

Wiley Consumer Protection Download (February 12, 2025)

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Welcome to Wiley's update on recent developments and what's next in consumer protection at the Consumer Financial Protection Bureau (CFPB) and Federal Trade Commission (FTC). In this newsletter, we analyze recent regulatory announcements, recap select enforcement actions, and preview upcoming deadlines and events. We also include links to our articles, blogs, and webinars with more analysis in these areas. As noted in the updates below, both agencies are in transition in the new Administration, and we will be watching closely for further updates.

Wiley also has launched a Trump Administration Resource Center and Resource Guide to track Executive branch priorities during the second Administration of President Trump. With Wiley's deep-rooted understanding of Washington and today's evolving regulatory landscape, the Resource Center and Resource Guide provide critical insights, actionable intelligence, practical solutions, and guidance across key industries to help businesses stay ahead of the curve and manage challenges in 2025 and beyond. Please reach out to any of our authors with any questions about recent Trump Administration actions and the potential impact on regulations or enforcement activity.

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Rulemaking Announcements

President Trump Designates OMB Director Vought as Acting CFPB Director. On **February 7**, President Trump designated Office of Management and Budget (OMB) Director Russell Vought as Acting Director of the CFPB. In an email to CFPB staff on **February 8**, Acting Director Vought reportedly directed CFPB employees to: cease all supervision and examination activity; pause all pending investigations and enforcement actions; halt all stakeholder engagements; and refrain from issuing any public communications. Vought also posted that he notified the Federal Reserve that CFPB will not be taking its next draw of funding. Vought takes over the Acting CFPB Director role from Treasury Secretary Scott Bessent, whom President Trump designated as Acting CFPB Director on **February 3**. President Trump removed former CFPB Director Rohit Chopra from the post on **February 1**.

Andrew Ferguson Takes Over as FTC Chairman. On **January 20**, then-Commissioner Andrew N. Ferguson was officially designated as FTC Chairman by President Trump. On **February 10**, FTC Chair Ferguson appointed Daniel Guarnera as the Director of the agency's Bureau of Competition, Christopher Mufarriage as the Director of the Bureau of Consumer Protection, and Lucas Croslow as the agency's General Counsel.

CFPB Issues Report on Automobile Repossessions. On **January 23**, the CFPB published a report on auto repossession trends and their impact on consumers. According to the report, the rate of auto repossessions at the end of 2022 surpassed pre-pandemic levels, while the average outstanding balance for consumers that had an outstanding balance after repossession increased to more than \$11,000 in December 2022. The report stated that repossession costs to borrowers have also risen with the increased use of third-party repossession management services. The report states that the use of third-party managers has increased from 31% in January 2018 to 66% in December 2022 in the dataset that the agency used for the report.

CFPB Publishes Data Spotlight and Report on National Rental Payment Data. On **January 28**, the CFPB published a Data Spotlight on rental housing delinquencies and a research report on rental payment data from September 2021 to November 2024. According to the report, the median outstanding rental balance rose 60% in the studied time period, and rental payment late fees had reportedly increased since September 2021 to an average of \$85 in November 2024. It also reports that more than half of renters who incur any late fees reportedly experience two or more.

CFPB Sends Letters to State Legislatures Regarding Medical Bill Credit Reporting. On **January 28**, the CFPB sent a letter to the Massachusetts State Legislature supporting its proposed legislation that would, among other things, prohibit debt collectors and medical creditors in Massachusetts from reporting medical debt to consumer reporting agencies for use in consumer reports and prohibit consumer reporting agencies from including medical debt information on consumer reports. The CFPB sent similar letters of support to Oregon, South Dakota, and Washington state legislatures for their own proposed laws that would ban medical debt credit reporting. The letters reference the CFPB's January 2025 Final Rule that banned the inclusion of medical bills on credit reports (which is being challenged in federal court) and applauds states that have successfully passed legislation to ban medical bill credit reporting, such as Colorado and New York.

CFPB Publishes Report on Auto Lending to Service Members. On **January 29**, the CFPB issued a report that analyzed loan-level information from six lenders and asserts that United States service members experience increased financial risks at many points in auto lending compared to non-service members. Specifically, the report found that service members borrowed an average of \$2,200 more on new vehicles while putting down about \$1,100 less in down payments. The report also found that military borrowers generally pay higher annual percentage rates and purchase rates and that over 70% of service members purchase add-on products including warranty, service, and maintenance plans.

CFPB Updates List of Consumer Reporting Companies. On **January 30**, the CFPB released its annual List of Consumer Reporting Companies, identifying companies that, according to the agency, collect and sell consumer report data, including information regarding finances, employment, check writing histories, or rental history records. The list also provides information on how consumers can dispute inaccurate information or request a security freeze, which blocks third-party access to personal credit reporting data. This year's list includes information on companies that provide data to casinos and sports betting companies, and states that data collected from social media, a driver's mobile phones or vehicles, drug and alcohol testing and health screening, and other sources may be included in certain consumer reports.

Select Enforcement Actions

CFPB Settles with International Remittance Company for Allegedly Deceptive Practices. On **January 30**, the CFPB issued a consent order and stipulation against an international remittance company for alleged violations of the Consumer Financial Protection Act. The complaint alleges that the company misled U.S. consumers by advertising lower fees and new customer perks that were not available to U.S. customers and by failing to disclose fees for prepaid accounts by for with credit cards. The company agreed to pay a \$2.025 million civil penalty and refund approximately \$450,000 to consumers.

FTC Finalizes Order Against AI Legal Services Company for Allegedly Misleading Marketing Practices. On **January 16**, the FTC voted 5-0 to approve the final order against a company that offers AI-generated legal documents. In its complaint, the FTC alleged that the company misled consumers by advertising AI-generated legal services that could remove the need to hire a lawyer. The company agreed to pay \$193,000 in addition to injunctive relief.

Upcoming Comment Deadlines and Events

FTC Postpones Workshop to Examine Impact of Digital Platform Design Features on Kids and Teens. The FTC postponed a **February 25** virtual workshop to "examine the use of design features on digital platforms aimed at keeping kids, including teens, online longer and coming back more frequently." The new date for the workshop, titled "Attention Economy: Monopolizing Kids' Time Online," will be posted to the workshop's event page along with other updates.

Please note that the following rulemakings were launched under former Director Chopra. They are still open for comment at the time of publication, and we will monitor activity by new leadership.

CFPB Seeks Comment on Proposed Rule to Expand FCRA to Data Brokers and Other Entities. Comments are due **March 3, 2025** on a CFPB Notice of Proposed Rulemaking (NPRM) that would expand the scope of the Fair Credit Reporting Act (FCRA) to cover certain data sharing practices and companies not currently subject to the law, including but not limited to “data brokers” (we summarized the NPRM here). Among other things, the proposed rule would update the FCRA’s definitions of “consumer report” and “consumer reporting agency” to cover entities that sell data about a consumer’s credit history, credit score, debt payments, or income or financial tier “regardless of the purpose for which any specific communication of such information is used or expected to be used.” Additionally, the NPRM would consider a company providing consumer information for non-FCRA purposes to still be providing a “consumer report” if the information *actually is* used for an FCRA-covered purpose “regardless of whether there is evidence that the consumer reporting agency knew or expected that the information would be used for such a purpose.”

The NPRM also proposes to regulate the provision of “credit header information,” such as names, dates of birth, Social Security numbers, phone numbers, and email addresses, if the information was originally gathered for purposes of preparing a consumer report. As a result, consumer reporting agencies that gather and sell such information would be restricted to selling it for FCRA-related purposes, such as credit or employment, but not other purposes like general fraud prevention.

CFPB Seeks Comment on Rulemaking on Coerced Debt. Comments are due **March 7, 2025** on the CFPB’s Advanced Notice of Proposed Rulemaking (ANPR) to address concerns related to information furnished to credit bureaus and other consumer reporting agencies involving coerced debt and identity theft. Coerced debt refers to situations in which people take out credit cards or loans under the threat of violence, physical violence, or manipulation from an abuser. Specifically, the ANPR seeks information on amending the definitions of “identity theft” and “identity theft report” in Regulation V to include information stemming from transactions that occurred without the consumer’s effective consent.

CFPB Seeks Comment on Interpretive Rule on EFTA Applicability and Issues RFI on Consumer Payment Data. Comments are due **March 31, 2025** on the CFPB’s Notice of Proposed Interpretive Rule to clarify the existing statutory and regulatory requirements governing electronic fund transfers (EFTs). Specifically, the proposed interpretive rule provides a framework for determining when the Electronic Fund Transfer Act (EFTA) and Regulation E – which give consumers the right to dispute transactions that are potentially fraudulent – would apply to new and emerging digital payment mechanisms.

CFPB Seeks Comment on Proposed Rule to Restrict Certain Contractual Clauses in Consumer Financial Product and Service Agreements. Comments are due **April 1, 2025** on an NPRM that proposes to prohibit certain contractual provisions in agreements for consumer financial products or services. Specifically, the proposed rule would prohibit covered persons from including any terms or conditions that purport to waive substantial consumer legal rights and protections (or their remedies) granted by state or federal law, and would also prohibit contract terms that limit free expression.

CFPB Seeks Comment on the Collection, Use, and Sharing of Consumer Personal Financial Data.

Comments are due **April 11, 2025** on a Notice and Request for Information (RFI) to better understand how companies that offer consumer financial products or services collect, use, share, and protect consumers' personal financial data. Among other things, the RFI seeks comments on the effectiveness of existing regulations, how to strengthen the existing framework, and the types of data the public believes the CFPB should monitor on a routine basis.

More Analysis from Wiley

Wiley Welcomes Former FTC Deputy Director Ian Barlow, Strengthening Regulatory, Enforcement, and Compliance Capabilities

10 Key Privacy Developments and Trends to Watch in 2025

CES 2025: FTC Commissioners Discuss Approach to AI in New Administration

FTC Adopts Amended Children's Online Protection Act Rule

Federal Cybersecurity Policy in 2025: What to Watch in Changing Times

Trump Administration Issues New AI Executive Order

Taking Stock of the Trump Administration's Regulatory Freeze

President Trump Revokes Biden Administration's AI EO: What To Know

FTC Announces Rule on "Junk Fees" and Pricing Disclosures in Certain Industries

10 Noteworthy CFPB Developments From 2024

CFPB Proposes to Expand Reach of Fair Credit Reporting Act to "Data Brokers" and Beyond

FTC Adopts Final "Click-to-Cancel" Rule with Requirements for Recurring Subscriptions

Updates on Cybersecurity Requirements for Government Contractors

Texas AG Brings SCOPE Act Enforcement Action Against TikTok – Just One Month After Law Took Effect

Key Takeaways from Our Conversation with Oregon and Texas Regulators About Privacy Enforcement

Podcast: Navigating State Privacy Laws: A Conversation with Oregon and Texas Regulators about Privacy Enforcement

Litigation Grows Around Website Technologies, With Focus on Sensitive Data

State "Right to Repair" Patchwork Grows as Electronic Device Manufacturers Face New Compliance Deadlines

White Paper on Telephone Consumer Protection Act Litigation Abuse

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