

Semi-Annual Report of the Consumer Financial Protection Bureau

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1. Rules and Orders

1.1 List of significant rules and orders adopted by the CFPB

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

Final rules:

- *Final Rule: 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. The changes added a mechanism for the CFPB to make public final decisions and orders in these proceedings.²
- *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 implement changes to the Equal Credit Opportunity Act (ECOA), as mandated by section 1071 of the Consumer Financial Protection Act (CFPA).³ As required by 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.
- *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, which implements the Truth in Lending Act (TILA), to reflect the enactment of the Adjustable Interest Rate (LIBOR) Act (the LIBOR Act) and its implementing regulation promulgated by the Board of Governors of the Federal Reserve

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

² "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.

³ "Small Business Lending Under the Equal Credit Opportunity Act," Consumer Financial Protection Bureau, Mar. 30, 2023, https://files.consumerfinance.gov/f/documents/cfpb_1071-final-rule.pdf.

System (Board).⁴ This rule further addressed the planned cessation of most U.S. Dollar LIBOR tenors after June 30, 2023, by incorporating the Board-selected benchmark replacement for consumer loans into Regulation Z. This rule also conformed 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 U.S. Dollar 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.

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

- *SBREFA Outline: Small Business Review Panel for 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 CFPBA.⁵
- *Proposed Rule: Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders.* In December 2022, the CFPB proposed requiring certain nonbank financial firms to register with the CFPB when they become subject to public agency or court orders because of violations of certain local, state, or federal consumer protection laws.⁶ The CFPB has further proposed to publish the orders and company information via an online registry. Companies covered by the rule and also subject to the CFPB’s supervisory authority would also be required to designate an executive responsible for compliance who would submit an annual written statement describing the steps that executive has taken to oversee compliance with the order, and to attest whether, to the executive’s knowledge, the company has identified any instances of noncompliance with the applicable provisions of the order in the preceding calendar year.

⁴ “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.

⁵ “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.

⁶ “Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders,” Consumer Financial Protection Bureau, Dec. 12, 2022, https://files.consumerfinance.gov/f/documents/cfpb_proposed-rule_registry-of-nonbank-covered-persons_2022.pdf.

- *Proposed Rule: Registry of Supervised Nonbanks That Use Form Contracts To Impose Terms and Conditions That Seek To Waive or Limit Consumer Legal Protections.* In January 2023, the CFPB proposed a rule that would establish a public registry of supervised nonbanks' terms and conditions in "take it or leave it" form contracts that claim to waive or limit consumer rights and protections.⁷ The proposal identified various covered terms and conditions, such as liability caps, waivers of various kinds, and limits on how, when, and where consumers can bring legal actions. Under the proposed rule, most nonbanks subject to the CFPB's supervisory jurisdiction would need to submit information on covered terms and conditions in form contracts they use that seek to waive or limit individuals' rights and other legal protections. Subject to certain exceptions, that information would be posted in a registry that would be open to the public, including to other consumer financial protection enforcers.
- *Proposed Rule: Credit Card Penalty Fees (Regulation Z).* In February 2023, the CFPB proposed to amend Regulation Z, which implements TILA, to ensure that the late fees charged on credit card accounts are "reasonable and proportional" to the late payment, as required under TILA.⁸ 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 existing provision that allows 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.
- *Proposed Rule: Residential Property Assessed Clean Energy Financing (Regulation Z).* In May 2023, the CFPB proposed a rule to implement Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which directs the CFPB to prescribe ability-to-repay rules for Property Assessed Clean Energy (PACE) financing and to apply the civil liability provisions of TILA for violations.⁹ PACE financing covers the costs of home improvements, resulting in a tax assessment on the real property of the consumer.

⁷ "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.

⁸ "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.

⁹ "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.

- *Proposed Rule: Quality Control Standards for Automated Valuation Models.* In June 2023, the Office of the Comptroller of the Currency (OCC), Board, Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), CFPB, and Federal Housing Finance Agency (FHFA) (collectively, the agencies) proposed a rule to implement the quality control standards mandated by the CFPB 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.¹⁰ 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 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.
- *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 under consideration to address a number of consumer reporting topics under the Fair Credit Reporting Act (FCRA).¹¹ This includes proposals to regulate many activities of data brokers as covered under the FCRA, as well as regulating many activities of companies using business models that rely on newer technologies and novel methods to collect and sell consumer data as covered under the FCRA. The Outline, which summarizes and asks questions about the CFPB's proposals under consideration, formed the basis for discussions with small-entity representatives at two panel outreach meetings that took place on October 18 and 19, 2023.

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

¹⁰ "Quality Control Standards for Automated Valuation Models," Consumer Financial Protection Bureau, Jun. 1, 2023, https://files.consumerfinance.gov/f/documents/cfpb_automated-valuation-models_proposed-rule-request-for-comment_2023-06.pdf.

¹¹ "Small Business Advisory Review Panel for Consumer Reporting Rulemaking; Outline of Proposals and Alternatives Under Consideration," Consumer Financial Protection Bureau, Sept. 15, 2023, https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-rule-sbrefa_outline-of-proposals.pdf.

public comments, determined that commercial financing disclosure laws in California, New York, Utah, and Virginia are not preempted by TILA.¹²

1.2 List of significant initiatives conducted by the CFPB

1.2.1 Reports

- *Report: 2022 College Banking and Credit Card Agreements.* In October 2022, the CFPB issued a report on terms and fees associated with banking products marketed in partnership with colleges to students.¹³ The report raised questions about whether some marketing deals between colleges and financial institutions comply with Department of Education rules. The report also highlighted a lack of transparency in the arrangements schools have made with financial institutions. In conjunction with the release of the report, the Department of Education issued guidance to schools on requirements for college-sponsored banking arrangements and committed to additional oversight on this issue.
- *Report: Tenant Background Checks Market.* In November 2022, the CFPB published a report on the tenant background check industry, describing how errors in these background checks contribute to higher costs and barriers to quality rental housing.¹⁴ The CFPB’s analysis of more than 24,000 complaints highlighted the renter challenges associated with the industry’s failures to remove wrong, old, or misleading information and to provide adequate investigations of disputed information.
- *Report: Protecting Those Who Protect Us: Evidence of Activated Guard and Reserve Servicemembers’ Usage of Credit Protections Under the Servicemembers Civil Relief Act (SCRA).* In December 2022, CFPB released a report examining use of the SCRA’s

¹² “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.

¹³ “2022 College Banking and Credit Card Agreements,” Consumer Financial Protection Bureau, Oct. 13, 2022, https://files.consumerfinance.gov/f/documents/cfpb_college-banking-report_2022.pdf.

¹⁴ “Tenant Background Checks Market,” Consumer Financial Protection Bureau, Nov. 15, 2022, https://files.consumerfinance.gov/f/documents/cfpb_tenant-background-checks-market_report_2022-11.pdf.

financial protections for active-duty servicemembers.¹⁵ The report found that the interest rate reduction is underutilized by servicemembers.

- *Report: Making Ends Meet in 2022; Insights from the CFPB Making Ends Meet Survey.* In December 2022, the CFPB released a *Making Ends Meet* report covering the financial health of American households.¹⁶ Since 2019, the annual *Making Ends Meet* consumer surveys showed improvement in financial health during the first few years of the COVID-19 pandemic, due in part to a tight labor market, reductions in consumer spending, and access to pandemic-related relief programs. However, data from early 2022 revealed a decline in several key measures, as well as a rapid deterioration in financial health for Hispanic consumers, consumers under the age of 40, and low-income renters. In addition, while unemployment remains low, more than 37 percent of households were unable to cover expenses for longer than one month if they lost their main source of income. The 2022 survey was mailed to a sample of consumers in January, with responses collected between January and March, and the report was compiled utilizing data collected from the survey, as well as from the CFPB’s Consumer Credit Panel.
- *Report: Annual Report of Consumer and Credit Reporting Complaints: An Analysis of Complaint Responses by Equifax, Experian, TransUnion.* In January 2023, the CFPB released this report, pursuant to Section 611(e)(5) of the FCRA, which summarizes information gathered by the CFPB regarding 488,000 consumer complaints the CFPB transmitted to Equifax, Experian, and TransUnion between October 2021 and September 2022.¹⁷ The findings follow the prior year’s report that detailed failures by the credit reporting companies in responding to consumer complaints. In particular, the report shows the companies changed how they respond to complaints, including providing more substantive responses tailored to the issues described in the complaints and more relief in response to complaints. This report also included considerations for the nationwide consumer reporting companies to improve compliance with consumer financial protection laws and to serve consumers better.

¹⁵ “Protecting Those Who Protect Us: Evidence of Activated Guard and Reserve Servicemembers’ Usage of Credit Protections Under the Servicemembers Civil Relief Act (SCRA),” Consumer Financial Protection Bureau, Dec. 7, 2022, https://files.consumerfinance.gov/f/documents/cfpb_servicemembers-usage-of-scra-credit-protections_2022.pdf.

¹⁶ “Making Ends Meet in 2022 Insights From the CFPB Making Ends Meet Survey,” Consumer Financial Protection Bureau, Dec. 21, 2022, https://files.consumerfinance.gov/f/documents/cfpb_making-ends-meet-in-2022_report_2022-12.pdf.

¹⁷ “Annual Report of Consumer Complaints and Credit Reporting Complaints: An Analysis of Complaint Responses by Equifax, Experian, and TransUnion,” Consumer Financial Protection Bureau, Jan. 3, 2023, https://files.consumerfinance.gov/f/documents/cfpb_fcra-611-e_report_2023-01.pdf.

- *Request for Information: Public Input on Consumer Credit Card Market.* In January 2023, the CFPB issued a request for information seeking public feedback on how the consumer credit market is functioning.¹⁸ As part of a biennial review of the industry, the CFPB sought updated information on various aspects of the consumer experience with credit cards. Congress enacted the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) to establish fair and transparent practices related to the extension of credit in the credit card market. The CARD Act mandates the CFPB to conduct a review of the credit card industry every two years and report to Congress.
- *Market Snapshot: An Update on Third-Party Debt Collections Tradelines Reporting.* In February 2023, the CFPB released a report examining trends in credit reporting of debt in collections from 2018 to 2022.¹⁹ The report found the total number of collections tradelines on credit reports declined by 33 percent, from 261 million tradelines in 2018 to 175 million tradelines in 2022. The share of consumers with a collection tradeline on their credit report decreased by 20 percent in the same timeframe. The CFPB also released additional analysis examining factors that increase the likelihood of inaccurate medical collections reporting and may contribute to the decline in medical collections tradelines.
- *Issue Spotlight: Public Benefits Delivery & Consumer Protection.* In March 2023, the CFPB issued a spotlight that examines delivery of public benefits payments to low-income families.²⁰ The spotlight highlights challenges consumers face, including limited customer service and limited means to raise issues of identity theft and fraud, which impacts access to needed financial resources. The spotlight focuses on the challenges of public benefits issued on prepaid cards because of money transfer issues.
- *Report: Consumer Use of Buy Now, Pay Later: Insights from the CFPB Making Ends Meet Survey.* In March 2023, the CFPB published a report analyzing the financial profiles of Buy Now, Pay Later borrowers.²¹ While many Buy Now, Pay Later borrowers

¹⁸ “Request for Information Regarding Consumer Credit Card Market,” Consumer Financial Protection Bureau, Jan. 24, 2023, https://files.consumerfinance.gov/f/documents/cfpb_request-for-information-regarding-consumer-credit-card-market_2023-01.pdf.

¹⁹ “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.

²⁰ “Issue Spotlight: Public Benefits Delivery & Consumer Protection,” Consumer Financial Protection Bureau, Mar. 1, 2023, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-public-benefits-delivery-consumer-protection/full-report>.

²¹ “Consumer Use of Buy Now, Pay Later,” Consumer Financial Protection Bureau, Mar. 2, 2023, https://files.consumerfinance.gov/f/documents/cfpb_consumer-use-of-buy-now-pay-later_2023-03.pdf.

use the product without noticeable indications of financial stress, the report finds that Buy Now, Pay Later borrowers are more likely to be active users of other types of credit products like credit cards, personal loans, and student loans. They are also more likely to exhibit measures of financial distress than non-users. For example, Buy Now, Pay Later borrowers are more likely to be highly indebted or have revolving balances or delinquencies on their credit cards compared to consumers who do not use Buy Now, Pay Later products. Buy Now, Pay Later borrowers are also more likely to use high-interest financial services such as payday loans, pawn loans, and bank account overdrafts.

- *Request for Information: Data Brokers and Other Business Practices Involving the Collection and Sale of Consumer Information.* In March 2023, the CFPB launched an inquiry into companies that track and collect information on people's personal lives.²² In issuing the Request for Information, the CFPB sought to understand the full scope and breadth of data brokers and their business practices, their impact on the daily lives of consumers, and whether they are all playing by the same rules.
- *Industry and Markets Report: Medical Credit Cards and Financing Plans.* In May 2023, the CFPB issued a report on high-cost specialty financial products, such as medical credit cards, that are sold to patients as a way to alleviate the growing costs of medical care.²³ Patients may be offered these products in a medical provider's office even when their insurance may cover the procedure or they qualify for a hospital's reduced or no-cost financial assistance program. The report finds that these specialty products are typically more expensive for patients than other forms of payment, including conventional credit cards, with interest rates often reaching above 25 percent.
- *Issue Spotlight: Analysis of Deposit Insurance Coverage on Funds Stored Through Payment Apps.* In June 2023, the CFPB issued a spotlight analyzing the extent to which popular payment apps, sometimes described as Peer-to-Peer (P2P) payment platforms, claim to provide federal deposit insurance coverage to users through business arrangements with banks.²⁴ While the primary purpose of these quickly growing platforms is to allow consumers and businesses to send and receive money, payment app

²² "Request for Information Regarding Data Brokers and Other Business Practices Involving the Collection and Sale of Consumer Information," Consumer Financial Protection Bureau, Mar. 13, 2023, https://files.consumerfinance.gov/f/documents/cfpb_request-for-information_data-brokers_2023-3.pdf.

²³ "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.

²⁴ "Analysis of Deposit Insurance Coverage on Funds Stored Through Payment Apps," Consumer Financial Protection Bureau, Jun. 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/>.

companies offer an increasing array of services alongside this function, including the ability for consumers to store funds. In the Issue Spotlight, the CFPB notes that stored funds can be at risk of loss in the event of financial distress or failure of the entity operating the payment platform, and often are not placed in an account at a bank or credit union and lack individual deposit insurance coverage.

- *Issue Spotlight: Chatbots in Consumer Finance.* In June 2023, the CFPB issued a spotlight addressing the expansive adoption and use of chatbots by financial institutions.²⁵ These chatbots are intended to simulate human-like responses using computer programming and help institutions reduce costs of customer service agents. Some chatbots use more complex technologies marketed as “artificial intelligence” to generate responses to customers. The spotlight highlights several risks associated with the use of chatbots by financial institutions, including possible noncompliance with federal consumer financial protection laws, diminished customer service and trust, and other possible consumer harms.
- *Office of Servicemember Affairs Annual Report: January – December 2022.* In June 2023, the CFPB issued its annual report summarizing top concerns of servicemembers and their families.²⁶ This report includes an examination of consumer complaints the CFPB received from servicemembers, including notable trends. The report focuses on digital payment app usage within the servicemember community and how fraud and scams perpetrated through these digital platforms may uniquely impact servicemembers. The report also includes recommendations to digital payment app providers to reduce the instances of identity theft and fraud by improving digital payment security and responding quickly.
- *Data Spotlight: Banking and Credit Access in the Southern Region of the U.S., and Report: Consumer Finances in Rural Areas of the Southern Region.* In June 2023, the CFPB issued two reports on the financial opportunities and challenges facing Southern communities.²⁷ The Southern United States is home to diverse populations, including

²⁵ “Chatbots in Consumer Finance,” Consumer Financial Protection Bureau, Jun. 6, 2023, https://files.consumerfinance.gov/f/documents/cfpb_chatbot-issue-spotlight_2023-06.pdf.

²⁶ “Office of Servicemember Affairs Annual Report: January – December 2022,” Consumer Financial Protection Bureau, Jun. 20, 2023, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report_2022.pdf.

²⁷ “Banking and Credit Access in the Southern Region of the U.S.” Consumer Financial Protection Bureau, Jun. 21, 2023, https://files.consumerfinance.gov/f/documents/cfpb_ocp-data-spotlight_banking-and-credit-access_2023-06.pdf.
“Consumer Finances in Rural Areas of the Southern Region,” Consumer Financial Protection Bureau, Jun. 21, 2023, https://files.consumerfinance.gov/f/documents/cfpb_or-data-point_consumer-finances-in-rural-south_2023-06.pdf.

many rural areas. Many areas of the Southern region are considered “banking deserts” because of the absence of sufficient bank or credit union options for local communities. The first report, *Consumer Finances in Rural Areas of the Southern Region*, compares consumer financial experiences and outcomes in rural communities in Southern states with other regions. A second report, *Banking and Credit Access in the Southern Region of the U.S.*, dives deeper into banking access and credit access, particularly mortgage lending, in both rural and non-rural areas in the region.

- *Issue Spotlight: Consumer Risks Posed by Employer-Driven Debt.* In July 2023, the CFPB released this issue spotlight focusing on employer use of training repayment agreement provisions (TRAPS) and their impact on workers, following the CFPB’s issuance of a request for information in June 2022.²⁸ This issue spotlight presents experiences highlighted by workers who have dealt with employer-driven debt and also analyzes market-level research about employer-driven debt. The spotlight found that employer-driven debt has a unique impact on workers because they need to obtain the debt in order to maintain employment. This puts them in a weakened position where they may feel obligated to sign and follow the agreements to keep their job or advance in their career. The report also suggests that the value of certain employer-driven debt may be overstated, inhibiting employee mobility and harming workers’ overall financial security.
- *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 issued a spotlight highlighting the impacts of Big Tech companies’ policies and practices that govern tap-to-pay on mobile devices like smartphones and watches.²⁹ Apple currently forbids banking and payment apps from accessing the tap-to-pay functionality on Apple iOS devices and imposes fees through Apple Pay. Google’s Android operating system does not currently have such a policy. The issue spotlight explains 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 United States.

²⁸ “Issue Spotlight: Consumer Risks Posed by Employer-Driven Debt,” Jul. 20, 2023, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-consumer-risks-posed-by-employer-driven-debt/full-report/>.

²⁹ “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/>.

- *Report: Tuition Payment Plans in Higher Education.* In September 2023, the CFPB issued a report highlighting the risks that students face when entering into agreements with colleges to spread the upfront cost of tuition into several interest-free loan payments.³⁰ The report looks at tuition payment plans offered by nearly 450 institutions and finds that many plans have inconsistent disclosures and confusing repayment terms, putting students at risk of missing payments, incurring late fees, and accumulating debt. The report further finds that many institutions withhold transcripts from students as a debt collection tool, a practice that can have severe consequences for students and that CFPB examiners have found can be abusive under certain circumstances.

1.2.2 Guidance

- *Advisory Opinion: Fair Credit Reporting; Facially False Data.* 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.³¹ The CFPB advised companies to take steps to reliably detect and remove inconsistent or impossible information from consumers’ credit profiles.
- *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.³² These unanticipated overdraft fees are likely to impose substantial injury on consumers that they cannot reasonably avoid and that is not outweighed by countervailing benefits to consumers or competition.
- *Consumer Financial Protection Circular 2022-07: Reasonable investigation of consumer reporting disputes.* In November 2022, the CFPB issued a Circular to affirm that neither consumer reporting companies nor information furnishers can evade dispute investigation requirements.³³ The Circular outlines how federal and state

³⁰ “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.

³¹ “Advisory Opinion: 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.

³² “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_unanticipated-overdraft-fee-assessment-practices_circular_2022-10.pdf.

³³ “Consumer Financial Protection Circular 2022-07: Reasonable Investigation of Consumer Reporting Disputes,” Consumer Financial Protection Bureau, Nov. 10, 2022, https://files.consumerfinance.gov/f/documents/cfpb_reasonable-investigation-of-consumer-reporting-disputes_circular-2022-07.pdf.

consumer protection enforcers, including regulators and attorneys general, can bring claims against companies that fail to investigate and resolve consumer report disputes.

- *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 the prohibition on unfair, deceptive, or abusive acts or practices in the CFPA 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.³⁴
- *Advisory Opinion: Real Estate Settlement Procedures Act (Regulation X); Digital Mortgage Comparison-Shopping Platforms and Related Payments to Operators.* In February 2023, the CFPB issued an Advisory Opinion to address the applicability of the Real Estate Settlement Procedures Act (RESPA) section 8 to operators of certain digital technology platforms that enable consumers to comparison shop for mortgages and other real estate settlement services, including platforms that generate potential leads for the platform participants through consumers' interaction with the platform.³⁵ The CFPB described how an operator of a digital mortgage comparison-shopping platform violates RESPA section 8 if the platform provides enhanced placement or otherwise steers consumers to platform participants based on compensation the platform operator receives from those participants rather than based on neutral criteria.
- *Bulletin 2023-01: Unfair Billing and Collection Practices After Bankruptcy Discharges of Certain Student Loan Debts.* In March 2023, the CFPB issued a Compliance Bulletin and policy guidance to address the treatment of certain private student loans following bankruptcy discharge.³⁶ CFPB examiners identified servicers that did not determine whether education loans were qualified or not qualified for bankruptcy discharge, and thus improperly returned certain loans to repayment. The CFPB cautioned that it will

³⁴ “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.

³⁵ “Real Estate Settlement Procedures Act (Regulation X); Digital Mortgage Comparison-Shopping Platforms and Related Payments to Operators,” Consumer Financial Protection Bureau, Feb. 7, 2023, https://files.consumerfinance.gov/f/documents/cfpb_respa-advisory-opinion-on-online-mortgage-comparison-shopping-tools_2023-02.pdf.

³⁶ “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.

pay particular attention in its oversight to servicers' practices in connection with student loans that are the subject of bankruptcy discharge orders.

- *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.³⁷ The methodology statement has been 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 to affirm that the Fair Debt Collection Practices Act (FDCPA) and its implementing Regulation F 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.³⁸ 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.
- *Consumer Financial Protection Circular 2023-02: Reopening Deposit Accounts That Consumers Previously Closed.* In May 2023, the CFPB released a Circular addressing illegal reopening of deposit accounts by banks after consumers close them.³⁹ The Circular affirms that a bank may violate federal law if it unilaterally reopens a deposit account to process transactions after a consumer has already closed it.
- *Proposed Interagency Guidance on Reconsiderations of Value of Residential Real Estate.* In June 2023, the CFPB, along with the FDIC, Board, NCUA, and OCC,

³⁷ "Notice of Availability of Revised Methodology for Determining Average Prime Offer Rates," Consumer Financial Protection Bureau, Apr. 14, 2023, https://files.consumerfinance.gov/f/documents/cfpb_notice-revised-methodology-determining-average-prime-offer-rates_2023-04.pdf.

³⁸ "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.

³⁹ "Consumer Financial Protection Circular 2023-02: Reopening deposit accounts that consumers previously closed," Consumer Financial Protection Bureau, May 10, 2023, https://files.consumerfinance.gov/f/documents/cfpb_reopening-deposit-accounts-that-consumers-previousl-closed_2023-05.pdf.

requested public comment on proposed guidance addressing reconsiderations of value (ROV) for residential real estate transactions.⁴⁰

- *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 released a Circular regarding lenders' legal requirements to provide adverse action notices under ECOA and Regulation B, including when using artificial intelligence and other complex models.⁴¹ The Circular describes how lenders must provide specific and accurate reasons when taking adverse actions against consumers and cannot simply use CFPB sample adverse action forms and checklists if they do not reflect the actual reason for the denial of credit or a change of credit conditions.

1.2.3 Other initiatives

- *Policy Statement: Abusive Acts or Practices.* In April 2023, the CFPB issued a policy statement that explains the legal prohibition on abusive conduct in consumer financial markets and summarizes more than a decade of precedent.⁴²
- *Joint statement on Enforcement Efforts Against Discrimination in Automated Systems.* In April 2023, the CFPB, along with the Department of Justice (DOJ), the Equal Employment Opportunity Commission (EEOC), and the Federal Trade Commission (FTC), issued a joint statement committing to enforcement efforts against discrimination and bias in automated systems.⁴³

⁴⁰ “Interagency Guidance on Reconsideration of Value of Residential Real Estate Valuations,” Consumer Financial Protection Bureau, Jun. 8, 2023, https://files.consumerfinance.gov/f/documents/cfpb_interagency-guidance-reconsiderations-of-value-of-residential-real-estate_2023-06.pdf.

⁴¹ “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.

⁴² “Policy Statement on Abusive Acts or Practices,” Consumer Financial Protection Bureau, Apr. 3, 2023, <https://www.consumerfinance.gov/compliance/supervisory-guidance/policy-statement-on-abusiveness/>.

⁴³ “Joint Statement on Enforcement Efforts Against Discrimination and Bias in Automated Systems,” Consumer Financial Protection Bureau, Apr. 25, 2023, https://files.consumerfinance.gov/f/documents/cfpb_joint-statement-enforcement-against-discrimination-bias-automated-systems_2023-04.pdf.

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

1.3.1 Rules and orders

Upcoming Period:

- *Proposed Rule: Required Rulemaking on Personal Financial Data Rights.* In October 2023, the CFPB proposed a rule to implement personal financial data rights under the CFPRA.⁴⁴ The proposed rule would require certain depository and nondepository entities to make available to consumers and authorized third parties certain data about consumers' transactions and accounts; establish obligations for third parties accessing a consumer's data, including important privacy protections for that data; provide basic standards for data access; and promote fair, open, and inclusive industry standards.
- *Proposed Rule: Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications.* In November 2023, the CFPB proposed a rule to supervise larger participants in a market for general-use digital consumer payment applications, such as larger nonbank companies that offer services like digital wallets and payment apps.⁴⁵ The proposed rule would help ensure that nonbank financial companies, specifically those larger companies handling more than 5 million transactions per year, adhere to the same rules as large banks, credit unions, and other financial institutions already supervised by the CFPB.
- *Proposed Rule: Overdraft Lending: Very Large Financial Institutions.* In January 2024, the CFPB proposed to amend Regulations E and Z to update existing regulatory exceptions for overdraft credit provided by very large financial institutions (insured depository institutions and credit unions with more than \$10 billion in assets), thereby ensuring that extensions of overdraft credit adhere to consumer protections required of similarly situated products, unless the overdraft fee is a small amount that only recovers applicable costs and losses.⁴⁶ The proposal would allow consumers to better comparison

⁴⁴ "Required Rulemaking on Personal Financial Data Rights," Consumer Financial Protection Bureau, Oct. 19, 2023, https://files.consumerfinance.gov/f/documents/cfpb-1033-nprm-fr-notice_2023-10.pdf.

⁴⁵ "Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications," Consumer Financial Protection Bureau, Nov. 7, 2023, https://files.consumerfinance.gov/f/documents/cfpb_nprm-digital-payment-apps-lp-rule_2023-11.pdf.

⁴⁶ "Overdraft Lending: Very Large Financial Institutions," Consumer Financial Protection Bureau, Jan. 17, 2023, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_proposed-rule_2024-01.pdf.

shop across credit products and provide substantive protections that apply to other consumer credit.

- *Proposed Rule: Fees for Instantaneously Declined Transactions.* In January 2024, the CFPB proposed to prohibit covered financial institutions from charging fees, such as nonsufficient funds fees, when consumers initiate payment transactions that are instantaneously declined.⁴⁷ Charging such fees would constitute an abusive practice under the CFPA's prohibition on unfair, deceptive, or abusive acts or practices.
- *Final Rule: Credit Card Penalty Fees (Regulation Z).* In March 2024, the CFPB amended Regulation Z, which implements TILA, to address late fees charged by card issuers that together with their affiliates have one million or more open credit card accounts.⁴⁸ This final rule adopted a late fee safe harbor threshold of \$8 for those issuers and provided that the annual adjustments to reflect changes in the Consumer Price Index (CPI) do not apply to this \$8 amount.

1.3.2 Other initiatives

Upcoming Period:

- *Advisory Opinion: Consumer Information Requests to Large Banks and Credit Unions.* In October 2023, the CFPB issued an Advisory Opinion regarding section 1034(c) of the CFPA, which requires large banks and credit unions to comply in a timely manner with consumer requests for information concerning their accounts.⁴⁹ Certain policies—such as charging excessive fees—can unreasonably impede consumers' ability to get basic information they need and that these institutions must provide under section 1034(c). The Advisory Opinion clarifies that pursuant to this provision, large banks and credit unions are generally prohibited from imposing unreasonable obstacles on customers for basic information about their accounts.
- *Joint Statement on Fair Lending and Credit Opportunities for Noncitizen Borrowers Under the Equal Credit Opportunity Act.* In October 2023, the CFPB and the DOJ issued a joint statement to assist creditors and borrowers in understanding the potential civil rights implications of a creditor's consideration of an individual's immigration status.

⁴⁷ “Fees for Instantaneously Declined Transactions,” Consumer Financial Protection Bureau, Jan. 24, 2024, https://files.consumerfinance.gov/f/documents/cfpb_fees-for-instantaneously-declined-transactions-nprm_2024-01.pdf.

⁴⁸ “Credit Card Penalty Late Fees (Regulation Z),” Consumer Financial Protection Bureau, Mar. 5, 2024, https://files.consumerfinance.gov/f/documents/cfpb_credit-card-penalty-fees_final-rule_2024-01.pdf.

⁴⁹ “Consumer Information Requests to Large Banks and Credit Unions,” Consumer Financial Protection Bureau, Oct. 11, 2023, https://files.consumerfinance.gov/f/documents/cfpb-1034c-advisory-opinion-2023_10.pdf.

Under ECOA and Regulation B, all credit applicants are protected from unlawful discrimination on the basis of their national origin, race, and other characteristics covered by ECOA, regardless of their immigration status.⁵⁰

- *Report: The Consumer Credit Card Market.* In October 2023, the CFPB released its sixth biennial report to Congress on the consumer credit card market.⁵¹ The report found that in 2022 credit card companies charged consumers more than \$105 billion in interest and more than \$25 billion in fees. Total outstanding credit card debt eclipsed \$1 trillion for the first time since the CFPB began collecting this data. The report highlights areas of concern, including consumers carrying balances month to month, with many falling deeper into debt over time, while credit card company profits remained above pre-pandemic levels.
- *Report: State Community Reinvestment Acts.* In November 2023, the CFPB released a report on state Community Reinvestment Act laws.⁵² The report highlights how states ensure financial institutions' lending, services, and investment activities meet the credit needs of their communities. The report, which examined the laws of seven states and the District of Columbia, finds that many of those states adopted laws similar to the federal Community Reinvestment Act.
- *Report: Fair Debt Collection Practices Act CFPB Annual Report 2023.* In November 2023, the CFPB issued its annual Fair Debt Collection Practices Act report to Congress, which highlighted the challenges American families face when debt collectors pursue allegedly unpaid medical bills.⁵³ In 2022, 8,500 complaints about medical debt collections were submitted to the CFPB by servicemembers, older adults, and other consumers. The CFPB's annual report describes how the CFPB and states have worked to stop the collections of erroneous or inaccurate medical bills. The report also provides updates on the debt collection market more broadly and summarizes activities by the CFPB and other federal agencies relating to debt collection, including the FTC and its

⁵⁰ “Joint Statement on Fair Lending and Credit Opportunities for Noncitizen Borrowers Under the Equal Credit Opportunity Act,” Consumer Financial Protection Bureau, Oct. 12, 2023, https://files.consumerfinance.gov/f/documents/cfpb-joint-statement-on-fair-lending-and-credit-opportunities-for-noncitizen-b_jA2oRDf.pdf.

⁵¹ “The Consumer Credit Card Market,” Consumer Financial Protection Bureau, Oct. 25, 2023, https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2023.pdf.

⁵² “State Community Reinvestment Acts,” Consumer Financial Protection Bureau, Nov. 2, 2023, https://files.consumerfinance.gov/f/documents/cfpb_state_community_reinvestment_acts_2023-11.pdf.

⁵³ “Fair Debt Collection Practices Act CFPB Annual Report 2023,” Consumer Financial Protection Bureau, Nov. 16, 2023, https://files.consumerfinance.gov/f/documents/cfpb_fdcpa-annual-report_2023-11.pdf.

actions under the FTC Act to protect small businesses from unfair and deceptive debt collection practices.

- *Report: Overdraft and Nonsufficient Fund Fees.* In December 2023, the CFPB issued a report finding that many consumers are still being hit with unexpected overdraft and nonsufficient fund (NSF) fees, despite recent changes by banks and credit unions to eliminate billions of dollars in such fees charged each year.⁵⁴ In a CFPB Making Ends Meet survey, more than a quarter of consumers responded that someone in their household was charged an overdraft fee or NSF fee within the past year, and that only 22 percent of households expected their most recent overdraft. Many consumers charged with overdraft fees also had access to a cheaper payment alternative, such as available credit on a credit card.
- *Report: 2023 College Banking and Credit Card Agreements.* In December 2023, the CFPB released a report presenting new research and data on certain financial products that colleges market to their students in partnership with third-party financial service providers, including deposit accounts, prepaid cards, and credit cards.⁵⁵ Policymakers, along with federal auditors, banking regulators, and other agencies, have identified risks associated with marketing practices related to college-sponsored financial products and developed laws and policies to address those risks. However, many colleges continue to offer and market financial products in ways, including through online and email advertisements, that may mislead students under certain circumstances. This report also serves as the fourteenth annual report to Congress on college credit cards pursuant to the CARD Act.
- *Issue Spotlight: Federal Student Loan Return to Repayment.* In January 2024, the CFPB released an Issue Spotlight on federally owned student loans as many borrowers began to make monthly payments again for the first time in over three years.⁵⁶ The CFPB supervises student loan servicers, monitors consumer complaints, and collaborates with federal and state partners to ensure that servicers are held accountable when they fail to meet their legal obligations to borrowers. This spotlight features aggregate anonymized observations of the return to repayment because of the extensive risk consumers face

⁵⁴ “Overdraft and Nonsufficient Fund Fees,” Consumer Financial Protection Bureau, Dec. 19, 2023, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-nsf-report_2023-12.pdf.

⁵⁵ “Report: 2023 College Banking and Credit Card Agreements,” Consumer Financial Protection Bureau, Dec. 19, 2023, <https://www.consumerfinance.gov/data-research/research-reports/2023-college-banking-and-credit-card-agreements/>.

⁵⁶ “Issue Spotlight: Federal Student Loan Return to Repayment,” Consumer Financial Protection Bureau, Jan. 5, 2024, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-federal-student-loan-return-to-repayment/>.

during this period as well as significant ongoing issues examiners have identified to-date. The CFPB notes that these issues may have serious implications for borrowers as well as for servicers' compliance with state and federal consumer financial protection law.

- *Advisory Opinion: Fair Credit Reporting; Background Screening.* In January 2024, the CFPB issued an Advisory Opinion to affirm that, when preparing consumer reports, a consumer reporting agency that reports public record information is not using reasonable procedures to assure maximum possible accuracy under section 607(b) of the FCRA if it does not have procedures in place that: (1) prevent reporting information that is duplicative or has been expunged, sealed, or otherwise legally restricted from public access; and (2) include any existing disposition information if it reports arrests, criminal charges, eviction proceedings, or other court filings.⁵⁷ This Advisory Opinion also highlights that, when consumer reporting agencies include adverse information in consumer reports: (1) the occurrence of the adverse event starts the running of the reporting period for adverse items under FCRA section 605(a)(5); (2) that period is not restarted or reopened by the occurrence of subsequent events; and (3) a non-conviction disposition of a criminal charge cannot be reported beyond the seven-year period that begins to run at the time of the charge. Consumer reporting agencies thus must ensure that they do not report adverse information beyond the reporting period in FCRA section 605(a)(5) and must at all times have reasonable procedures in place to prevent reporting of information that is duplicative or legally restricted from public access and to ensure that any existing disposition information is included if court filings are reported.
- *Advisory Opinion: Fair Credit Reporting; File Disclosure.* In January 2024, the CFPB issued an Advisory Opinion to address certain obligations that consumer reporting agencies have under section 609(a) of FCRA.⁵⁸ This Advisory Opinion underscores that, to trigger a consumer reporting agency's file disclosure requirement under FCRA section 609(a), a consumer does not need to use specific language, such as "complete file" or "file." This Advisory Opinion also highlights the requirements regarding the information that must be disclosed to a consumer under FCRA section 609(a). In addition, this Advisory Opinion affirms that consumer reporting agencies must disclose to a consumer both the original source and any intermediary or vendor source (or sources) that provide the item of information to the consumer reporting agency under FCRA section 609(a).

⁵⁷ "Fair Credit Reporting; Background Screening," Consumer Financial Protection Bureau, Jan. 11, 2024, https://files.consumerfinance.gov/f/documents/cfpb_fair-credit-reporting-background-screening_2024-01.pdf.

⁵⁸ "Fair Credit Reporting; File Disclosure," Consumer Financial Protection Bureau, Jan. 11, 2024, https://files.consumerfinance.gov/f/documents/cfpb_fair-credit-reporting-file-disclosure_2024-01.pdf.

- *Report: Credit Card Data: Small Issuers Offer Lower Rates.* In February 2024, the CFPB published a report on the first set of results from the newly updated Terms of Credit Card Plans survey.⁵⁹ The survey data reveal that large banks are offering worse credit card terms and interest rates than small banks and credit unions, regardless of credit risk. In fact, the 25 largest credit card issuers charged customers interest rates of 8 to 10 points higher than small- and medium-sized banks and credit unions. This difference can translate to \$400 to \$500 in additional annual interest for the average cardholder. In March 2023, the CFPB launched an improved survey of credit card issuers⁶⁰ that can help consumers and families compare interest rates and other features when shopping for a new credit card. Americans pay \$120 billion in credit card interest and fees each year, which contributes to the almost trillion dollars in nationwide household credit card debt.
- *Supervisory Designation of World Acceptance.* In February 2024, the CFPB published an order establishing supervisory authority over installment lender World Acceptance.⁶¹ In 2022, the CFPB announced that it would begin to utilize a previously dormant legal authority to supervise entities posing risks to consumers, and issued a procedural rule to promote transparency about use of this supervisory designation authority. The designation of World Acceptance is the first public supervisory designation order in a contested matter under this authority.
- *Consumer Financial Protection Circular 2024-01: Preferencing and Steering Practices by Digital Intermediaries for Consumer Financial Products or Services.* In February 2024, the CFPB released a Circular addressing how companies operating comparison-shopping tools can violate the law by preferencing products or services based on financial or other benefits they receive.⁶² The Circular affirms that, where consumers reasonably rely on an operator of a digital comparison-shopping tool or lead generator to act in the interests of the consumer, the operator or lead generator can take unreasonable advantage of that reliance by obtaining financial or other benefits for

⁵⁹ “Credit Card Data: Small Issuers Offer Lower Rates,” Consumer Financial Protection Bureau, Feb. 16, 2024, <https://www.consumerfinance.gov/data-research/research-reports/credit-card-data-small-issuers-offer-lower-rates/>.

⁶⁰ “Terms of Credit Card Plans (TCCP) Survey,” Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/data-research/credit-card-data/terms-credit-card-plans-survey/>.

⁶¹ “CFPB Orders Federal Supervision for Installment Lender Following Contested Designation,” Consumer Financial Protection Bureau, Feb. 23, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-federal-supervision-for-installment-lender-following-contested-designation/>.

⁶² “Consumer Financial Protection Circular 2024-01: Preferencing and Steering Practices by Digital Intermediaries for Consumer Financial Products or Services,” Consumer Financial Protection Bureau, Feb. 29, 2024, https://files.consumerfinance.gov/f/documents/cfpb_digital-intermediaries_circular_2024-02.pdf.

giving preferential treatment to their own or other products or services through steering or enhanced product placement.

2. Complaints

The CFPB has a statutory obligation to collect and monitor consumer complaints.⁶³ Consumers' complaints and companies' responses provide the CFPB with important information about the types of challenges consumers are experiencing with financial products and services and how companies are responding to consumers' concerns. The CFPB uses this information to monitor risk in financial markets, assess risk at companies, and prioritize agency action.

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

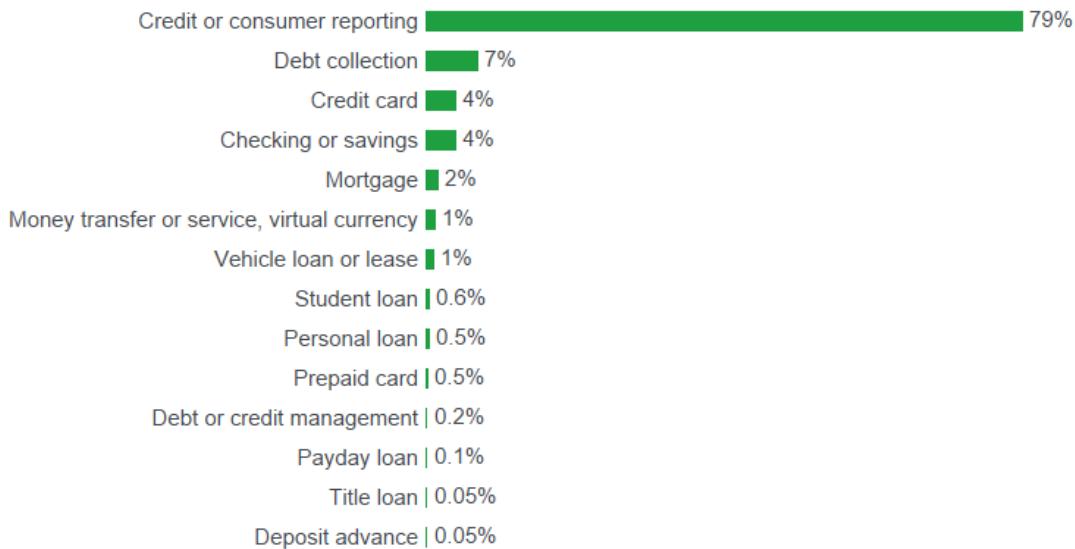
During the period of October 1, 2022, through September 30, 2023, the CFPB received approximately 1,550,000 consumer complaints.⁶⁴ Consumers submitted approximately 97 percent of these complaints through the CFPB's website and two percent via telephone calls. Referrals from other state and federal agencies accounted for less than 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 group the financial products and services about which consumers complain to the CFPB for public reports. As shown in Figure 1, credit or consumer reporting received the most complaints during this period, followed by debt collection.

⁶³ 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).

⁶⁴ Complaint data in this report are current as of March 1, 2024. 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 1,217,400 complaints to companies for review and response.⁶⁵ Companies responded to approximately 99.6 percent of these complaints during the period. Company responses typically include descriptions of steps taken or that will be taken in response to the consumer's complaint, communications received from the consumer, any follow-up actions or planned follow-up actions, and a categorization of the company's response. Companies' responses also describe a range of monetary and non-monetary relief. Examples of non-monetary relief include correcting inaccurate data provided or reported in consumers' credit reports, stopping unwanted calls from debt collectors, correcting account information, issuing corrected documents, restoring account access, and addressing formerly unmet customer service issues.

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

⁶⁵ The CFPB referred 6 percent of the complaints it received to other regulatory agencies and found 16 percent to be not actionable. Complaints that are not actionable include incomplete submissions, withdrawn complaints, and complaints in which 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.

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 including the *Consumer Response Annual Report*,⁶⁶ required by Section 1013(b)(3)(C) of the Dodd-Frank Act, as well as complaint analyses in other mandatory and discretionary reports.⁶⁷ In addition to public reports, the CFPB makes complaint data available to the public in the Consumer Complaint Database (Database).⁶⁸ The Database contains certain de-identified, individual complaint level data, as well as dynamic visualization tools, including geospatial and trend views, to help Database users understand current and recent marketplace conditions. Finally, the CFPB also shares some consumer complaint information with prudential regulators, the Federal Trade Commission (FTC), other federal agencies, and state and local agencies.

⁶⁶ See “Consumer Response Annual Report,” Consumer Financial Protection Bureau, Mar. 31, 2022, https://files.consumerfinance.gov/f/documents/cfpb_2021-consumer-response-annual-report_2022-03.pdf.

⁶⁷ See *supra* notes 14, 17, 26, and 53.

⁶⁸ See Consumer Complaint Database, Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/data-research/consumer-complaints/>.

3. Supervisory and Enforcement Actions

3.1 List of public supervisory and enforcement actions

3.1.1 Statement of issues for public supervisory and enforcement actions

The CFPB was a party in the following public enforcement actions from October 1, 2022, through September 30, 2023, which are listed in descending chronological order by filing date.

- *In the Matter of Tempoe, LLC* (2023-CFPB-0010) (not a credit union or depository institution). On September 11, 2023, the CFPB issued an order against Tempoe, LLC, a nonbank consumer finance company, with offices in Cincinnati, Ohio, and Manchester, New Hampshire. Tempoe purchased personal property and services from retailers and then leased them to consumers. Typically, consumers were offered Tempoe's product after applying and being rejected for conventional financing through the retailer. Under the terms of Tempoe's agreements, consumers made periodic payments for an initial term of five months. Then, unless the consumer made an active selection to purchase or return the property, Tempoe continued auto-debiting the consumers for the full month-to-month term of the contract, typically 18 to 36 months. Some consumers discovered only at the conclusion of their initial term that they did not own their items and were required to pay more. The CFPB found that Tempoe engaged in unfair acts and practices in violation of the Consumer Financial Protection Act of 2010 (CFPA) by (1) failing to ensure that consumers had access to the terms of the transaction, and (2) prohibiting the return of some goods and services. The CFPB also found that Tempoe violated Regulation M, which implements the Consumer Leasing Act, by failing to provide consumers with required disclosures for leases that extended beyond the initial term by six months or more. The order permanently bans Tempoe from offering or providing consumer leases and requires Tempoe to release all consumers with existing lease agreements from their leases and to allow them to maintain the leased products with no further financial obligation; including approximately 19,300 leases with an aggregate value of approximately \$33 million. The order also requires Tempoe to pay a \$2 million civil money penalty, of which \$1 million will be remitted upon Tempoe's payment of that

amount to the states that filed a parallel multi-state settlement addressing the same conduct.

- *Consumer Financial Protection Bureau v. Heights Finance Holding Co. f/k/a Southern Management Corporation; Covington Credit of Alabama, Inc.; Southern Finance of Tennessee, Inc.; Covington Credit of Georgia, Inc.; Southern Finance of South Carolina, Inc.; Covington Credit of Texas, Inc.; Covington Credit, Inc.; and Quick Credit Corporation* (D.S.C. No. 6:23-cv-04177). On August 22, 2023, the CFPB filed a lawsuit against Heights Finance Holding Co. f/k/a Southern Management Corporation as well as its wholly owned, state-licensed subsidiaries: Covington Credit of Alabama, Inc.; Southern Finance of Tennessee, Inc.; Covington Credit of Georgia, Inc.; Southern Finance of South Carolina, Inc.; Covington Credit of Texas, Inc.; Covington Credit, Inc.; and Quick Credit Corporation (collectively Southern). Southern is a high-cost installment lender that operates over 250 brick-and-mortar storefronts located in the states of Texas, Oklahoma, Alabama, Georgia, Tennessee, and South Carolina under a variety of trade names, including Covington Credit, Southern Finance, Quick Credit, and Heights Finance. The CFPB alleges that Southern employs numerous harmful underwriting, sales, and servicing practices for their refinanced loans that are designed to churn delinquent borrowers into continuous fee-laden debt, which erode the borrowers' available credit and increase their total cost of borrowing with each successive refinance. The CFPB further alleges that Southern has generated hundreds of millions in loan costs and fees and that it derives 40 percent of its net revenue through this process of "churning" borrowers in repeated, fee-laden refinances. The CFPB alleges that Southern's loan-churning practices violate the CFPA because they are unfair; they are abusive because they take unreasonable advantage of borrowers' lack of understanding of the material risks, costs, or conditions of a refinanced Southern loan; and they are abusive because they take unreasonable advantage of payment-stressed borrowers' inability to protect their interests in the selection or use of a refinanced loan. The CFPB seeks redress for consumers, injunctive relief, and a civil money penalty. As of the end of the reporting period, the case remains pending.
- *In the Matter of Realty Connect USA Long Island, Inc.* (2023-CFPB-0009) (not a credit union or depository institution). On August 17, 2023, the CFPB issued an order against Realty Connect USA Long Island, Inc. (Realty Connect), a real estate brokerage firm based in Suffolk County, New York, for accepting things of value—including valuable subscription services, events, and monthly marketing services agreement payments—in exchange for referral of mortgage loans to Freedom Mortgage Corporation in violation of the Real Estate Settlement Procedures Act (RESPA) and its implementing Regulation X.

The order requires Realty Connect to stop its unlawful activities and pay a \$200,000 civil money penalty.

- *In the Matter of Freedom Mortgage Corporation* (2023-CFPB-0008) (not a credit union or depository institution). On August 17, 2023, the CFPB issued an order against Freedom Mortgage Corporation (Freedom), a residential mortgage loan originator and servicer headquartered in Boca Raton, Florida, for providing things of value—including subscription services, events, and monthly marketing services agreement payments—in exchange for referrals of mortgage loans in violation of RESPA and its implementing Regulation X. The order requires Freedom to stop its unlawful activities and pay a \$1.75 million civil money penalty.
- *Consumer Financial Protection Bureau v. USASF Servicing, LLC* (N.D. Ga. No. 1:23-cv-03433). On August 2, 2023, the CFPB filed a lawsuit against USASF Servicing, LLC, an auto-loan servicer headquartered in Lawrenceville, Georgia. USASF offered both Guaranteed Asset Protection (GAP) and collateral-protection insurance (CPI), which are products that consumers can buy when they buy or lease a car. GAP covers some of a consumers' loan balance if their car is totaled but they still owe money on the loan even with car insurance. CPI is physical-damage insurance that protects the lender if a consumer does not have auto insurance that covers the amount of their car loan. The CFPB alleges that USASF engaged in unfair acts and practices by: (1) wrongfully activating nearly 80,000 times starter-interruption devices, which are devices that warn consumers with beeps or disable their car altogether when they are late with a loan payment; (2) failing to ensure refunds of GAP premiums when consumers were entitled to a refund because they paid off their loan early or their car was repossessed by USASF, totaling millions of dollars for thousands of consumers; (3) erroneously billing 34,000 consumers for CPI by charging them twice each billing cycle, totaling around \$1.9 million; (4) wrongfully applying extra consumer payments first to late fees or CPI instead of accrued interest; and (5) wrongfully repossessing consumers' cars dozens of times due to errors by USASF or its vendor. The CFPB seeks, among other things, restitution and redress to consumers, civil money penalties, and injunctions to prevent future violations. As of the end of the reporting period, the case remains pending.
- *Consumer Financial Protection Bureau v. Snap Finance LLC, Snap RTO LLC, Snap Second Look LLC, Snap U.S. Holdings LLC, Snap Finance Holdings LLC* (D. Utah No. 2:23-cv-00462). On July 19, 2023, the CFPB filed a lawsuit against Snap Finance LLC, Snap RTO LLC, Snap Second Look LLC, Snap U.S. Holdings LLC, and Snap Finance Holdings LLC (collectively, Snap), a group of interrelated companies headquartered in West Valley, Utah. Snap offers and provides “lease-purchase” or “rental-purchase”

financing, through which consumers finance merchandise and services from merchants and, in turn, make payments back to Snap. Since January 2017, Snap has offered and provided more than three million financing agreements to consumers in partnership with over 10,000 merchants in 47 states. The CFPB alleges that, during this period, Snap designed and implemented its financing program in ways that misled consumers through the advertising, servicing, and collections of its agreements, failed to provide consumers with required disclosures, and interfered with consumers' ability to understand the terms and conditions of their agreements. The CFPB alleges that such conduct violated the CFPB's prohibition of deceptive and abusive acts and practices and the Truth in Lending Act (TILA) and its implementing Regulation Z. The CFPB further alleges that Snap violated the Electronic Fund Transfer Act (EFTA) and its implementing Regulation E by unlawfully conditioning the extension of credit on consumers' repayment through preauthorized ACH debits, and the Fair Credit Reporting Act (FCRA) and its implementing Regulation V by failing to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of consumer information that it furnished. The CFPB seeks, among other things, injunctions to prevent future violations, rescission, or reformation of Snap's financing agreements, redress to consumers, and civil money penalties. On September 28, 2023, Snap filed a motion to dismiss. As of the end of the reporting period, the case remains pending.

- *State of Washington; State of Oregon; California Department of Financial Protection and Innovation; State of Delaware; State of Minnesota; State of Illinois; State of South Carolina; State of North Carolina ex rel. Attorney General Joshua H. Stein; Commonwealth of Massachusetts; Commonwealth of Virginia; State of Wisconsin; and Consumer Financial Protection Bureau v. Prehired, LLC, Prehired Recruiting, LLC, and Prehired Accelerator, LLC* (Bankr. Del. No. 22-11007). On July 13, 2023, the CFPB and several state partners filed a complaint in an adversary proceeding against Prehired, LLC, Prehired Recruiting, LLC, and Prehired Accelerator, LLC. Prehired has its principal place of business in Delaware and, prior to filing bankruptcy, operated a private, for-profit vocational training program for software sales representatives. Prehired charged up to \$30,000 for its program and encouraged consumers who could not pay upfront to enter into income share loans. Prehired's income share loans required consumers to make minimum payments equal to between 12.5 percent and 16 percent of their gross income for four to eight years or until they had paid a total of \$30,000, whichever was sooner. Prehired transferred ownership of many of these loans to other entities, including Prehired Recruiting and Prehired Accelerator. The complaint alleged that Prehired deceptively represented that its income share loans were not loans; deceptively represented that consumers would pay nothing until they had a job making at least \$60,000 a year; and failed to disclose key financing terms required by TILA and

Regulation Z. The complaint also alleged that Prehired Recruiting engaged in unfair acts and practices by filing debt collection lawsuits in a distant forum when consumers neither lived in that forum nor were in that forum when they executed the financing agreement. The complaint further alleged that Prehired Recruiting and Prehired Accelerator violated the Fair Debt Collection Practices Act (FDCPA) and the CFPB by deceptively inducing consumers to enter into settlement agreements, and the FDCPA by claiming the consumers owed more than they did. The attorneys general from Washington, Oregon, Delaware, Minnesota, Illinois, Wisconsin, Massachusetts, North Carolina, South Carolina, and Virginia, and California's Department of Financial Protection and Innovation joined the action. The states and CFPB sought to void the income share loans, obtain redress for affected consumers, and obtain a penalty which would be deposited into the CFPB's victims relief fund. As of the end of the reporting period, the case remained pending.⁶⁹

- *In the Matter of Bank of America, N.A.* (2023-CFPB-0007). On July 11, 2023, the CFPB issued an order against Bank of America, N.A., which is a depository institution based in Charlotte, North Carolina, to address the CFPB's findings regarding the bank's opening unauthorized consumer financial accounts and its misleading statements regarding certain credit cards rewards. Specifically, the CFPB found that in certain instances Bank of America opened credit card accounts without consumer consent and in doing so, obtained consumer credit reports without a permissible purpose, in violation of TILA and its implementing regulation, FCRA, and the CFPB. The CFPB further found that Bank of America engaged in deceptive acts or practices by: (a) advertising a sign-up bonus for a rewards card on its website, making it appear it was available to all applicants, but later denying the bonus to consumers who applied over the phone or in person and not online; and (b) offering a sign-up bonus for a rewards card to certain consumers but then failing to provide them the promised bonuses due to employee error. The order requires the Bank to come into compliance, pay redress to consumers and verify previously administered redress, and pay a \$30 million civil money penalty.
- *In the Matter of Bank of America, N.A.* (2023-CFPB-0006). On July 11, 2023, 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. When a consumer writes a check or authorizes an ACH transaction to a merchant or other payee using their deposit account at Bank of America, the merchant or other payee may then present that check or ACH authorization to the bank

⁶⁹ 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/prehired-llc-et-al/>.

for payment. Until February 2022, if a consumer did not have sufficient funds in their account to pay for the transaction and the bank decided not to pay it, Bank of America assessed the consumer a \$35 non-sufficient funds fee. Merchants commonly “re-present” these returned transactions—that is, they again try to receive payment—often multiple times. For many years, Bank of America assessed non-sufficient fund fees on ACH and check transactions that it returned unpaid even though it had already assessed a \$35 fee for the same ACH or check transaction that it had previously returned unpaid (i.e., repeat non-sufficient fund fees). Bank of America would assess these repeat non-sufficient fund fees potentially as soon as the next day after the initial transaction. From September 2018 until February 2022, Bank of America generated hundreds of millions of dollars in such fees. The CFPB found that Bank of America’s assessment of repeat non-sufficient fund fees was unfair in violation of the CFPB. The CFPB’s order requires Bank of America to refund all repeat non-sufficient fund fees that it collected since September 2018 and has not yet refunded, totaling approximately \$80.4 million in redress. The bank must also pay a \$60 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 \$60 million.

- *In the Matter of ACI Worldwide Corp. and ACI Payments Inc.* (2023-CFPB-0005) (not a credit union or depository institution). On June 27, 2023, the CFPB issued an order against ACI Worldwide Corp. and ACI Payments Inc. (collectively, ACI), a nationwide payment processor headquartered in Elkhorn, Nebraska. The CFPB found that ACI’s employees improperly accessed and used sensitive consumer financial information for internal testing purposes and without employing appropriate information safety controls. These internal tests created fake payment processing files that were treated as containing legitimate consumer bill payment orders by ACI’s consumer bill payment platform. Due to weaknesses in its information handling practices, ACI caused the erroneous bill payment orders to be sent to consumers’ banks for processing. These actions initiated debits totaling approximately \$2.3 billion in mortgage payments from nearly 500,000 borrower bank accounts without their knowledge or authorization. The CFPB found that ACI’s actions violated EFTA and its implementing rule, Regulation E, as well as the CFPB’s prohibition of unfair acts and practices. The order requires ACI to stop its unlawful activities and adopt and enforce reasonable information security practices. The order also requires ACI to pay a \$25 million civil money penalty.
- *In the Matter of Phoenix Financial Services, LLC* (2023-CFPB-0004) (not a credit union or depository institution). On June 8, 2023, the CFPB issued an order against Phoenix Financial Services, LLC (Phoenix), an Indiana-based debt collector that collects primarily past-due medical debts and furnishes information about consumers to

consumer reporting agencies (CRAs). The CFPB found that Phoenix violated FCRA and its implementing Regulation V by failing to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information it furnishes to CRAs; failing to conduct reasonable investigations of consumer disputes about information Phoenix furnished to CRAs; and failing to report the results of direct dispute investigations to consumers. The CFPB also found that Phoenix violated the FDCPA by sending debt collection letters to consumers before providing the consumer a verification of the debt when Phoenix had received a written dispute from the consumer within 30 days of the consumer's receipt of a debt validation notice; and by misrepresenting to consumers that they owed alleged debts in certain circumstances when Phoenix lacked a reasonable basis to make those representations. The order requires Phoenix to provide redress to affected consumers by refunding all amounts paid to Phoenix on an unverified debt between January 1, 2017, and the date of the order by consumers who received an unlawful debt collection letter from Phoenix after disputing the validity of the alleged debt. The order also requires Phoenix to abide by certain conduct provisions to prevent it from engaging in the violations found by the CFPB and to pay a \$1.675 million civil money penalty.

- *In the Matter of OneMain Financial Holdings, LLC; OneMain Financial Group, LLC; OneMain Financial (HI), Inc.; OneMain Financial, Inc.; OneMain Financial of Minnesota, Inc.* (2023-CFPB-0003) (not a credit union or depository institution). On May 31, 2023, the CFPB issued an order against OneMain Financial Holdings, LLC; OneMain Financial Group, LLC; OneMain Financial (HI), Inc.; OneMain Financial, Inc.; and OneMain Financial of Minnesota, Inc. (collectively referred to as OneMain). OneMain is an Indiana-based personal loan installment lender with more than 1,400 branches across 44 states. In connection with loan originations and renewals, OneMain markets, sells, and finances add-on products, including credit life insurance, credit disability insurance, and identity theft protection. For several years, OneMain misrepresented to tens of thousands of consumers who purchased and then subsequently canceled optional add-on products that they could cancel the products during what it called a “full refund period” and be returned to the financial position they would have been in had the product never been added to their loan. The CFPB found that OneMain engaged in deceptive acts or practices in violation of the CFPA by misleading consumers into believing they must purchase add-on products to receive loans and that they could cancel the add-on products within a prescribed time period without cost. The CFPB also found that OneMain engaged in unfair acts or practices in violation of the CFPA by charging and failing to refund the full premium and interest that accrued on add-on products consumers did not agree to purchase and by charging and failing to refund interest that accrued on add-on product fees during a purported full-refund

period. Finally, the CFPB found that OneMain violated the CFPA by abusively interfering with consumers' ability to understand that add-on products were optional and that OneMain charged non-refundable interest during the purported full-refund period. The order requires OneMain to stop its unlawful activities, adjust its policies to make cancellation of add-on products easier, include interest in refunds after add-on product cancellations, pay at least \$10,000,000 in consumer redress, and pay a \$10,000,000 civil money penalty. OneMain must also take measures to ensure future compliance.

- *Consumer Financial Protection Bureau v. James R. Carnes; Melissa C. Carnes; James R. Carnes, as Co-Trustee of the James R. Carnes Revocable Trust dated February 10, 2010; Melissa C. Carnes, as Co-Trustee of the James R. Carnes Revocable Trust dated February 10, 2010; James R. Carnes, as Co-Trustee of the Melissa C. Carnes Revocable Trust dated February 10, 2010; and Melissa C. Carnes, as Co-Trustee of the Melissa C. Carnes Revocable Trust dated February 10, 2010* (D. Kan. No. 2:23-cv-02151). On April 5, 2023, the CFPB filed a lawsuit against James R. Carnes and his wife, Melissa C. Carnes, both individually and in their roles as co-trustees of two trusts, as a result of James Carnes's efforts to conceal assets and avoid paying a judgment of more than \$43 million to the CFPB. The CFPB obtained the judgment after finding that Carnes and his company, Integrity Advance, LLC, violated multiple laws, including the CFPA, and caused significant harm to consumers. See *In the Matter of Integrity Advance, LLC and James R. Carnes*, 2015-CFPB-0029 (administrative proceeding); *CFPB v. Integrity Advance, LLC and James R. Carnes*, 2:21-mc-206 (D. Kan. July 30, 2021) (judgment). The CFPB's complaint alleges that James Carnes engaged in multiple fraudulent transactions in violation of the Federal Debt Collection Procedures Act to remove assets and conceal them from the CFPB. Specifically, the complaint alleges that soon after Carnes became aware of the CFPB's investigation into his illegal payday lending business, he began transferring significant assets to his wife's trust and that, in total, he transferred more than \$12 million to the trust during the CFPB's investigation and subsequent administrative proceeding. The CFPB seeks a declaration that the transactions were fraudulent and to recover the value of the transferred assets in partial satisfaction of the CFPB's judgment against Carnes. On May 11, 2023, James and Melissa Carnes each filed a motion to dismiss, both of which the court denied on September 20, 2023. As of the end of the reporting period, the case remains pending.
- *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. The court entered the order on April 13, 2023. 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 CFPB and the FDCPA in connection with Portfolio Recovery Associates’ debt collection practices. The CFPB alleged that Portfolio Recovery Associates violated the 2015 Order, the CFPB, the FDCPA, and FCRA and its implementing Regulation V. Specifically, the CFPB alleged that Portfolio Recovery Associates violated the CFPB 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) mispresenting 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 alleged that several of Portfolio Recovery Associates’ practices for resolving disputes about information it furnished to CRAs violated FCRA, Regulation V, and the CFPB. Specifically, the CFPB claimed 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 alleged 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 order requires Portfolio Recovery Associates to pay at least \$12.18 million in redress to harmed consumers and a \$12 million civil money penalty. It also imposes broad injunctive relief designed to prevent Portfolio Recovery Associates from violating the law in the future.

- *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 CFPB and the Mortgage Acts and Practices – Advertising Rule (Regulation N) or failed to include required disclosures in violation of TILA and its implementing regulation, Regulation Z.

These included advertisements that RMK sent to U.S. 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 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 CFPA 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, monetary relief for consumers, and civil money penalties. On March 14, 2023, Credit Acceptance filed a motion to dismiss, which is fully briefed. On August 7, 2023, the court stayed the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22-448. As of the end of the reporting period, the motion to dismiss and the case remain 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 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 CFPA. 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 CFPA 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 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 50 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 who had federally backed mortgage loans and 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 CFPAs 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 CFPAs 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. 22-448. 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. The CFPB filed a first amended complaint on June 13, 2023. 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; requiring covered borrowers to submit to arbitration or in the case of a dispute, to reject the arbitration provision within 30 days of the date of the contract; demanding that borrowers provide written notice rejecting the arbitration provision within 30 days of the date of the contract as a condition for legal action; and failing to make required disclosures to covered borrowers. The CFPB also alleges that MoneyLion, its lending subsidiaries, and ML Plus engaged in deceptive acts or practices in violation of the CFPA by misrepresenting that covered borrowers owed loan payments and associated fees that they did not in fact owe because loan contracts were void from their inception. The CFPB further alleges that MoneyLion and ML Plus engaged in unfair, deceptive, and abusive acts and practices by not permitting consumers with unpaid loan balances to exit the membership program and stop monthly membership-fee charges; misrepresenting consumers’ right to cancel their memberships for any reason and not clearly disclosing these restrictions on membership cancellation when consumers took out loans; and continuing to charge and collect monthly membership fees after consumers had asked to

cancel their memberships or terminate ACH-fee withdrawals. The CFPB's first amended complaint seeks redress for consumers, injunctive relief, and a civil money penalty. On July 11, 2023, the defendants moved to dismiss the first amended complaint. As of the end of the reporting period, the case remains pending.

- *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 10 states, however, had the contractual right to one free repayment plan per year if they indicated they could not repay their loan, which is designed to help consumers get out of a debt trap. Under the free repayment plan, consumers would owe their outstanding balance in four equal installments over their next four paydays, rather than owing one lump sum, without paying any additional fees or interest. The CFPB alleges that ACE engaged in unfair, abusive, and deceptive acts or practices in violation of the CFPA by concealing this free repayment plan from consumers who were entitled to it, instead inducing them to refinance their loans for additional fees. As alleged in the complaint, since July 10, 2014, hundreds of thousands of consumers have paid ACE over \$240 million in reborrowing fees while eligible for a free repayment plan. The CFPB also alleges that when ACE attempted to collect payment on its payday and title loans, it unfairly made electronic withdrawals of consumers' money without their authorization. The CFPB seeks permanent injunctive relief, redress for consumers, and civil money penalties. On September 23, 2022, ACE filed a motion to dismiss, which remains pending. 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. 22-448. As of the end of the reporting period, the case remains pending but stayed.
- *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 CFPAA. The CFPB and New York also allege that MoneyGram engaged in unfair acts and practices in violation of the CFPAA 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. 22-448. 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 CFPAA, 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 CFPAA, including by misrepresenting that products were free or \$1; misrepresenting that credit card or other payment information provided by consumers would be used for

identification purposes rather than payment; misrepresenting the central characteristics of its VantageScore credit score; and misrepresenting that cancellation of products would publicly expose the consumer's personal information and that re-enrolling in the product is the only way consumers can protect their information. The CFPB further alleges that the TransUnion Companies' advertisement of credit-related products on annualcreditreport.com, a website intended to provide consumers access to free credit reports, undermined the purpose 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, which was granted on May 23, 2023, and the CFPB filed the First Amended Complaint on May 24, 2023. Defendant Danaher's motion for certification of an interlocutory appeal was denied on May 23, 2023. On February 28, 2023, the defendants filed a motion to stay the case, which was denied on April 13, 2023. 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 CFPA 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 the court denied on August 22, 2023. On September 1,

2023, the defendants moved to stay the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22-448. As of the end of the reporting period, the motion to stay and the case remain pending.

- *Consumer Financial Protection Bureau v. FirstCash, Inc., and Cash America West, Inc.* (N.D. Tex. 4:21-cv-01251). On November 12, 2021, the CFPB filed a lawsuit against FirstCash, Inc. and Cash America West, Inc. On June 21, 2022, the CFPB filed an amended complaint to add defendants FCFS AL, Inc., Cash America East, Inc., Cash America Inc. of Alaska, Georgia Cash America, Inc., FCFS IN, Inc., FCFS TN, Inc., FCFS OH, Inc., FCFS KY, Inc., Cash America, Inc. of Louisiana, FCFS MO, Inc., Cash America of Missouri, Inc., Cash America, Inc. of North Carolina, FCFS NC, Inc., FCFS OK, Inc., FCFS SC, Inc., Pawn TX, Inc., Cash America Pawn L.P., and Cash America Advance, Inc. (with Cash America West, referred to as the FirstCash Subsidiaries). FirstCash owns and operates over 1,000 retail pawnshops in the United States, offering pawn loans through its wholly owned corporate subsidiaries. The FirstCash Subsidiaries operate pawn stores in Alabama, Alaska, Arizona, Florida, Georgia, Indiana, Kentucky, Louisiana, Missouri, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, and Washington. The CFPB alleges that FirstCash and the FirstCash Subsidiaries made pawn loans to active-duty servicemembers and their dependents that violated the MLA. The MLA puts in place protections in connection with extensions of consumer credit for active-duty servicemembers and their dependents, who are defined as “covered borrowers.” These protections include a maximum allowable annual percentage rate of 36 percent, a prohibition against required arbitration, and certain mandatory loan disclosures. The CFPB alleges that, between June 2017 and May 2021, FirstCash and the FirstCash Subsidiaries made thousands of pawn loans to more than 1,000 covered borrowers that violated prohibitions of the MLA by imposing a rate greater than the MLA’s 36-percent cap; using loan agreements requiring arbitration in the case of a dispute; and without making required loan disclosures. In 2013, the CFPB ordered Cash America International, Inc. to halt its misconduct against military families, prohibiting Cash America and its successors from violating the MLA. FirstCash is a successor to Cash America and therefore subject to the 2013 order. In this action, the CFPB alleges that FirstCash’s violations of the MLA violated the prohibitions of the CFPB’s 2013 order and consequently the CFPRA. 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. 22-448. As of the end of the reporting period, the case remains pending but stayed.

- *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. 22-448. 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. 22-448 (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 August 7, 2023, the court denied defendants' motion for reconsideration. Defendants appealed the denial of the motion to dismiss to the Fourth Circuit; that appeal remains pending. 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. On May 1, 2023, the defendants filed a motion for judgment on the pleadings, and on May 11, 2023, the district court found the defendants in civil contempt and entered default against them. The court also denied as moot the defendants' motion for judgment on the pleadings. Defendants appealed the district court's denial of their motion for judgment on the pleadings. As of the end of the reporting period, the appeal and the case remain pending.⁷⁰

- *Bureau of Consumer Financial Protection v. 1st Alliance Lending, LLC; John Christopher DiIorio; Kevin Robert St. Lawrence; and Socrates Aramburu* (D. Conn. 3:21-cv-00055). On January 15, 2021, the CFPB filed a lawsuit against 1st Alliance Lending, LLC, John Christopher DiIorio, Kevin Robert St. Lawrence, and Socrates Aramburu. 1st Alliance, based in Hartford, Connecticut, originated residential mortgages from 2004 to September 2019 and stopped operating in November 2019. DiIorio was its chief executive officer and he, St. Lawrence, and Aramburu were 1st Alliance's three managing executives. The CFPB's complaint alleges that 1st Alliance engaged in various unlawful mortgage lending practices in violation of TILA, FCRA, ECOA, and the Mortgage Acts and Practices Advertising Rule (MAP Rule); and that 1st Alliance, DiIorio,

⁷⁰ 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/nexus-services-inc-et-al/>.

St. Lawrence, and Aramburu engaged in unfair and deceptive practices under the CFPAs. 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 CFPAs 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. Townstone Financial, Inc. and Barry Sturner* (N.D. Ill. 1:20-cv-04176). On July 15, 2020, the CFPB filed a lawsuit against Townstone Financial, Inc., a nonbank retail-mortgage creditor and broker based in Chicago. The CFPB alleges that Townstone violated ECOA; its implementing regulation, Regulation B; and the CFPAs. The CFPB alleges that, for years, Townstone drew almost no applications for properties in majority African American neighborhoods located in the Chicago-Naperville-Elgin Metropolitan Statistical Area (Chicago MSA) and few applications from African Americans throughout the Chicago MSA. The CFPB alleges that Townstone engaged in discriminatory acts or practices, including making

statements during its weekly radio shows and podcasts through which it marketed its services, that would discourage prospective African-American applicants from applying for mortgage loans; would discourage prospective applicants living in African-American neighborhoods in the Chicago MSA from applying for mortgage loans; and would discourage prospective applicants living in other areas from applying for mortgage loans for properties located in African-American neighborhoods in the Chicago MSA. On November 25, 2020, the CFPB filed an amended complaint, which added as a defendant Barry Sturner, Townstone's cofounder, sole owner, and sole director, as the fraudulent transferee of more than \$2.4 million from Townstone. The CFPB's amended complaint seeks an injunction against Townstone, as well as damages, redress to consumers, the imposition of a civil money penalty, and other relief. The defendants filed a motion to dismiss the amended complaint on February 8, 2021, which the court granted on February 3, 2023. The CFPB filed a notice of appeal on April 3, 2023; oral argument was held on December 8, 2023. 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); 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. The court denied both motions on May 1, 2023. On July 28, 2023, the plaintiffs and defendants separately moved for summary judgment on all claims with all related briefing completed on September 1, 2023. Those motions and the case remain pending as of the end of the reporting period.
- *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 Truth in Savings Act (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 CFPB due to its violations of TILA and Regulation Z. Specifically, the CFPB alleged that Citizens failed to: (1) reasonably investigate and appropriately resolve billing error notices and claims of unauthorized use by automatically denying such claims for failure to return a fraud affidavit; (2) credit consumers' accounts for fees and finance charges when unauthorized use and billing errors occurred; (3) provide consumers with required acknowledgment and denial notices regarding billing error notices; and (4) disclose required credit counseling information to consumers when consumers called the toll-free number designated for such purpose. On May 23, 2023, the CFPB filed a proposed stipulated final judgment and order, which the court entered the same day. The order requires Citizens to pay a \$9 million civil money penalty. It also imposes injunctive relief designed to prevent Citizens from violating the law in the future.
- *Bureau of Consumer Financial Protection v. Monster Loans, et al.* (C.D. Cal. 8:20-cv-00043). On January 9, 2020, the CFPB filed a lawsuit against Monster Loans, Lend Tech Loans, and associated student loan debt-relief companies and individuals. The CFPB alleged 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 alleged 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 imposes an \$18 million redress judgment and a total \$450,001 penalty and bans Monster Loans, Chou, and Cowell from the debt-relief industry. On July 7, 2020, the court entered a stipulated final judgment against Robert Hoose, which imposes a \$7 million redress judgment and \$1 penalty against him and bans him from the debt-relief industry. 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 them. On May 4, 2021, the court entered stipulated final judgments against Lend Tech Loans, Inc. and David Sklar, which among other things requires Lend Tech Loans to dissolve and bans Sklar from the debt-relief

industry. On May 7, 2021, the court entered a default judgment against: Docu Prep Center, Inc., Document Preparation Services, LP; 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; it imposes redress judgments totaling \$19,699,869 and penalties totaling \$11,382,136 and bans them from the debt relief industry. On May 7, 2021, the court also entered a default judgment against Bilal Abdelfattah, which imposes a \$3,262,244 penalty and bans him from the debt-relief industry. On May 11, 2021, the court entered stipulated final judgments against Docs Done Right, Inc., Docs Done Right, LP, Eduardo Martinez, and Frank Anthony Sebreros, which among other things bans them from the debt relief industry. Following a finding of liability, 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 penalty, and injunctive relief including permanent bans from the debt-relief and mortgage industries. Following an appeal, on December 27, 2022, the Ninth Circuit affirmed the district court's ruling.

- *Bureau of Consumer Financial Protection, et al. v. Consumer Advocacy Center Inc., d/b/a Premier Student Loan Center, et al.* (C.D. Cal. 8:19-cv-01998). On October 21, 2019, the CFPB and states of Minnesota, North Carolina, and California filed a complaint against related debt-relief companies Premier, True Count, and Prime, and associated individuals. The CFPB alleges the companies operate as a common enterprise, have engaged in deceptive practices, and charged unlawful advance fees in connection with the marketing and sale of student loan debt relief services. The CFPB also alleges the individuals substantially assisted the student loan debt relief companies. The court granted a temporary restraining order on October 21, 2019 and entered a stipulated preliminary injunction on November 15, 2019. On August 26, 2020, the court entered a stipulated final judgment as to Prime and Horizon, which among other things bans them from telemarketing or offering or providing debt relief services. On August 28, 2020, the court entered a stipulated final judgment as to Tuong Nguyen and relief defendant TN Accounting, which among other things bans Nguyen from telemarketing or offering or providing debt relief services. On December 15, 2020, the court entered a default judgment against First Priority and True Count Staffing, imposing redress judgments of \$55,360,817.14 and \$165,848.05 against True Count and First Priority, respectively, a \$30 million penalty against True Count, of which \$29,850,000 is payable to the CFPB, a \$3.75 million penalty against First Priority, of which \$2,470,000 is payable to the CFPB, and banning them from telemarketing or offering or providing debt relief services. On July 14, 2021, the court entered a stipulated final judgment as to Consumer Advocacy Center, imposing a \$35,105,017.93 redress judgment and permanently restraining them

from participating in any debt-relief service or telemarketing any consumer financial product. On March 22, 2022, the court entered a stipulated final judgment as to TAS 2019 LLC, imposing a \$2,866,314.24 redress judgment and \$1 penalty and permanently banning them from participating in any debt relief service or telemarketing any consumer financial product. On June 10, 2022, the court entered a stipulated final judgment as to Albert Kim, which among other things bans him from participating in any debt relief service or telemarketing any consumer financial product or service. On September 8, 2020, June 15, 2021, July 1, 2021, and May 24, 2022, the court entered stipulated final judgments as to relief defendants Hold the Door, Mice and Men, Judy Dai, 1st Generation Holdings, Infinite Management, and Sarah Kim. On July 7, 2023, the court found Kaine Wen liable, imposing a \$95,057,757 redress judgment, \$148 million civil money penalty, and a permanent, industry-wide ban. On August 3, 2023, Wen filed a notice of appeal. On August 8, 2023, the CFPB voluntarily dismissed its claim against relief defendant Anan Enterprise. The case against Wen remains pending on appeal. As of the end of the reporting period, the case remains pending on appeal.

- *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., 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 offered and provided 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. On August 28, 2023, the CFPB and all defendants filed a proposed stipulated final judgment and order, which the court entered on August 30, 2023. The order imposes a judgment of \$2,660,926,481 for consumer redress against all defendants, a civil money penalty of \$45,817,452 against Progrexion, and a civil money penalty of \$18,408,726 against Lexington Law. The order also imposes a 10-year ban on defendants' telemarketing credit repair services and requires them to send notices to remaining customers who were enrolled through telemarketing of the lawsuit and their right to cancel their credit repair services, among other injunctive relief.

- *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 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 appeal and the case remain pending.⁷¹
- *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 alleged 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 CFPB, 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,

⁷¹ 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/national-collegiate-student-loan-trusts/>.

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. On May 2, 2023, the district court dismissed the case, granting summary judgment to Ocwen.

- *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 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. 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 CFPB. 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, which the Court denied on June 12, 2023.

- *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. 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*, which the court denied on April 14, 2023.

- *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.
- *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 sued 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 that is not payable to those attempting to collect it. The CFPB alleged that the individuals, acting through a network of corporate entities, used threats and harassment to collect phantom debt. The CFPB alleged the defendants violated the FDCPA and engaged in, or substantially assisted, unfair and deceptive acts

and practices. On April 7, 2015, the CFPB obtained a preliminary injunction against the debt collectors. 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. Five of the seven corporate debt collectors defaulted and the CFPB voluntarily dismissed one individual defendant. On March 21, 2019, the court granted the CFPB’s motion for summary judgment against individual debt collectors, Marcus Brown, Mohan Bagga, Sarita Brown, and Tasha Pratcher, and against the non-defaulted corporate debt collector WNY Account Solutions. The court also granted the CFPB’s motion as to one of its claims against individual debt collector, Sumant Khan. On August 21, 2019, November 15, 2019, and December 15, 2020, the court entered stipulated final judgments against Sumant Khan, Payment Processing Solutions, Mohan Bagga, and Tasha Pratcher, which among other things, permanently ban them from engaging in debt collection activities. On October 20, 2021, the court entered a final judgment against Marcus Brown, Sarita Brown, and WNY Account Solutions and a default judgment against the five corporate debt collectors—Check & Credit Recovery, Credit Power, Universal Debt & Payment Solutions, Universal Debt Solutions, and WNY Solutions Group—which had previously defaulted. The orders impose a \$5,183,947.71 judgment for monetary relief against them, joint and severally, and require them to pay 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 debt collection scheme. On December 17, 2021, the CFPB appealed the district court’s August 25, 2017 sanctions order, which the Eleventh Circuit affirmed on June 12, 2023.

- *Consumer Financial Protection Bureau v. The Mortgage Law Group, LLP, d/b/a The Law Firm of Macey, Aleman & Searns; Consumer First Legal Group, LLC; Thomas G. Macey; Jeffrey J. Aleman; Jason E. Searns; and Harold E. Stafford* (W.D. Wis. No. 3:14-cv-0513). On July 22, 2014, the CFPB filed a complaint against The Mortgage Law Group, LLP (TMLG), the Consumer First Legal Group, LLC (CFLG), and attorneys Thomas Macey, Jeffrey Aleman, Jason Searns, and Harold Stafford. The CFPB brought suit alleging that the defendants violated Regulation O, formerly known as the Mortgage Assistance Relief Services Rule, by taking payments from consumers for mortgage modifications before the consumers signed a mortgage modification agreement from their lender, by failing to make required disclosures, by directing consumers not to contact lenders, and by making deceptive statements to consumers when providing mortgage assistance relief services. A trial was held in April 2017. On June 21, 2017, the district court entered a stipulated judgment against the bankruptcy estate of TMLG, which sought Chapter 7 bankruptcy. The court enjoined TMLG from operating and ordered TMLG to pay \$18,331,737 in redress and \$20,815,000 in civil money penalties.

On May 29, 2018, the CFPB filed an unopposed motion to increase the redress amount ordered by the court to \$18,716,725.78, based on newly discovered information about additional advance fees paid by consumers. The amended stipulated judgment against TMLG increasing redress to \$18,716,725.78 was issued by the court on November 11, 2018. On November 15, 2018, the court issued an opinion and order ruling that defendants CFLG, Macey, Aleman, Searns, and Stafford violated Regulation O by taking upfront fees and by failing to make required disclosures, and that some of the defendants also violated Regulation O by directing consumers not to contact their lenders and by making deceptive statements. The court directed that the parties submit briefs addressing what damages, injunctive relief, and civil money penalties, if any, should be awarded. On November 4, 2019, the court issued an opinion and order against defendants CFLG, Macey, Aleman, Searns, and Stafford, imposing a total of \$21,709,022 in restitution (\$18.7 million of which TMLG is also jointly and severally liable for) and \$37,294,250 in civil money penalties. CFLG, Macey, Aleman, and Searns were permanently enjoined from marketing, selling, providing, or assisting others in selling or providing any mortgage-assistance-relief or debt-relief products or services. Stafford was enjoined from marketing, selling, providing, or assisting others in selling or providing mortgage-assistance-relief services for five years. CFLG, Macey, Aleman, Searns, and Stafford filed an appeal with the Seventh Circuit on December 4, 2019. On July 23, 2021, the Seventh Circuit affirmed the district court's rulings that defendants violated Regulation O, vacated the remedial order, and remanded to the district court for further proceedings on remedies. On August 1, 2022, the district court awarded \$10,854,510.85 in restitution and \$18,410,500 in penalties against the defendants and imposed an eight-year ban on all the defendants except Stafford, whose five-year ban remained in place, on mortgage-assistance relief services. On August 11, 2022, defendants filed a notice of appeal, and the CFPB filed a notice of cross-appeal on September 15, 2022. As of the end of the reporting period, the appeal and the case remained pending.⁷²

- *Consumer Financial Protection Bureau v. CashCall, Inc.; WS Funding, LLC; Delbert Services Corporation; and J. Paul Reddam* (D. Mass. No. 1:13-cv-13167), transferred to (C.D. Cal. No. 2:15-cv-07522). On December 16, 2013, the CFPB filed a complaint against online lender CashCall Inc.; its owner J. Paul Reddam; WS Funding, LLC, a subsidiary; and Delbert Services Corporation, an affiliate, for collecting money consumers did not owe. The CFPB's amended complaint, filed on March 21, 2014, alleges that the defendants violated the CFPA's prohibition against unfair, deceptive, and abusive acts and practices by collecting and attempting to collect consumer-installment loans that

⁷² 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/the-mortgage-law-group-llp-et-al/>.

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.

The CFPB's Supervisory Highlights publications provide information about the CFPB's supervisory activities at banks and nonbanks without identifying specific companies. The CFPB

published two issues of Supervisory Highlights between April 1, 2023, and September 30, 2023.⁷³

⁷³ “Supervisory Highlights Junk Fees Special Edition, Issue 29, Winter 2023,” Consumer Financial Protection Bureau, Mar. 8 2023, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights-junk-fees-special-edition_2023-03.pdf; and “Supervisory Highlights, Issue 30, Summer 2023,” Consumer Financial Protection Bureau, Jul. 31 2023, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-30_2023-07.pdf.

4. State Consumer Financial Law

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

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

The CFPB has been apprised of the following developments in pending state attorney general and regulatory actions asserting claims under the Dodd-Frank Act during the April 1, 2023, through September 30, 2023, reporting period.

- *State of Washington; State of Oregon; California Department of Financial Protection and Innovation; State of Delaware; State of Minnesota; State of Illinois; State of South Carolina; State of North Carolina ex rel. Attorney General Joshua H. Stein; Commonwealth of Massachusetts; Commonwealth of Virginia; State of Wisconsin; and Consumer Financial Protection Bureau v. Prehired, LLC, Prehired Recruiting, LLC, and Prehired Accelerator, LLC* (Bankr. Del. No. 22-11007). On July 13, 2023, the CFPB and several state partners filed a complaint in an adversary proceeding against Prehired, LLC, Prehired Recruiting, LLC, and Prehired Accelerator, LLC. *See supra* Section 3.1.1 for a full description.
- *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 Consumer Financial Protection Act (CFPA)'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 the Truth in Lending Act (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 platform facilitating small-dollar loans, 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 CFPA's prohibition against deceptive practices. 12 U.S.C. § 5536(a)(1)(B). On May 16, 2023, the Commissioner issued a consent order resolving the action. The consent order bars SoLo Funds from making small dollar loans to Connecticut residents and from collecting on small dollar loans in Connecticut without appropriate licenses. The consent order also imposes a \$100,000 civil penalty on SoLo Funds.

- *Commonwealth of Pennsylvania, by Attorney General Josh Shapiro; District of Columbia, through the Office of the Attorney General; Matthew J. Platkin, Acting Attorney General of the State of New Jersey; State of Oregon, ex rel. Ellen F. Rosenblum, in her official capacity as Attorney General; State of Utah, by Attorney General Sean D. Reyes; and State of Washington v. Mariner Finance, LLC* (E.D. Pa. No. 2:22-cv-3253). On August 16, 2022, the attorneys general of Pennsylvania, the District of Columbia, New Jersey, Oregon, Utah, and Washington filed a lawsuit against Mariner Finance, LLC, a subprime installment lender. The attorneys general alleged that: (1) Mariner engages in unfair and deceptive acts and practices in violation of the CFPA by charging consumers for add-on products without obtaining their consent and by loan flipping; (2) the design and implementation of Mariner’s loan closing process is abusive in violation of the CFPA; (3) Mariner engages in abusive acts and practices that take unreasonable advantage of a lack of consumers’ understanding of the material risks, costs, or conditions of add-on products and by loan flipping in violation of the CFPA; (4) the disclosures Mariner provides to its customers fail to disclose accurate finance charges and annual percentage rates in violation of Regulation Z and the CFPA; and (5) Mariner fails to disclose to consumers the commission payments it retains and deducts from insurance premium payments paid to credit insurers in violation of 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 20 supervisory activities onsite at financial services institutions under the CFPB's jurisdiction to determine compliance with federal laws, including the Equal Credit Opportunity Act (ECOA) and the Home Mortgage Disclosure Act (HMDA).

For supervisory communications issued by the Office of Supervision during the reporting period, the most frequently identified issues were related to the CFPB's review of mortgage lenders' redlining in violation of ECOA as well as the submission of incorrect information under HMDA.

During this reporting period, the CFPB examiners issued matters requiring attention (MRAs) or memoranda of understanding (MOUs), which 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 redlining risks, to enhance compliance management systems for HMDA compliance, to enhance policies and procedures regarding identifying adverse action reasons under ECOA, and to implement policies and procedures requiring review of the institution's credit scoring models, including assessing whether there are less discriminatory alternatives that meet the institutions' documented business needs.

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 (DOJ) when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.⁷⁴ During this reporting period, the CFPB referred

⁷⁴ See 15 U.S.C. § 1691e(g).

nine matters regarding a pattern or practice of lending discrimination to the DOJ pursuant to Section 706(g) of ECOA.

Fair lending-related rulemaking and guidance

During the reporting period, the CFPB issued—along with its interagency partners—a proposed rule establishing certain quality control standards for Automated Valuation Models (AVMs) used in valuing real estate collateral securing mortgage loans. Additionally, the CFPB issued guidance pertaining to creditor’s legal requirements to provide adverse action notices under ECOA and Regulation B. For more information on these initiatives, *see supra* Sections 1.1 and 1.2.2, respectively.

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

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

Further, through the Federal Financial Institutions Examination Council (FFIEC), the CFPB has robust engagements with other partner agencies that focus on fair lending issues. For example, throughout the reporting period, the CFPB has continued to chair the HMDA/Community Reinvestment Act Data Collection Subcommittee, a subcommittee of the FFIEC Task Force on Consumer Compliance. This subcommittee oversees FFIEC projects and programs involving HMDA data collection and dissemination, the preparation of the annual FFIEC budget for processing services, and the development and implementation of other related HMDA processing projects as directed by this Task Force.

SPECIAL PURPOSE CREDIT PROGRAM (SPCP) ROUNDTABLE

On September 12, 2023, the CFPB, along with HUD, OCC, and FHFA hosted a roundtable discussion on SPCPs.⁷⁵ In addition to remarks by the respective leaders of the participating agencies, the event included a roundtable discussion with representatives from community groups and trade organizations that are focused on the opportunities and benefits of SPCPs. The event was open to the public via livestream.

APPRAISAL BIAS

The 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. On May 19, 2023, the ASC held its second public hearing focusing on the topic of appraisal bias. The hearing explored the appraisal regulatory system and focused on appraisal standards, appraiser qualification criteria and barriers to entry into the profession, appraisal practice, and state regulation.

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 robust outreach with external stakeholders, including consumer advocates, civil rights organizations, industry, academia, sovereign governments, 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; Compliance Bulletins and CFPB Circulars; policy statements; requests for information; press releases, blog posts, podcasts, videos, brochures, social media posts, 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

⁷⁵ “Agencies to Host Roundtable on Special Purpose Credit Programs,” Consumer Financial Protection Bureau, Aug. 24, 2023, <https://www.consumerfinance.gov/about-us/newsroom/agencies-to-host-roundtable-on-special-purpose-credit-programs/>.

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.⁷⁶

⁷⁶ 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 the CFPB relating to diversity in management, employment, and business activities.

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

During the reporting period, the CFPB continued its work to advance diversity and inclusion under the mandates of Section 342 of the Dodd-Frank Act. The CFPB's efforts in promoting diversity, equity, inclusion, and accessibility (DEIA) 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.

6.2 Office of Minority and Women Inclusion

6.2.1 Significant Initiatives

Current period:

In August 2023, the CFPB completed and submitted its first Rehabilitation Act Section 508 assessment report to the Department of Justice (DOJ) and General Services Administration (GSA). The report provided a benchmark for the strength of the CFPB's program, allowing the Disability and Accessibility Program Section (DAPS) Section Chief and the 508 Program Manager to begin the development of a 508 program workplan. The workplan provides the CFPB's overall assessment score card and outlines metrics and milestones to create CFPB-wide program policies and procedures designed to improve the accessibility of technology for individuals with disabilities.

During the reporting period OMWI, the Office of Human Capital (OHC), and the Office of Civil Rights (OCR) revised manager performance standards to increase focus on the behaviors related to supporting a diverse, equitable, inclusive, and accessible workforce. The new standards include more comprehensive behaviors and actions that the leaders need to demonstrate their support of diversity and inclusion. The new performance standards were introduced to leaders in FY 2023 along with supplemental resources encompassing DEIA topics and best practices for inclusive leadership.

During the reporting period, OMWI partnered with the Treasury Executive Institute (TEI) to bring leadership development and coaching opportunities to our most senior employees. TEI provides leadership and executive development programs that encourage diverse perspectives, innovation, and critical thinking, while offering practical techniques for broadening employees' leadership skills and expanding their mindsets.

OMWI also hosted mandatory trainings during this reporting period. These trainings were tailored to CFPB's diversity, equity, inclusion, and accessibility goals. The training is aligned with the mandates of the Dodd-Frank Act, Section 342 and facilitates the CFPB's performance standards that require CFPB employees to have competencies that cultivate a diverse and inclusive workplace.

Upcoming period:

The CFPB continued its efforts to address barriers impacting the workforce, including Black and Hispanic/Latino employees and applicants throughout FY 2023. Representatives from OMWI, OCR, and OHC continued to help monitor progress on CFPB-wide people-related plans and initiatives. Barrier analysis action items will continue into FY 2024.

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

As of September 2023, an analysis of the CFPB's current workforce reveals the following key points:

- Fifty-one percent of CFPB executives identified as a minority (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander, American Indian/Alaska Native, and employees of two or more races), representing an increase of five percent from the previous reporting period.
- Representation of female employees increased to 50.4 percent of the CFPB workforce.
- Minority employees represented 43 percent of the CFPB workforce in 2023.

- Fifteen-point-six 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. The CFPB continues to exceed the 12 percent workforce goals for employees with disabilities and 2 percent workforce goals for employees with targeted disabilities in both salary categories as required in the U.S. Equal Employment Opportunity Commission's (EEOC) Section 501 regulation 4.
- Twenty-two percent of the CFPB workforce participated in at least one employee resource group (ERG) during the reporting period.

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

- Staffing:
 - The CFPB had 58 new hires, which included 30 (52 percent) women and 21 (36 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:
 - OHC continued to leverage technology to deploy recruitment efforts that reach well-qualified and diverse applicants, focusing on outreach to diverse communities to create applicant pools from all segments of society.
 - The CFPB uses broad spectrum outreach events as well as social media to widely promote vacancies. In addition, the CFPB has been using social media to promote direct outreach to diversity organizations.
 - The CFPB continues to encourage individuals with disabilities to apply under the Schedule A hiring authority to open positions, which are posted on USAJobs and the CFPB's Career page at www.consumerfinance.gov/jobs. The CFPB's OHC team and the DAPS Section Chief encourage hiring managers to utilize programs such as the Workplace Recruitment Program (WRP) to identify, interview, and hire people with disabilities and people with targeted disabilities non-competitively without vacancy announcements when possible. A Selective Placement Program Coordinator in OHC assists with Schedule A hiring efforts, including the monitoring of conversions.

- The CFPB regularly analyzes whether any job qualifications may inadvertently disadvantage individuals who are members of underserved communities.
- The CFPB also utilized other professional development programs and recruitment efforts to reach veterans to assist in the CFPB’s workforce needs.
- The CFPB’s DAPS provides employees and applicants with disabilities access to accommodations and other accessibility services required to perform the essential functions of their jobs and obtain fair and equitable access to apply and interview for CFPB positions. These efforts support the CFPB’s overall efforts to recruit, hire, promote, and retain individuals with disabilities as required by the EEOC’s Section 501 regulation.
- Workforce engagement: The CFPB continues to utilize an integrated approach of education, training, and engagement programs that ensures diversity, equity, inclusion, accessibility, and nondiscrimination concepts are part of the learning curriculum and work environment. Employee resource groups, cultural education programs, heritage observance engagements, employee dialogue sessions, a mentor program, and mandatory DEIA 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). During this reporting period, the CFPB’s OMWI and Procurement offices collectively worked to increase procurement opportunities for participation by MWOBs.

6.2.4 Outreach to contractors

The CFPB’s OMWI promoted opportunities for the participation of small and large MWOBs by:

- Actively engaging the CFPB’s business units with MWOB contractors throughout the acquisition cycle. OMWI provided MWOB briefings to the CFPB divisions highlighting the business case for supplier diversity and sharing office-specific MWOB statistics and inclusion best practices. In response to a need identified by a program office, OMWI offered training specifically designed for the CFPB’s Contracting Officer Representatives. Briefings to senior-level Strategic Planning Stakeholders were also available upon request.

- Continuing to add new vendors to its repository and actively engaged with vendors with new and updated content added to the “How to Do Business with Us” and MWOB landing pages.

As a result of these efforts, 35.6 percent of \$68 million in contracts that the CFPB awarded or obligated during the reporting period went to MWOBs. Forty-two percent of \$92.4 million spent during the reporting period went to MWOBs. The following table represents the total amount of dollars spent and obligated to MWOBs.

6.2.5 Diversity within the CFPB contractors’ workforces

The CFPB requires its contractors and subcontractors to report their diversity and inclusion data through the Good Faith Effort (GFE) contract requirement. During the reporting period, the CFPB collected GFE compliance data from contractors, providing an opportunity for contractors to demonstrate their efforts to address the six evaluation criteria: (1) Diversity Strategy; (2) Diversity Policies; (3) Recruitment; (4) Succession Planning; (5) Outreach; and (6) Supplier – Subcontractor Diversity. OMWI continued to maximize technical assistance to CFPB contractors throughout this process.

6.2.6 Assessing diversity of regulated entities

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

During the Fall, the OMWI Acting Director and staff met with eight institutions within the mortgage servicing and originations industry to learn more about their diversity programming. The CFPB will continue its outreach to other industry groups to increase awareness and encourage voluntary submission of the Diversity and Inclusion self-assessment. To increase cybersecurity at the CFPB, multi-factor authentication was instituted on the Inclusivity Portal that entities use to submit their 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.⁷⁷ 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 though the end of the second quarter of the FY

As of September 30, 2023—the end of the fourth quarter of FY 2023—the CFPB had spent approximately \$696.6 million in FY 2023⁷⁸ funds to carry out the authorities of the CFPB under federal consumer financial law. There were 1,677 CFPB employees on board at the end of the fourth quarter.⁷⁹

FY 2023 spending by expense category:

Expense Category	Fiscal Year 2023
Personnel Compensation	\$303,811,000
Personnel Benefits	\$124,238,000
Benefits for Former Personnel	\$0
Travel	\$5,978,000
Transportation of Things	\$105,000
Rents, Communications, Utilities, & Misc.	\$10,925,000
Printing and Reproduction	\$1,478,000
Other Contractual Services	\$210,937,000
Supplies & Materials	\$7,683,000

⁷⁷ “Budget and Performance,” Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/>.

⁷⁸ This amount includes new obligations and upward adjustments to previous year obligations. An obligation is a transaction or agreement that creates a legal liability and obligates the government to pay for goods and services ordered or received.

⁷⁹ This figure reflects the employees on board during the final complete pay-period of the quarter (PP19, ending September 23, 2023).

Equipment	\$31,233,000
Land & Structures	\$201,000
Total	\$696,589,000

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.⁸⁰ As of

September 30, 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
April 10, 2023	\$59.8M
July 17, 2023	\$59.7M
Total	\$721.2M

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 <https://www.consumerfinance.gov/about-us/budget-strategy/financial-reports/>.

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

⁸⁰ The 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

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

The Truth in Lending Act (TILA)⁸¹ and the Electronic Fund Transfer Act (EFTA)⁸² require the Consumer Financial Protection Bureau (CFPB) to make an annual report to Congress that includes a description of the administration of functions under TILA and EFTA, and an assessment of the extent to which compliance with TILA and EFTA has been achieved. In addition, the Credit Card Accountability Responsibility and Disclosure Act (CARD Act)⁸³ requires reporting on supervisory and enforcement activities with respect to compliance by credit card issuers with applicable federal consumer protection statutes and regulations.⁸⁴

This Report provides the information required by TILA, EFTA, and the CARD Act for the period January 1, 2022–December 31, 2022.⁸⁵ This Report describes the CFPB’s and other agencies’ enforcement efforts and required reimbursements to consumers by supervised institutions as they relate to TILA, EFTA, the CARD Act, and their respective implementing regulations, Regulation Z (for TILA and the CARD Act),⁸⁶ and Regulation E (for EFTA). It also provides an

⁸¹ 15 U.S.C. § 1613.

⁸² 15 U.S.C. § 1693p.

⁸³ 15 U.S.C. § 1616(e).

⁸⁴ In 2012, the Federal Reserve Board (Board) and the CFPB agreed that responsibility for the reporting period required by the CARD Act passed to the CFPB under the terms of the Consumer Financial Protection Act of 2010.

⁸⁵ In order to facilitate reporting on an interagency basis, this TILA, EFTA, and CARD Act Report is based on the full calendar year of 2022. The TILA, EFTA, and CARD Act Report containing 2021 calendar year information can be found in the CFPB’s 2022 Fall Semi-Annual Report to Congress, available at https://files.consumerfinance.gov/f/documents/cfpb_fall-2022-semi-annual-report_2023-06.pdf.

⁸⁶ The Federal Trade Commission’s (FTC) enforcement action summaries in this Report also include references to violations of the Consumer Leasing Act (CLA) and Regulation M. The CLA is an amendment to TILA. See 15 U.S.C. §1667-1667f.

assessment of the extent of compliance with the provisions of TILA, EFTA, and their implementing regulations.

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

TILA: Public enforcement actions and reimbursements

The purposes of TILA include: (1) to assure meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available and avoid the uninformed use of credit, and (2) to protect the consumer against inaccurate and unfair credit billing and credit card practices.⁸⁷

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

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

- CFPB,
- Federal Deposit Insurance Corporation (FDIC),
- Federal Reserve Board (Board),
- National Credit Union Administration (NCUA),
- Office of the Comptroller of the Currency (OCC),
- Federal Trade Commission (FTC),
- Department of Transportation (DOT)
- Farm Credit Administration (FCA), and
- Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA).⁸⁸

⁸⁷ 15 U.S.C. 1601(a).

⁸⁸ The Grain Inspection, Packers, and Stockyards Administration (GIPSA) was eliminated as a standalone agency within the USDA in 2017. The functions previously performed by GIPSA have been incorporated into the AMS, and TILA and EFTA reporting now comes from the Packers and Stockyards Division, Fair Trade Practices Program, AMS.

During the reporting period of January 1, 2022, through December 31, 2022, the following agencies reported public enforcement actions under TILA, including:

TABLE 1: 2022 PUBLIC ENFORCEMENT ACTIONS RELATED TO TILA

Agency	Summary
CFPB	Issued an order against a bank for issuing credit cards and lines of credit and opening deposit accounts for certain consumers without their knowledge and consent and without required applications and disclosures in violation of TILA.
DOT	Entered into orders with several airlines for their failure to provide prompt refunds to passengers of flights that were cancelled or significantly changed by the carrier, in violation of Regulation Z.
OCC	Assessed a civil money penalty against a bank for, among other things, violating TILA and Regulation Z.
FTC	Settled charges with a multistate auto dealer for, among other things, failing to clearly and conspicuously disclose required information in advertisements, in violation of TILA and Regulation Z. The settlement includes a prohibition against violations of TILA and Regulation Z. Settled charges with a national jewelry retailer for, among other things, failing to clearly and conspicuously disclose certain required written disclosures in their retail installment contracts and advertisements in violation of TILA and Regulation Z. Obtained a stipulated order requiring compliance with these laws.

No other agencies with TILA enforcement authority reported taking any public enforcement actions related to TILA during the January 1, 2022, through December 31, 2022, time period.

For TILA and Regulation Z violations found during the same time period, the CFPB, FDIC, and NCUA required 28 institutions to reimburse an estimated 962,365⁸⁹ consumers approximately \$67.8 million. This amount includes reimbursements required by the enforcement actions noted in Table 1, as well as non-public supervisory or enforcement actions, and includes violations for other federal consumer financial laws.

EFTA: Public enforcement actions and reimbursements

The purpose of EFTA is to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund and remittance transfer systems. The primary objective of EFTA is the provision of individual consumer rights.⁹⁰

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

As required by EFTA, the CFPB monitors what effects the act has on compliance costs for financial institutions, as well as the benefits of the act to consumers.

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

Overall adoption of electronic payment methods has grown throughout 2022. According to the 2022 Survey and Diary of Consumer Payment Choice, for the average consumer, 62.5 percent of payments use a debit, credit, or prepaid card; 21.4 percent use cash, paper checks, or some other paper payment instrument; and 16.1 percent use some other form.⁹¹ The share of payments made by consumers using credit cards exceeded the share of cash payments made by consumers, 31.3 percent of payments in October of 2022 versus 17.4 percent. Continuing the trend started during the COVID-19 pandemic, credit card

⁸⁹ CFPB orders often require the respondents to develop compliance plans that include identifying and, in some cases, remediating affected consumers. Accordingly, this figure does not reflect the total number of consumers remediated through those actions. In addition, the CFPB obtains civil money penalties to deter future violations. Funds in the CFPB's civil money penalty (CMP) Fund are available to provide redress to consumers whose injuries are not able to be remediated in other actions.

⁹⁰ 15 U.S.C. § 1693(b).

⁹¹ Other forms of payment include electronic payments, mobile payment apps, account to account transfers, as well as multiple payment methods, unreported payment methods, or other responses that couldn't be recategorized. See "The 2022 Survey and Diary of Consumer Payment Choice: Summary Results: 2022 SDCPC Tables," Federal Reserve Banks of Atlanta and San Francisco, https://www.atlantafed.org/-/media/documents/banking/consumer-payments/survey-diary-consumer-payment-choice/2022/tables_dcpct2022.pdf, pp. T-6.

payments have generally increased relative to debit card, check, and cash use.⁹²

Much of the growth in electronic payment transaction volume and value has been driven by increased credit card use, though online payments have also increased. According to the 2022 Survey and Diary of Consumer Payment Choice, consumer use of debit cards and cash remained consistent with 2020 levels throughout 2022. A study of debit card issuers showed a slight 1 percent increase in consumer debit transactions year-over-year (YOY) in 2022 and a 3 percent increase in dollar volume for consumers over the same time frame, which is primarily attributed to inflation rather than altered spending habits.

Although consumers tend to conduct fewer Automated Clearing House (ACH) transactions relative to card transactions, the consumer dollar volume over ACH is higher. ACH volume totaled approximately 30 billion transactions and \$72.62 trillion in 2022.⁹³ These totals increased approximately 3 percent and 5.6 percent, respectively, from 2021.⁹⁴ The CFPB estimates consumer account debits represent more than half of all ACH transaction volume and more than a third of ACH dollar volume.⁹⁵

Consumer adoption of digital payment forms appears to have stabilized in 2022. According to the 2022 Survey and Diary of Consumer Payment Choice, 63.1 percent of consumers made use of a mobile payment, regardless of the underlying electronic method.⁹⁶ This is a decrease from 2021, when 68.4 percent of consumers reported using a mobile payment.⁹⁷

One digital payment form, electronic person-to-person payments (P2P), represents an emerging and fast-growing category of electronic fund transfer (EFT). The market for P2P EFT is challenging to size for several reasons. First, a number of firms facilitate P2P EFTs over a variety of proprietary platforms. In addition, many P2P services utilize legacy EFT platforms to transmit payment messages and settle transactions. As a result, P2P transaction volume is often conflated with that of the legacy payment systems upon which

⁹² *Id.*

⁹³ Nacha, <https://www.nacha.org/content/ach-network-volume-and-value-statistics>.

⁹⁴ *Id.*

⁹⁵ *Id.* For reference, in 2022, consumer ACH debit volume totaled approximately 17.1 billion transactions (57 percent of total transaction volume) at \$26.5 trillion (35 percent of total transaction value).

⁹⁶ “The 2022 Survey and Diary of Consumer Payment Choice: Summary Results: 2022 SDCPC Tables”, Federal Reserve Banks of Atlanta and San Francisco, https://www.atlantafed.org/-/media/documents/banking/consumer-payments/survey-diary-consumer-payment-choice/2022/tables_dcpc2022.pdf pp. T-3.

⁹⁷ *Id.*

the P2P services rely. An industry analyst reported, based on survey results and estimates, at least 66 percent of U.S. consumers made a P2P payment in 2022.

The incremental costs associated with the EFTA are difficult to quantify because it is hard to determine how industry practices would have evolved in the absence of statutory requirements. The benefits of the EFTA are also difficult to measure, as they cannot be isolated from consumer protections that would have been provided in the absence of regulation. The CFPB will continue to consider the potential benefits and costs to consumers and financial institutions in evaluating new rules under EFTA. The CFPB will also continue to monitor the market and evaluate the adequacy of consumer protection under EFTA.

The agencies charged with enforcement of EFTA under 15 U.S.C. § 1693 include the:

- CFPB,
- FDIC,
- Board,
- NCUA,
- OCC,
- FTC,
- DOT, and
- Securities and Exchange Commission (SEC).

During the reporting period of January 1, 2022, through December 31, 2022, the following agencies reported public enforcement actions under EFTA, including:

TABLE 2: 2022 PUBLIC ENFORCEMENT ACTIONS RELATED TO EFTA

Agency	Summary
CFPB	Filed a lawsuit against a payment processor for, among other things, allegedly increasing 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, in violation of EFTA and Regulation E.
	Issued an order against a bank for, among other things, failing to conduct reasonable investigations of prepaid debit cardholders' notices of error and failing to timely investigate and resolve prepaid debit cardholders' error claims, in violation of EFTA and Regulation E.
	Issued an order against a nonbank remittance transfer provider for failing to comply with a wide range of disclosure requirements set out in EFTA and Regulation E's Remittance Transfer Rule.
	Filed a lawsuit against nonbank remittance transfer providers for violating EFTA and Regulation E by allegedly failing to disclose accurate fund availability dates, failing to investigate error notices promptly or timely determine whether an error occurred, 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.
	Issued an order against a nonbank remittance transfer provider for wide-ranging violations of EFTA and Regulation E.
	Obtained an order finding, among other things, that defendants—who used illegal robocalls to deceptively market weight-loss and other products and enrolled consumers in continuity plans without their consent—violated EFTA and Regulation E, by debiting consumers' bank accounts without obtaining written authorizations signed or similarly authenticated by the consumers for preauthorized transfers from their accounts, or providing the consumers with copies of the signed written authorizations. The court, in its default judgment against seven corporate defendants that acted as a common enterprise, also

imposed the same conduct provisions that it imposed in its order against the other defendants, including as to EFTA and Regulation E.

Settled charges with a national jewelry retailer for, among other things, using authorization forms with terms that were not clear and readily understandable, for preauthorized transfers from consumers' accounts, in violation of EFTA and Regulation E. Under the stipulated order, defendants must obtain a written authorization signed or similarly authenticated from the consumer for preauthorized electronic fund transfers from the consumer's account, which must be readily identifiable as such, and the terms of the preauthorization—including the amount of each transfer and the dates on which each transfer will be made—must be clear and readily understandable. Defendants must also provide the consumer with a copy of the signed written authorization, and comply with EFTA and Regulation E.

No other agencies with EFTA enforcement authority reported taking any public enforcement actions related to EFTA during the January 1, 2022, through December 31, 2022, time period.

For EFTA and Regulation E violations found during the same time period, the CFPB and NCUA required six institutions to reimburse an estimated 6,822 consumers approximately \$627,369.⁹⁸ These amounts include reimbursements required by the enforcement actions noted in Table 2 as well as non-public supervisory or enforcement actions and includes violations for other federal consumer financial laws.

CARD Act: Public enforcement actions and reimbursements

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

During the reporting period of January 1, 2022, through December 31, 2022, the following

⁹⁸ Several of the CFPB's orders require the respondents to develop compliance plans that include identifying and, in some cases, remediating affected consumers. Accordingly, this figure does not reflect the total number of consumers remediated through those actions. In addition, the CFPB obtained civil money penalties in several matters to deter future violations. Funds in the CFPB's CMP Fund are available to provide redress to consumers whose injuries are not able to be remediated in other actions.

agencies reported public enforcement actions under the applicable federal consumer financial protection laws:

TABLE 3: 2022 PUBLIC ENFORCEMENT ACTIONS RELATED TO THE CARD ACT OR SECTION 5 OF THE FTC ACT

Agency	Summary
FDIC	Issued orders to pay civil money penalties against two institutions related to violations of Section 5 of the FTC Act.

No other agencies reported public enforcement actions related to the CARD Act or other applicable federal consumer financial protection laws during the January 1, 2022, through December 31, 2022 time period.

Assessment of compliance and common violations – TILA and EFTA

The agencies that are members of the Federal Financial Institutions Examination Council (FFIEC) reported overall compliance by supervised entities with TILA, EFTA, and their respective implementing regulations.⁹⁹ The agencies did report, however, that more institutions were cited for violations of Regulation Z than Regulation E over the 2022 reporting period. Based on the information reported by the FFIEC agencies, this section outlines the most frequently cited violations of Regulation Z and Regulation E across the FFIEC agencies for the reporting period.¹⁰⁰

For the reporting period of January 1, 2022, through December 31, 2022, the most frequently cited violations of Regulation Z across the FFIEC agencies were:

⁹⁹ Other agencies either did not conduct compliance examinations for TILA, EFTA, and their respective implementing regulations, or reported general compliance for the laws under their jurisdiction.

¹⁰⁰ Because the FFIEC agencies use different methods to compile data, the information presented here supports only general conclusions.

- 12 C.F.R. § 1026.18(d) – On closed-end credit, failure to disclose—or accurately disclose—the finance charge, using that term, and a brief description such as “the dollar amount the credit will cost you.”
- 12 C.F.R. § 1026.19(e) – On closed-end credit, failure to disclose good faith estimates of the disclosures.
- 12 C.F.R. § 1026.22 – Failure to accurately determine or disclose the annual percentage rate.
- 12 C.F.R. 1026.37 – Failure to provide consumers with content of disclosures for certain mortgage transactions (Loan Estimate).
- 12 C.F.R. § 1026.38 – Failure to provide consumers with content of disclosures for certain mortgage transactions (Closing Disclosure).

For the reporting period of January 1, 2022, through December 31, 2022, the most frequently cited violations of Regulation E across the FFIEC agencies were:

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

Outreach related to TILA and EFTA

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

In 2022, the FTC continued its efforts to educate consumers about issues related to consumer credit and lease transactions covered by, or closely related to, Regulation Z and Regulation M.

For example, in 2022, the FTC issued a report showing how companies increasingly use sophisticated design practices known as “dark patterns” that, among other things, can trick or manipulate consumers into buying products or services. The FTC also issued guidance for consumers related to automobile sales and financing, including tips to avoid being targets of fraudulent car dealers and points on which to focus when buying cars and trucks.

On mortgages, the FTC updated a publication providing an overview of significant information to understand about mortgages, such as what to consider in searching for a mortgage and understanding how mortgage brokers work. On credit cards, the FTC released articles to assist consumers with issues regarding the use of credit (and other payment) cards, including best approaches for use, billing error rights, lost or stolen cards, and more.

The FTC also engaged in research and policy work that addressed EFTA-related issues. For example, the FTC worked with outside stakeholders, including the Department of Defense, on EFTA-related matters. The FTC also released articles that included information about ATM and debit cards. And the FTC provided guidance to consumers about its enforcement actions, including those involving EFTA issues.