The order imposes a judgment of \$3,984,779.28 and \$2,049,189.07 against 1<sup>st</sup> 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. On January 30, 2023, the CFPB filed a motion for summary judgment as to its claims against Kaine Wen. As of the end of the reporting period, that motion remained pending against Wen.; additionally, claims against relief defendant Anan Enterprise, Inc. remained stayed pending the outcome of a bankruptcy adversary action filed in the Southern District of Florida.<sup>62</sup> As of the end of the reporting period, the case remains pending.

- *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 suit against PGX Holdings, Inc. and its subsidiaries, Progrexion Marketing, Inc., Progrexion Teleservices, Inc.,

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<sup>62</sup> 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/premier-student-loan-center-et-al/>.

CreditRepair.com, Inc., and eFolks, LLC (collectively, Progrexion) and against John C. Heath, Attorney at Law PC, which does business as Lexington Law. Progrexion and Lexington Law offer and provide credit repair services through the brands Lexington Law and CreditRepair.com, which are two of the largest credit repair companies in the country. The Telemarketing Sales Rule (TSR) requires that fees for telemarketed credit repair services may only be sought and received after the credit repair company provides the consumer with documentation in the form of a consumer report reflecting that the promised results were achieved, such report having been issued more than six months after the results were achieved. As alleged in the amended complaint filed on August 17, 2022, Progrexion and Lexington Law violated the TSR by requesting and receiving prohibited upfront fees for their credit repair services. The CFPB also alleged that Progrexion and its subsidiaries violated the TSR and the Consumer Financial Protection Act of 2010 by making deceptive representations, or by substantially assisting others in doing so, to entice consumers into purchasing credit repair services. On March 10, 2023, the district court ruled that defendants violated the TSR's prohibition on upfront fees and [granted the CFPB partial summary judgment](#) against the defendants. As of the end of the reporting period, the case remained pending.<sup>63</sup>

- *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. As of the end of the reporting period, 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

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<sup>63</sup> 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/pgx-holdings-inc/>.

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. As of the end of the reporting period, 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. As of the end of the reporting period, the case remained pending.<sup>64</sup>

- *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. As set forth in the July 14, 2022, amended complaint, 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. 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 November 28, 2022, the district court entered a stipulated judgement, providing over \$600,000 in debt relief for harmed consumers; injunctive relief barring the defendants from doing business with potential recipients of governmentally created 9/11 victim-compensation funds; and a civil money penalty of \$1.
- *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

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<sup>64</sup> 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/ocwen-financial-corporation-ocwen-mortgage-servicing-inc-and-ocwen-loan-servicing-llc/>.



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. As of the end of the reporting period, 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 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 CFPA 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. On November 10, 2022, the court entered a final settlement order, which requires Gray to pay a civil money penalty of \$899,350, of which \$889,350 was remitted due to a penalty of that amount being paid to the Mississippi Department of Banking and Consumer Finance. The settlement also prohibits Gray from reinstating the corporate defendants, which were dissolved on December 10, 2018.
- *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 September 15, 2022, the Tenth Circuit affirmed the Director's order, and on September 29, 2022, the defendants petitioned for rehearing *en banc*, which the Tenth Circuit denied on November 11, 2022. On March 6, 2023, defendant Integrity Advance petitioned the Supreme Court for writ of certiorari. As of the end of the reporting period, the petition 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. On December 13, 2022, the Ninth Circuit affirmed the district court’s decision in its entirety. On February 27, 2023, Aria filed a petition for rehearing or rehearing *en banc*. As of the end of the reporting period, Aria’s petition and the case remained pending.<sup>65</sup>

- *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 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 CFPB 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. The court denied defendants’ post-trial motions on March 12, 2018, and both parties filed notices of appeal. On January 27, 2023, the United States Court of Appeals for the Ninth Circuit issued a decision vacating the district court’s September 8, 2017, order and remanding the case to the district court to consider several issues raised on appeal. The Ninth Circuit’s decision did not include a ruling on the merits of the parties’ respective appeals. As of the end of the reporting period, the case remains pending.

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<sup>65</sup> 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/>.

- *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 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. As of the end of the reporting period, the CFPB’s appeal and the case remained pending.<sup>66</sup>

- *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

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<sup>66</sup> 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/><https://www.consumerfinance.gov/enforcement/actions/lrs-litigation-services/>.

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. As of the end of the reporting period, 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 CFPB'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 uncollectible. 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. On February 10, 2023, the district court issued an order awarding the CFPB a \$33,276,264 civil money penalty and \$134,058,600 in restitution. On March 16, 2023, CashCall appealed the district court's final judgment. As of the end of the reporting period, the case remains pending on appeal.

## 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

All public enforcement actions are listed in Section 3.1.1 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.



# 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 October 1, 2022, through March 31, 2023 reporting period.

- *Consumer Financial Protection Bureau and the People of the State of New York, by Letitia James, the Attorney General of the State of New York v. Credit Acceptance Corporation* (S.D.N.Y. No. 1:23-cv-00038). On January 4, 2023, the CFPB and New York Attorney General Letitia James filed a joint lawsuit against Credit Acceptance Corporation, an indirect auto lender that funds and services car loans for subprime and deep-subprime consumers. *See supra* Section 3.1.1 for a full description.
- *State of Tennessee ex rel. Jonathan Skrmetti, et al. vs. Ideal Horizon Benefits, LLC d/b/a Solar Titan USA, LLC, Craig Kelley, Richard Atnip, and Sarah Kirkland, and Solar Mosaic, LLC, Defendants, and Solar Titan Charters, LLC d/b/a Titan Charters* (E.D. Tenn. 3:23-cv-46). On February 6, 2023, the attorneys general of Tennessee and Kentucky filed suit against Solar Titan, its principals and Solar Mosaic, the company that provided financing to consumers for the purchase and installation of solar systems. The states allege that defendants made numerous misrepresentations in connection with the sale and financing of solar systems and that these practices violated the CFPB’s prohibitions against unfair, abusive, and deceptive practices, as well as the states’ own consumer protection statutes. The attorneys general have also alleged that defendants’ have violated TILA’s disclosure and rescission requirements. As of the end of the reporting period, the case remains pending.

- *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., nonbank remittance transfer providers. *See supra* Section 3.1.1 for a full description.
- *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. *See supra* Section 3.1.1 for a full description.
- *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 the CFPB's prohibition against deceptive practices. 12 U.S.C. § 5536(a)(1)(B). As of the end of the reporting period, the administrative action remained 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 CFPB 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 CFPB; (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 TILA 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. As of the end of the reporting period, the case remains pending.

- *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. *See supra* Section 3.1.1 for a full description.

# 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 11 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.

With respect to supervisory communications issued by the Office of Supervision during the reporting period, the issues most frequently identified related to the CFPB's review of mortgage lenders discriminating when granting pricing exceptions across a range of ECOA-protected characteristics.

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.<sup>67</sup> During this reporting period, the CFPB referred seven matters regarding a pattern or practice of lending discrimination to the Department of Justice pursuant to Section 706(g) of ECOA.

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<sup>67</sup> See 15 U.S.C. § 1691e(g).

## Fair lending rulemaking

On March 30, 2023, the CFPB finalized the Small Business Lending rule, as required by Section 1071 of the CFPA. This required data collection will increase transparency in small business lending, promote economic development, and combat unlawful discrimination. *See supra* Section 1.1 of this report for more information on this rule.

## 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), FDIC, FRB, NCUA, OCC, DOJ, and 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 oversight of state appraiser and appraisal management company regulatory programs, and a monitoring framework for the Appraisal Foundation. CFPB Deputy Director Zixta Martinez currently serves as the chair of the ASC. Through the ASC, the CFPB addresses topics including discriminatory bias in home appraisals. In January 2023, the CFPB hosted the first-ever public hearing of the ASC. The hearing, which featured a panel of expert witnesses, focused on the scope and impact of appraisal bias.<sup>68</sup> Based on witness statements and public comments received following the hearing, the ASC will hold additional hearings to continue to its work to address appraisal bias.

In February 2023, senior officials from the CFPB, DOJ, and several other federal government agencies submitted a joint letter to The Appraisal Foundation (TAF)—the private,

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<sup>68</sup> See “Archive of Past Events: Appraisal Subcommittee Hearing on Appraisal Bias,” Consumer Financial Protection Bureau, Jan. 24, 2023, <https://www.consumerfinance.gov/about-us/events/archive-past-events/appraisal-subcommittee-hearing-on-appraisal-bias/>.

nongovernmental organization that sets appraisal standards—expressing concerns about a draft Ethics Rule. The letter urged TAF to revise the rule to include a detailed statement of the federal prohibitions against discrimination.<sup>69</sup> Afterward, TAF announced that it would issue a revised draft in the months ahead.<sup>70</sup>

In March 2023, the CFPB and DOJ jointly filed a Statement of Interest in *Connolly & Mott v. Lanham et al.*, a lawsuit currently pending in the U.S. District Court for the District of Maryland alleging that an appraiser and a lender violated the FHA and ECOA by lowering the valuation of a home because the owners were Black and by denying a mortgage refinancing application based on that appraisal.<sup>71</sup>

The CFPB also continues to engage 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, social media, 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 international, federal, sovereign, and state regulators and agencies, industry, academia, 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.<sup>72</sup>

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<sup>69</sup> See Letter to Appraisal Standards Board, Consumer Financial Protection Bureau, Feb. 14, 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_fourth-exposure-draft-letter\\_2023-02-14.pdf](https://files.consumerfinance.gov/f/documents/cfpb_fourth-exposure-draft-letter_2023-02-14.pdf).

<sup>70</sup> See “Appraisal Standards Board Responds to Public Feedback,” The Appraisal Foundation, Feb. 16, 2023, <https://appraisalfoundation.sharefile.com/share/view/secd842a91aed487fa89f7bf61e2006d1>.

<sup>71</sup> See *Connolly and Mott vs. Lanham*, Civil Action No. 1:22-cv-02048-SAG (D. Md., March 13, 2023), <https://www.justice.gov/opa/press-release/file/1573696/download>.

<sup>72</sup> The fair lending and access to credit related blogs, press releases, speeches, and reports are available at: <https://www.consumerfinance.gov>.

# 6. Workforce and Contracting Diversity

The Office of Minority and Women Inclusion (OMWI) is charged with overseeing all matters at CFPB relating to diversity in management, employment, and business activities. OMWI works to develop and foster a diverse and inclusive workforce at CFPB and a workplace that emphasizes a culture of belonging. OMWI's work is informed by best practices in diversity, equity and inclusion whereby employees have equitable access to opportunities and are valued for their expertise and authentic perspectives.

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

During the reporting period, CFPB continued its work to advance diversity and inclusion under the mandates of Section 342 of the Dodd-Frank Act. 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. The DEIA Strategic Plan aligns with the CFPB's overall FY 2022–2026 Strategic Plan. The CFPB's approach of cascading workforce-related goals and objectives from the CFPB-wide strategic plan to the DEIA strategic plan and ultimately, to the divisional plans will enhance CFPB's work environment and culture and facilitate the CFPB's efforts to address the diverse needs of underserved consumers.

## 6.2 Office of Minority and Women Inclusion

### 6.2.1 Significant Initiatives

To incorporate the work of the Disability and Accessibility Program Section (DAPS) into OMWI, OMWI engaged in strategic planning to identify opportunities to elevate and promote the newly combined programs. The OMWI identified four focus areas for the new fiscal year. These areas are Infrastructure, Marketing/Brand Identity, Working Cohesively, and Engaging Stakeholders. OMWI has identified work streams that will support each of these goals to improve the way in

which OMWI engages across the CFPB. The strategic planning also allows OMWI to identify areas to expand communication about the DAPS program and to merge training offerings.

During the reporting period, OMWI also administered training regarding supplier diversity to contracting representatives and operations personnel throughout the CFPB. This training provides information regarding the CFPB's small business goals and the opportunities to utilize the purchase card to support small businesses and minority and women-owned businesses.

The mandatory diversity and inclusion training was accessed 75 percent of the CFPB's workforce. OMWI will launch an online version of the mandatory training in the new fiscal year and continue to offer in-person and virtual training on various topics to expand the knowledge base of the CFPB workforce. The training is aligned with the mandates of the Dodd-Frank Act, Section 342, barrier analysis action items from the persons with a disability study and facilitates the CFPB's annual performance standards that require CFPB employees to have competencies that cultivate a diverse and inclusive workplace.

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

As of March 2023, an analysis of the CFPB's current workforce shows the following:

- Forty-six percent of CFPB Executives are women and 46 percent of Executives identify as minorities.
- Women represent 50 percent of the CFPB's workforce in 2023, which is the same representation as the previous year.
- Minorities (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 2023 unchanged from 2022.
- As of March 31, 2023, 15.2 percent of CFPB employees on permanent appointments identified as individuals with a disability. Of the permanent workforce, 2.7 percent of employees identified as individuals with a targeted disability, as defined by the Equal Opportunity Employment Commission.
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The CFPB engages in the following activities to increase workforce diversity:



- Staffing: The CFPB had 62 new hires which included 30 (48 percent) women and 21 (34 percent) minorities.
  - The CFPB continues to enhance diversity by recruiting, hiring, and retaining highly qualified individuals from diverse backgrounds to fill positions at the CFPB:
    - The CFPB continues to use social media platforms to broadly promote vacancies.
    - The CFPB takes steps to ensure fairness in the hiring process, such as by removing applicant names from resumes and other application documents before submitting certain best-qualified candidates lists to selection officials.
    - The CFPB's OMWI and Office of Human Capital collaborate with hiring managers on strategic diversity and inclusion recruitment options.
  - To assist in achieving the CFPB's workforce needs, the CFPB also utilized other professional development programs and recruitment efforts designed to reach veterans and applicants with disabilities.
  - The CFPB's Disability and Accessibility Program Section (DAPS) provides employees and applicants with disabilities access to reasonable accommodations and other accessibility services, which are required to meet the essential functions of their jobs or to obtain fair and equitable access when applying and interviewing for CFPB positions. These efforts support the CFPB's overall efforts to recruit, hire, promote and retain individuals with disabilities as required by the Equal Employment Opportunity Commission's (EEOC) Section 501 regulation.
- Workforce engagement:
  - To promote an inclusive work environment, the CFPB continues to engage with employees and utilize an integrated approach of education, training, and engagement programs that ensures diversity, equity, inclusion, and non-discrimination concepts are part of the learning curriculum and work environment. Employee resource groups, cultural education programs, employee dialogue sessions, a mentor program, and mandatory DEI training are key components of this effort.

### 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). OMWI focuses as much on the active inclusion of its business unit stakeholders to advance supplier diversity as it does MWOB vendors. Accordingly, we make available instructor-led training, eLearning and strategic planning assistance to our internal stakeholders.

Additionally, OMWI representatives travel throughout the country conducting outreach to underserved populations. Likewise, we offer technical assistance sessions at the CFPB’s headquarters and virtually for interested vendors nation-wide. Through these efforts, the CFPB maintains a list of over one thousand (1,000) qualified MWOB vendors to be used by program offices before they begin their market research.

As a result of these efforts, 43 percent of the \$125 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	%of Total	MWOB Category
\$18,351,636	20.4%	Women Owned
\$4,238,811	4.7%	Black/African American
\$2,067,788	2.3%	American Indian/Alaskan Native
\$21,089,363	23.5%	Asian/Pacific Islander American
\$223,253	0.2%	Hispanic American

### 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, 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 500 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.

### **6.2.5 Diversity within the CFPB Contractors' Workforces**

The CFPB requires its contractors and sub-contractors 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 more than 50 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.

### **6.2.6 Assessing Diversity of Regulated Entities**

Per 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. The CFPB Director has encouraged OMWI to focus attention to the largest non-bank financial institutions. During the reporting period, the Acting OMWI Director sent letters to the top 20 non-bank mortgage servicers and the top 20 non-bank mortgage originators requesting a meeting to discuss their diversity and inclusion programming. The OMWI begins meetings with these entities in October and will continue to host meetings to encourage submission of a diversity and inclusion self-assessment from these entities.

The 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.<sup>73</sup> 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) 2023 spending through the end of the second quarter of the FY

As of March 31, 2023, the end of the second quarter of FY 2023, the CFPB had spent approximately \$453.5 million<sup>74</sup> in FY 2023 funds to carry out the authorities of the CFPB under Federal consumer financial law. There were 1,645 CFPB employees on board at the end of the second quarter.<sup>75</sup>

#### **FY 2023 spending by expense category:**

<b>Expense Category</b>	<b>Fiscal Year 2023</b>
Personnel Compensation	\$143,811,000
Personnel Benefits	\$81,398,000
Benefits for Former Personnel	\$0
Travel	\$2,684,000
Transportation of Things	\$100,000
Rents, Communications, Utilities & Misc.	\$8,619,000
Printing and Reproduction	\$1,168,000
Other Contractual Services	\$182,416,000
Supplies & Materials	\$6,967,000
Equipment	\$26,376,000
Land & Structures	\$0

<sup>73</sup> “Budget and Performance,” Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/>.

<sup>74</sup> This amount includes commitments and obligations. A commitment is a reservation of funds related to an authorized procurement action; 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.

<sup>75</sup> This figure reflects the employees on board during the final complete pay-period of the quarter (PPO6, ending March 25, 2023).

Expense Category	Fiscal Year 2023
<b>Total (as of March 31, 2023)</b>	<b>\$453,539,000</b>

## 7.1.2 FY 2023 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.<sup>76</sup> As of March 31, 2023, the CFPB had received the following transfers for FY 2023. The amounts and dates of the transfers are shown below.

Date	Funds Transferred
October 19, 2022	\$315.7M
January 4, 2023	\$286.0M
<b>Total</b>	<b>\$601.7M</b>

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/](http://www.consumerfinance.gov/about-us/budget-strategy/financial-reports/).

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

<sup>76</sup> CFPB's operations are funded principally by transfers made by the Board of Governors of the Federal Reserve System (Board) 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 are capped at \$750.9 million in FY 2023. Funds transferred from the Board are deposited into the Consumer Financial Protection Bureau Fund (Bureau Fund), which is maintained at the Federal Reserve Bank of New York.

# 8. Appendix

## 2022 Annual Report to Congress on the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act)

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) mandates a nationwide licensing system and registry for residential mortgage loan originators. It requires that State licensing and registration and federal registration of residential mortgage loan originators be accomplished through the same online system, known as the Nationwide Mortgage Licensing System and Registry (NMLS&R). The NMLS&R is operated by the State Regulatory Registry LLC (SRR), a wholly owned subsidiary of the Conference of State Bank Supervisors (CSBS). The statutory purposes of the SAFE Act generally include increasing uniformity, reducing regulatory burden, enhancing consumer protection, and reducing fraud.

In July 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) transferred to the CFPB rulemaking authority, and other authorities of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the National Credit Union Administration, the Federal Deposit Insurance Corporation, and the Secretary of the Department of Housing and Urban Development for the SAFE Act. With this transfer, the CFPB assumed: (1) responsibility for developing and maintaining the federal registration system; (2) supervisory and enforcement authority for SAFE Act compliance for applicable entities under the CFPB's jurisdiction; (3) back-up and related authority relating to SAFE Act standards for mortgage loan originator licensing systems at the state level; and (4) certain rulemaking authority. It also transferred to the CFPB the requirement to submit an annual report to Congress on the effectiveness of the SAFE Act's provisions. This section of the CFPB's Spring Semi-Annual Report constitutes the annual SAFE Act report for 2022.

While administering the SAFE Act during 2022, the CFPB worked closely with SRR/CSBS to facilitate sharing mortgage loan originator information between state and federal regulators through the NMLS&R. Officials from the CFPB and SRR/CSBS met regularly to discuss issues related to the operation of the NMLS&R, resolve issues, and discuss requirements and policies related to the administration and functions of the NMLS&R. The CFPB reviewed, and approved as applicable, NMLS&R record adjustment requests to correct inaccurate information on federal registrant accounts. It also responded to Freedom of Information Act (FOIA) requests that

pertained to federally registered mortgage loan originators. As of December 31, 2022, there were approximately 387,294 active federally registered mortgage loan originators in the NMLS&R.

In February 2022, CFPB staff virtually attended the 2022 annual NMLS User Conference and Training that provided information and training on the NMLS&R's state licensing and federal registry system related processes. The event was open to regulatory and industry system users, education providers, consultants, and others interested in attending, so it also provided an opportunity for CFPB staff to meet the other participants, build relationships, and share contact information.

The CFPB continues to answer SAFE Act-related questions through its regulations guidance function and provides different forms of guidance and compliance resources on its website. In 2022, the CFPB received approximately 10 inquiries concerning the SAFE Act through its "Regulations inquiries" feature accessible on the CFPB's website. Most of the inquiries sought information about mortgage loan originator licensing and registration requirements. The CFPB also maintains a SAFE Act Inquiries e-mail box to manage operational questions about the SAFE Act. The CFPB received approximately 127 emails in 2022, many of which pertained to the registration of mortgage loan originators and the use of the NMLS&R. The CFPB also continues to work with SRR/CSBS officials with inquiries associated to the use of the system.

While the CFPB has not conducted a formal assessment of the SAFE Act, our interactions with SRR/CSBS and the public indicate that the system is meeting expectations and provides a comprehensive licensing and supervisory database as contemplated by the SAFE Act. During 2022, all of the required states, territories, and D.C. regulators (state regulators) continued to use the NMLS&R for licensing their mortgage loan originators, as is mandated by the SAFE Act, as implemented in Regulation H. The NMLS&R continues to collect and maintain the information required by the SAFE Act, as implemented in Regulation G and H. Additionally, an online consumer portal is available at no charge to consumers to provide employment and publicly adjudicated disciplinary and enforcement history for mortgage loan originators consistent with the statutory objectives of the SAFE Act.

The CFPB is litigating an enforcement action that alleges that Connecticut mortgage company, 1st Alliance Lending, LLC, violated Regulation Z by using unlicensed employees to engage in mortgage-origination activities that required them to be licensed under the SAFE Act, its implementing regulations, and State SAFE Act implementing law. On March 31, 2022, the United States District Court for the District of Connecticut denied 1st Alliance's motion to dismiss this claim finding that the requirement, for loan originator organizations to ensure that their loan originators are licensed as required by state and federal law, is clearly authorized by TILA.

All bank and non-bank mortgage origination exams conducted by the CFPB in 2022 included a review for compliance with the SAFE Act. Examiners tested for accurate licensing and registration as well as related policies and procedures.

During 2022, SRR/CSBS continued to engage the CFPB on issues regarding the NMLS&R and the modernization of the NMLS&R. The desired outcome of the NMLS&R modernization effort is to improve its operations, enhance the user experience, and strengthen supervision. The CFPB continues to provide its feedback and position on current and proposed functions relating to the federal registration process for mortgage loan originators in the NMLS&R to SRR/CSBS.