

## STATES ARE POISED TO RAMP UP ENFORCEMENT AMID TRUMP ADMINISTRATION'S DEREGULATION PUSH

*With an anticipated change in federal enforcement priorities under a second Trump Administration, state regulators and Attorneys General are ramping up oversight of consumer financial services. Backed by expanded authority, growing resources, and multistate coordination, states appear prepared to fill the proverbial void. This shift signals greater regulatory complexity and unpredictability for bank and nonbank financial institutions, emphasizing the need to monitor state-level developments and adapt compliance strategies accordingly.*

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In stark contrast to the Biden Administration's aggressive enforcement posture against banks and nonbank consumer financial services providers, the Trump Administration quickly signaled shifting regulatory and enforcement priorities in the industry. The states are taking notice, with some announcing their intent to continue pursuing Biden-era enforcement policies notwithstanding the federal pullback.

Many observers viewed the Biden Administration as particularly active in the financial services space, with some perceiving its actions as unusually assertive or even excessive. Consumer advocates claim that the Consumer Financial Protection Bureau's ("CFPB") enforcement efforts under former Director Rohit Chopra

resulted in over \$6.2 billion in consumer recoveries and \$3.2 billion in civil monetary penalties.<sup>1</sup> Several of the CFPB's 84 enforcement actions during this period were pursued in partnership with states. And just before leaving office, the CFPB's outgoing leadership actively encouraged states to continue these efforts, including by

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<sup>1</sup> Consumer Federation of America, Erin Witte, The CFPB's 2021-2025 Enforcement Legacy (Jan. 17, 2025), <https://consumerfed.org/the-cfpbs-2021-2025-enforcement-legacy>.

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publishing a blueprint for states to enforce financial services laws.<sup>2</sup>

By contrast, the new Administration's clear and vocal criticism of the Bureau's conduct under the Biden Administration has raised doubts about the agency's size, function, and ultimate capacity to pursue such an aggressive agenda. As the CFPB is refocusing its enforcement efforts against banks and nonbanks alike — reportedly narrowing it to "pressing threats to consumers, particularly servicemen and veterans,"<sup>3</sup> the Trump Administration also signaled a retreat from oversight in areas overlapping with state regulators, including by minimizing "duplicative enforcement" and deprioritizing multistate initiatives that are not statutorily mandated.<sup>4</sup>

States have had ample opportunity to prepare to fill the perceived regulatory and enforcement void. Relying on expanded authorities honed over nearly a decade — and hastened by the first Trump Administration — state attorneys general ("AGs") and state financial regulators can, in many cases, pick up where the federal government left off. And recent trends in state enforcement activity show that states have been busy. In short, the conditions are ripe for states to fully step into the enforcement gap should federal regulators continue to significantly change their focus and priorities. With that in mind, financial institutions and other regulated entities would benefit from adapting their risk and compliance strategies to match these new regulatory dynamics.

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<sup>2</sup> CFPB, Interpretive Rule: Authority of States to Enforce the Consumer Financial Protection Act of 2010 (May 19, 2022), [https://files.consumerfinance.gov/f/documents/cfpb\\_section-1042\\_interpretive-rule\\_2022-05.pdf](https://files.consumerfinance.gov/f/documents/cfpb_section-1042_interpretive-rule_2022-05.pdf); *see also* CFPB, Strengthening State-Level Consumer Protections: Promoting Consumer Protection Federalism (Jan. 14, 2025).

<sup>3</sup> CFPB, CFPB Keeps Its Enforcement and Supervision Resources Focused on Pressing Threats to Consumers (Apr. 30, 2025).

<sup>4</sup> Declaration of M. Paoletta, *NTEU v. Vought*, No. 25-cv-00381, at 2 (D.C. Apr. 18, 2025), <https://www.courthousenews.com/wp-content/uploads/2025/04/mark-paoletta-cfpb-rif-conclusion-declaration.pdf>.

## WITH FEDERAL OVERSIGHT PRIORITIES CHANGING, STATES HAVE THE TOOLS TO STEP IN AND ENFORCE CONSUMER FINANCIAL PROTECTION LAWS.

Many states have various authorities and tools, sharpened in recent years, at their disposal. After upping enforcement activity during the first Trump Administration, states can — and appear ready and willing to — continue deploying these tools during the second Trump term by leveraging expanded consumer protection mandates, more resources, and a framework primed for increased inter-state collaboration.

### ***Federal and state laws grant states expansive, independent enforcement authorities.***

- At the federal level, certain statutes provide federal and state regulators with overlapping enforcement authority. For instance, Section 1042 of the Dodd Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") authorizes states to sue most "covered persons" and "service providers" for alleged violations of Title X of Dodd-Frank, including its prohibition against unfair, deceptive, or abusive acts or practices ("UDAAPs").<sup>5</sup> States, including New York and Texas, have leveraged Section 1042 for more than a decade.<sup>6</sup> In addition, several federal consumer protection laws, such as certain provisions of the Truth in Lending Act ("TILA"), include dedicated state enforcement

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<sup>5</sup> Codified at 12 U.S.C. § 5552(a).

<sup>6</sup> *See, e.g.*, Complaint, *Lawsky v. Condor Capital Corp. and Stephen Baron*, No. 14-cv-2863 (S.D.N.Y Apr. 23, 2014); Amended Complaint, *King v. HSBC*, No. 13-cv-00504, at ¶ 11, n.4 (D.N.M. July 2, 2013); Complaint, *Texas v. Colony Ridge*, No. 4:24-cv-00941 (S.D. Tex. Mar. 14, 2024). States that have historically relied on Section 1042 authority have stated their intent to rely on it more, as Pennsylvania recently announced. Press Release, Commw. Pa., Governor Shapiro Launches New Consumer Protection Tools to Help Pennsylvanians Report Scams and Predatory Practices (May 1, 2025), <https://www.pa.gov/governor/newsroom/2025-press-releases/gov-shapiro-launches-new-consumer-protection-tools-help-pennsylv.html>.

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mechanisms.<sup>7</sup> Lastly, more novel and expansive interpretations of Section 1042 were raised during the Chopra era, which may possibly serve as a basis for future state-level action.<sup>8</sup>

- While federally chartered institutions, such as federal credit unions and national banks, are shielded from state supervisory authority (for instance, state regulators generally cannot exercise visitorial powers over national banks), states can still sue those institutions for alleged violations of applicable state law. The Supreme Court reaffirmed this principle in *Cuomo v. Clearing House*.<sup>9</sup> In *Cuomo*, the Supreme Court explained that the principle that state regulators cannot supervise national banks does not prevent states from enforcing certain laws against these institutions.<sup>10</sup> In particular, states maintain authority to enforce certain laws of general jurisdiction, such as state foreclosure laws.<sup>11</sup> Thus, as state activity moves away from clear visitorial powers, the limits on a state's ability to enforce its laws against a national bank become less clear — and some states have even signaled their intent to use such generally applicable state laws to target entities that are

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<sup>7</sup> 15 U.S.C. § 1640(e) (authorizing state AGs to pursue enforcement actions for mortgage-related violations). Additional federal statutes that contemplate state enforcement in specific contexts include certain provisions of the Real Estate Settlement Procedures Act related to kickback prohibitions, 12 U.S.C. § 2607(d), and the Fair Credit Reporting Act (“FCRA”). For instance, FCRA allows states to bring enforcement actions against any person violating that statute, including users of consumer reports that are not themselves covered persons or service providers. 15 U.S.C. § 1681s(c)(1). States may also attempt to sue as *parens patria* for violations of statutes with expansive private rights of action, though a discussion of that concept is beyond the scope of this article.

<sup>8</sup> For example, new CFPB leadership recently rescinded a Section 1042 Interpretive Rule issued under former CFPB Director Chopra on the basis that it improperly interpreted Section 1042 to provide states with greater enforcement authority than Congress intended. CFPB, Authority of States To Enforce the Consumer Financial Protection Act of 2010; Rescission (May 15, 2025) (rescinding CFPB, Interpretive Rule: Authority of States to Enforce the Consumer Financial Protection Act of 2010 (May 19, 2022)).

<sup>9</sup> *Cuomo v. Clearing House Ass'n, L.L.C.*, 557 U.S. 519, 535-36 (2009).

<sup>10</sup> *Id.*

<sup>11</sup> *Cantero v. Bank of Am., N. A.*, 602 U.S. 205 (2024) (explaining that certain state laws may apply to national banks).

otherwise exempt from state licensure (which, in some instances, can include national banks).<sup>12</sup>

- In addition, state laws generally provide state AGs independent enforcement authority. Statutes of general jurisdiction permit state AGs to pursue putatively unfair, deceptive, and/or abusive acts and practices under a state's consumer protection laws. More specific statutes often empower state financial regulators to enforce compliance with state licensing regimes and related requirements — these include, for example, the Texas Office of Consumer Credit Commission (“TX OCCC”), the Massachusetts Division of Banks, and the Idaho Department of Finance.<sup>13</sup> States often divide authority to enforce consumer protection laws among multiple regulators and/or AGs. For example, in addition to the TX OCCC, the Texas Department of Banking (“TX DOB”) and the Texas Department of Savings and Mortgage Lending also bring enforcement actions against licensed entities.<sup>14</sup>

### ***Developments over the last decade have positioned states to take the enforcement lead.***

- In response to the perceived pullback in federal consumer protection efforts during the first Trump Administration, several states established their own “mini-CFPBs.” For instance, California created the Department of Financial Protection and Innovation (“CA DFPI”) out of the Department of Business Oversight, significantly expanding the CA DFPI’s powers, modeling it in part after the CFPB.<sup>15</sup>

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<sup>12</sup> See, e.g., Maryland Commissioner of Fin. Reg., Notice to Services: Maryland Homeowner Assistance Fund Now Open (Dec. 27, 2021).

<sup>13</sup> See, e.g., Tex. Fin. Code § 342.156; Mass. Gen. Laws ch. 167, § 2G; Idaho Code Ann. § 28-46-303.

<sup>14</sup> See, e.g., Texas OCCC, Enforcement Actions, [https://occc.texas.gov/enforcement\\_actions](https://occc.texas.gov/enforcement_actions); Texas Dep’t of Banking, Enforcement Orders, <https://www.dob.texas.gov/laws-regulations/enforcement-orders>; Settlement Agreement, *Dep’t of Saving and Mortg. Lending v. Rich*, SOAH Case No. 450.18.2152 (Oct. 25, 2018), [https://www.sml.texas.gov/wp-content/uploads/2021/08/fred\\_rich\\_et\\_al\\_settlement\\_agreement.pdf](https://www.sml.texas.gov/wp-content/uploads/2021/08/fred_rich_et_al_settlement_agreement.pdf).

<sup>15</sup> Press Release, CA.gov, Governor Newsom Signs Legislation Establishing Nation’s Strongest State Consumer Financial Protection Watchdog (Sept. 25, 2020), <https://www.gov.ca.gov/2020/09/25/governor-newsom-signs-legislation-establishing-nations-strongest-state-consumer-financial-protection-watchdog>.

Likewise, the Pennsylvania AG launched a Consumer Financial Protection Unit, and recruited one of the earliest CFPB employees to lead the team.<sup>16</sup> As the federal government again rethinks its enforcement priorities under the second Trump Administration, state financial regulators seem poised to take on an even larger role in shaping consumer financial services regulation and enforcement than during the first Trump term.

- At the same time, states have increasingly relied on multistate actions to pool resources and to demand more onerous resolutions to matters (both from a penalty perspective, but also, at times, from an injunctive and consumer remediation perspective). This allows states to avoid duplicative investigations, freeing up resources to pursue more enforcement activity. In some instances, multistate actions are initiated pursuant to long-standing agreements and functional committees covering various industries such as banking, money services (check cashing and money transmission), mortgage, and other non-depository institutions.<sup>17</sup> The Conference of State Bank Supervisors (“CSBS”) — which is the nationwide organization representing the interest of state financial regulators — also plays

a key role in facilitating supervision and enforcement among the states party to these agreements. CSBS-led development of model laws, such as the Money Transmission Modernization Act (“MTMA”),<sup>18</sup> which provides for a single set of nationwide standards governing money transmission, can also inform supervisory and enforcement strategies. For instance, the MTMA explicitly encourages states to participate in multistate supervision and share information with other state and federal agencies.<sup>19</sup> In 2025 alone, state financial regulators have already settled two significant multistate enforcement actions.

- States are also actively staffing up to expand their supervisory and enforcement capabilities. The New York Department of Financial Services (“NY DFS”), in particular, is eyeing former employees of federal financial regulators,<sup>20</sup> and already hired a former CFPB deputy enforcement director to lead its consumer protection and financial enforcement division.<sup>21</sup> Other states seem poised to join the fray: the CA DFPI and the TX DOB are actively recruiting financial institution examiners,<sup>22</sup> while some have announced broader initiatives to hire former federal workers.<sup>23</sup> Hiring federal employees

<sup>16</sup> B. Lane, *Mini-CFPB? Pennsylvania Attorney General Launches Consumer Financial Protection Unit*, HOUSINGWIRE (Jul. 21, 2017), <https://www.housingwire.com/articles/40758-mini-cfpb-pennsylvania-attorney-general-launches-consumer-financial-protection-unit>; Press Release, Pa. Att'y Gen., Attorney General Josh Shapiro Announces Consumer Financial Protection Unit (Jul. 20, 2017), <https://www.attorneygeneral.gov/taking-action/attorney-general-josh-shapiro-announces-consumer-financial-protection-unit>.

<sup>17</sup> See, e.g., Money Transmitter Regulators Association (“MTRA”) Cooperative Agreement, <https://www.mtraweb.org/about/cooperative-agreement>; Nationwide Cooperative Agreement for MSB Supervision (Jan. 2012), [https://www.csbs.org/sites/default/files/2017-11/MSB-CooperativeAgreement\\_010512clean.pdf](https://www.csbs.org/sites/default/files/2017-11/MSB-CooperativeAgreement_010512clean.pdf); CSBS/AARMR Nationwide Cooperative Agreement for Mortgage Supervision (May 1, 2009), [https://www.csbs.org/sites/default/files/2017-11/NationwideCooperativeAgreementforMortgageSupervision\\_FINAL.pdf](https://www.csbs.org/sites/default/files/2017-11/NationwideCooperativeAgreementforMortgageSupervision_FINAL.pdf); Nationwide Cooperative Agreement for State Governance of Non-Depository Supervision (Sept. 2013), <https://www.csbs.org/sites/default/files/2017-11/State%20Governance%20Agreement%20Master%20Signature.pdf>; CSBS, Cooperative Agreements (Oct. 18, 2023), <https://www.csbs.org/cooperative-agreements> (last visited May 14, 2025).

<sup>18</sup> See generally CSBS, CSBS Money Transmission Modernization Act (“MTMA”), <https://www.csbs.org/csbs-money-transmission-modernization-act-mtma>. At the time of this article, more than half of U.S. states have adopted the MTMA, in whole or in part.

<sup>19</sup> MTMA § 4.04.

<sup>20</sup> Orrick, NYDFS seeks to hire displaced federal financial employees amidst Trump administration cuts, INFOBYTES (Mar. 14, 2025), <https://infobytes.orrick.com/2025-03-14/nydfs-seeks-to-hire-displaced-federal-financial-employees-amidst-trump-administration-cuts/>.

<sup>21</sup> J. Hill, NY Taps Ex-CFPB Official For Top Financial Enforcement Role, Law360 (Mar. 13, 2025), <https://www.law360.com/articles/2310205/ny-taps-ex-cfpb-official-for-top-financial-enforcement-role>.

<sup>22</sup> See, e.g., CA DFPI, *Careers*, <https://dfpi.ca.gov/about/careers/> (last visited May 28, 2025).

<sup>23</sup> See, e.g., PA Executive Order, Executive Order 2025-01 — Filling Critical Public Service Vacancies by Recruiting Federal Government Talent and Expertise (Mar. 5, 2025), <https://www.pa.gov/content/dam/copapwp-pagov/en/governor/documents/2025-01.pdf>; Release, Gov. N.Y., When DOGE Says “You’re Fired,” New York Is Ready To Say “You’re Hired” (Mar. 27, 2025), <https://www.governor.ny.gov/news/youre-hired-governor-hochul-announces-more-1300>.

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would not only permits states to take on more cases, but it also offers an opportunity to transfer institutional knowledge (and even active investigations) from federal agencies to their state counterparts.

## FROM START TO FINISH: HOW DO STATES IDENTIFY AND BRING ENFORCEMENT ACTIONS?

***States can identify potential violations through several avenues, most notably supervisory examinations, consumer complaints, and information-sharing mechanisms.***

- **Examinations.** Supervisory examinations enable state financial regulators to closely review the acts and practices of entities that they regulate — such as non-bank licensees — to assess their safety and soundness and to evaluate compliance with applicable laws. These exams may be conducted on a routine basis either by statutory mandate or by practice, or can be triggered by required filings, such as mortgage call reports. After an examination, state financial regulators may issue a report of examination. If the report raises matters requiring attention (known as “MRAs”), they can be resolved through confidential processes (such as through a board resolution or memorandum of understanding) or escalated to a more formal enforcement mechanism.
- **Complaints.** Consumer complaints have played a key role in driving investigations into specific acts and practices and can ultimately lead to broader investigations and enforcement actions. State AGs and financial regulators not only receive complaints directly but can also leverage other sources to gather insight into consumer complaints involving regulated entities. For example, to identify and target certain practices or companies, states have direct and full access to the Federal Trade Commission’s (“FTC”) Consumer Sentinel Network, the Financial Crimes Enforcement Network’s BSA E-Filing System, and the CFPB’s complaint database. However, the Trump Administration’s overhaul of the CFPB, including a recent withdrawal of three early guidance

documents — originally intended to explain the creation and use of that database — has raised questions about its scope and long-term future.<sup>24</sup> In response, some states have worked to update their own complaint intake systems. For instance, Pennsylvania Governor Josh Shapiro recently announced the launch of a new “centralized consumer protection hotline, website, and e-mail address” to streamline the consumer complaint process for Pennsylvanians.<sup>25</sup> Additionally, as part of its modernization and harmonization efforts, CSBS is evaluating how to expand the Nationwide Multistate Licensing System (“NMLS”)<sup>26</sup> functionality for more efficient and effective supervision, which possibly could include a direct complaint portal through its public facing NMLS Consumer Access website.<sup>27</sup> If implemented, this type of functionality would allow the public to directly file complaints with state financial regulators and populate that information in the NMLS’ State Examination System (“SES”).

- **Information Sharing.** Early in its history, the CFPB established formal mechanisms to promote information sharing between federal and state

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<sup>24</sup> CFPB Interpretive Rules, Policy Statements, and Advisory Opinions; Withdrawal, 90 Fed. Reg. 20084 (May 12, 2025), <https://www.federalregister.gov/documents/2025/05/12/2025-08286/interpretive-rules-policy-statements-and-advisory-opinions-withdrawal> (withdrawing Disclosure of Consumer Complaint Narrative Data, 80 Fed. Reg. 15572 (Mar. 24, 2015); Disclosure of Consumer Complaint Data, 78 Fed. Reg. 21218 (Apr. 10, 2013); Disclosure of Certain Credit Card Complaint Data, 77 Fed. Reg. 37558 (June 22, 2012)); Nat’l Cons. Law Ctr., Continued Vitality of 67 Withdrawn CFPB Guidance Documents (May 13, 2025), <https://library.nclc.org/article/continued-vitality-67-withdrawn-cfpb-guidance-documents#content-2>.

<sup>25</sup> Press Release, Commw. Pa., Governor Shapiro Launches New Consumer Protection Tools to Help Pennsylvanians Report Scams and Predatory Practices (May 1, 2025).

<sup>26</sup> The NMLS, f/k/a the Nationwide Mortgage Licensing System and Registry, is the online system of record for non-depository, financial services licensing or registration with participating state agencies, including the District of Columbia and the U.S. territories of Puerto Rico, the U.S. Virgin Islands, and Guam. In these jurisdictions, the NMLS is the official system for companies and individuals seeking to apply for, amend, renew, and/or surrender their license(s) or registration(s) that are managed through NMLS.

<sup>27</sup> NMLS Consumer Access, <https://www.nmlsconsumeraccess.org>.

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applications-received-new-york-launched; Press Release, Gov. Va., Governor Glenn Youngkin Unveils “Virginia Has Jobs” Initiative: An Open Door to New Opportunities (Feb. 24, 2025), <https://www.governor.virginia.gov/newsroom/news-releases/2025/february/name-1041600-en.html>.

agencies. In addition to the CFPB, the Federal Housing Finance Agency also established a formal framework — facilitated by CSBS — to share information on non-bank mortgage companies with state financial regulators.<sup>28</sup> To the extent federal-state information sharing is scaled back, states may ramp up collaboration and share information more extensively among themselves. For instance, states already exchange information through multistate coordination mechanisms, including via the NMLS and its SES (which houses documents and information generated through certain examinations, investigations, and complaints). Like consumer complaints, these information-sharing tools can serve as a catalyst for investigations and can lead to broader investigations and enforcement actions.

### **What can states do?**

State AGs and state financial regulators possess numerous investigatory and enforcement tools to address perceived violations of financial services laws, rules and regulations. For example, state financial regulators have a broad set of tools to ensure compliance among the institutions they supervise or with the laws they enforce, including:

- They can conduct wide-ranging enforcement investigations, including accessing books and records, taking testimony, and issuing subpoenas.<sup>29</sup>
- They can enter cease and desist orders directing licensees to cease engaging in certain activity violative of the law, and under certain instances issue cease and desist orders that mandate the immediate cessation of such activity — actions that can significantly disrupt operations and revenue.<sup>30</sup>
- They have the authority to prohibit individuals from engaging in regulated activities, either on a temporary or permanent basis.<sup>31</sup>

- They can suspend or revoke state licenses — which similarly can significantly disrupt operations and revenue.<sup>32</sup>
- They have the authority to enter orders imposing civil monetary penalties, which can vary greatly in financial impact.<sup>33</sup>
- They can issue remediation orders requiring corrective action of consumer harm, which could be either monetary in nature or directing action to make a harmed consumer whole.<sup>34</sup>
- They can seek judicial intervention, such as through the issuance of injunctive relief (temporary restraining orders, and temporary and permanent injunctions), to enforce a subpoena for contumacy, freeze assets, or other forms of judicial intervention.<sup>35</sup>
- They can share information with other state and federal regulators, which may prompt additional investigations and enforcement actions.<sup>36</sup>
- They can refer matters for further investigation or prosecution, and share information and documentation with criminal law enforcement agencies.<sup>37</sup> Violations of a licensing statute can also result in criminal liability and/or penalties.<sup>38</sup> In addition, it is worth noting that information derived as part of a regulatory investigation or through supervisory interactions does not generally afford regulated entities with the same constitutional protections offered as part of a criminal investigation (e.g., the Fourth Amendment of the U.S. Constitution), and such information is

<sup>28</sup> See, e.g., Cal. Fin. Code § 2150.2(a); Haw. Rev. Stat. Ann. § 454M-8.7(a); Nev. Rev. Stat. Ann. § 670B.690; Tex. Fin. Code § 152.403(b).

<sup>29</sup> See, e.g., Neb. Rev. Stat. Ann. § 45-743(2); Tex. Fin. Code § 152.407.

<sup>30</sup> See, e.g., Fla. Stat. Ann. § 560.113; La. Stat. Ann. § 9:3552(A)(1)(a).

<sup>31</sup> See, e.g., Md. Code Ann., Fin. Inst. § 2-116; Nev. Rev. Stat. Ann. § 676A.740.

<sup>32</sup> See, e.g., Nev. Rev. Stat. Ann. § 676A.730(4); Tex. Fin. Code § 152.058(b).

<sup>33</sup> See, e.g., Md. Code Ann., Fin. Inst. § 2-117(e)(2).

<sup>34</sup> See, e.g., Md. Code Ann., Fin. Inst. § 11-617; Miss. Code Ann. § 81-19-23(2); Tex. Fin. Code § 152.408.

<sup>28</sup> News Release, FHFA, State Financial Regulators and FHFA Enter Into Mortgage Market Information Sharing Agreement (Apr. 10, 2024), <https://www.fhfa.gov/news/news-release/state-financial-regulators-and-fhfa-enter-into-mortgage-market-information-sharing-agreement>.

<sup>29</sup> See, e.g., Ala. Code § 5-18A-11(c); Fla. Stat. Ann. § 560.109; Tex. Fin. Code § 152.056.

<sup>30</sup> See, e.g., Cal. Fin. Code § 2148(a); Md. Code Ann., Fin. Inst. § 11-614(a); Tex. Fin. Code § 152.401.

<sup>31</sup> See, e.g., Md. Code Ann., Fin. Inst. § 12-1105.

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generally admissible as part of the criminal prosecution.<sup>39</sup>

Similarly, state AGs have broad authority to represent their state in civil litigation, with discretion over initiating, pursuing, and appealing cases,<sup>40</sup> and have similar administrative tools at their disposal under their respective consumer protection laws.<sup>41</sup>

## TRENDS AND ANTICIPATED ENFORCEMENT PRIORITIES.

While state AGs and financial regulators are expected to maintain their longstanding focus on core issues such as consumer lending (mortgage, student, credit card, etc.), debt collection, AML/BSA compliance, and privacy and data security, several emerging trends have shaped state enforcement priorities in recent years. Increasingly, these trends are shaped not just by traditionally active states like California and New York, but also by other states like Connecticut, Massachusetts, Texas, and Washington, who have demonstrated a desire to become key drivers of state enforcement agendas.

### ***“Junk fees” and unfair, deceptive, and abusive acts and practices.***

- Aligned with the Biden Administration’s crackdown on “junk fees,” state AGs and state financial regulators have intensified scrutiny of institutions’ disclosure of fees, and extended their focus beyond the financial services industry. The CFPB under former Director Chopra similarly urged states to create bright-line prohibitions on “junk fees” that impair consumers’ ability to easily compare prices among different providers.<sup>42</sup> For instance, both the Colorado and Texas AGs brought actions against hotel chains that allegedly misrepresented the total price of their hotel rooms to consumers by excluding mandatory fees from advertised rates.<sup>43</sup> States have

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<sup>39</sup> *New York v. Burger*, 482 U.S. 691 (1987).

<sup>40</sup> See, e.g., Minn. Stat. § 8.01. State AGs may also be authorized to prosecute certain criminal matters. See, e.g., Ga. Code Ann. § 45-15-10.

<sup>41</sup> See, e.g., Neb. Rev. Stat. Ann. § 59-1608; Neb. Rev. Stat. Ann. § 59-1611.

<sup>42</sup> CFPB, Strengthening State-Level Consumer Protections, at 33-34 (Jan. 14, 2025).

<sup>43</sup> Assurance of Discontinuance, *In re Marriott International, Inc.* (Colo. Att’y Gen., Feb. 1, 2024); Press Release, Tex. Att’y Gen., Paxton Sues Hyatt Hotels for Deceptive Trade Practices Regarding the True Price of Hotel Rooms (May 16, 2023),

also enacted legislation or implemented new regulations that are poised to create additional enforcement risk going forward. For example, effective July 1, 2024, the California Legislature amended the California Consumers Legal Remedies Act to ban “drip pricing,” or the practice of “advertising a price that is less than the actual price that a consumer will have to pay for a good or service”<sup>44</sup> — a parallel effort failed in Illinois.<sup>45</sup> The Massachusetts AG issued new regulations under the state’s consumer protection law to curb “junk fees.” Effective September 2, 2025, the regulations require companies to disclose the total price of a product or service upfront and provide clear information regarding additional charges.<sup>46</sup> More recently, legislators in New York introduced the New York Junk Fee Prevention Act, which would require clear and conspicuous pricing practices in consumer sales and leases.<sup>47</sup> In short, states continue to scrutinize fee disclosures even as the Trump Administration appears to have paused this effort.

- States have also taken the lead in combatting what they view as false advertising and deceptive practices, and threats to consumers’ privacy, zeroing in on large technology companies. In the last year, the Texas AG entered into two settlements with large technology companies to resolve allegations that they collected users’ private data without permission.<sup>48</sup> A coalition of 40 state AGs similarly

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<https://www.texasattorneygeneral.gov/news/releases/paxton-sues-hyatt-hotels-deceptive-trade-practices-regarding-true-price-hotel-rooms>.

<sup>44</sup> Cal. SB 478 (2023-2024).

<sup>45</sup> Ill. HB 4629 (2023-2024).

<sup>46</sup> Press Release, Mass. Att’y Gen., AG Campbell Releases “Junk Fee” Regulations To Help Consumers Avoid Unnecessary Costs (Mar. 3, 2025), <https://www.mass.gov/news/ag-campbell-releases-junk-fee-regulations-to-help-consumers-avoid-unnecessary-costs>.

<sup>47</sup> N.Y. SB S363 (2025-2026).

<sup>48</sup> Press Release, Tex. Att’y Gen., Attorney General Ken Paxton Secures \$1.4 Billion Settlement with Meta Over Its Unauthorized Capture of Personal Biometric Data In Largest Settlement Ever Obtained From An Action Brought By A Single State (Jul. 30, 2024), <https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-secures-14-billion-settlement-meta-over-its-unauthorized-capture>; Press Release, Tex. Att’y Gen., Attorney General Ken Paxton Secures Historic \$1.375 Billion Settlement with Google

alleged that one of these companies also violated state consumer protection laws by misleading consumers about its location data collection practices.<sup>49</sup> State enforcement in this area also extended across a wide range of industries, often carried out in coordination with the FTC. Earlier this year, the FTC and the New York AG filed suit against a gig economy company for allegedly making deceptive claims about how much money workers on its platform could earn.<sup>50</sup> The FTC and the Illinois AG similarly settled allegations that a delivery platform misled workers about how much money they would make delivering food, among other claims.<sup>51</sup> In addition to state AGs, certain state financial regulators — most notably in Washington — have intensified scrutiny of how regulated entities use advertising terms that they consider deceptive (such as the use of “no origination fees,” “best” or “lowest” when describing rates, fees, and programs).

#### ***Increased focus on AI and automated decision-making.***

- While much state activity in the consumer financial services space has aligned with related federal priorities under the prior administration, states have also been more active in protecting their constituents against what they view as potential new emerging risks. Notably, states are increasingly scrutinizing new financial products and digital platforms used by consumers and small businesses. For instance, and absent a comprehensive federal privacy or AI law, states are asserting themselves via new statutes, as well as under their existing UDA(A)P authority. Effective January 1, 2026, the California AI Transparency Act requires in-scope businesses to create an AI detection tool that allows a user to query the business about which content was created by generative AI.<sup>52</sup> On May 17, 2024, the Colorado

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Related to Texans’ Data Privacy Right (May 9, 2025), <https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-secures-historic-1375-billion-settlement-google-related-texans-data>.

<sup>49</sup> Assurance of Voluntary Compliance, *In re Google LLC* (Nov. 11, 2022).

<sup>50</sup> Complaint, *FTC v. Handy Technologies, Inc. d/b/a Angi Services*, Case No. 1:25-cv-00122 (S.D.N.Y. Jan. 7, 2025).

<sup>51</sup> Stipulated Order, *FTC v. GrubHub Inc.*, Case No. 1:24-cv-12923 (N.D. Ill. Dec. 31, 2024).

<sup>52</sup> Cal. SB 942 (2023-2024).

Governor signed the first comprehensive, consumer-centric AI bill into law — the Colorado AI Act — which introduces novel requirements for developers and deployers of high-risk AI systems.<sup>53</sup> The law requires both developers and deployers to exercise “reasonable care to protect consumers from any known or reasonably foreseeable risks of algorithmic discrimination” in their high-risk AI systems. Similarly, Utah enacted the Utah Artificial Intelligence Policy Act, which imposes certain disclosure requirements on entities using generative AI tools with their customers, and limits an entity’s ability to “blame” generative AI for statements or actions that violate consumer protection laws.<sup>54</sup>

- There is a parallel uptick in states’ scrutiny of AI usage under their existing UDA(A)P laws. On September 18, 2024, the Texas AG entered into a settlement with a generative AI healthcare company for using allegedly deceptive and misleading statements regarding the accuracy and safety of its generative AI products that synthesize and summarize patient charts and notes.<sup>55</sup> At the federal level, and shortly thereafter, the FTC announced an enforcement sweep, called Operation AI Comply, alleging that certain companies used AI technology in violation of the FTC Act’s prohibition on deceptive and unfair practices.<sup>56</sup> With AI becoming a growing area of focus, states AGs and financial regulators are expected to play a key role in enforcement efforts in this space — whether under AI-specific laws or existing UD(A)AP statutes — alongside the FTC.

#### ***The rise of state-led cryptocurrency enforcement.***

- Multiple states have begun increasing enforcement efforts related to cryptocurrency, with notable activity in blue states, as well as in Texas and Iowa — an indication that more states are likely to follow.

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<sup>53</sup> Colo. SB 24-205 (2024 Regular Session).

<sup>54</sup> Utah SB0149 (2024 General Session).

<sup>55</sup> Press Release, Tex. Att’y Gen., Attorney General Ken Paxton Reaches Settlement in First-of-its-Kind Healthcare Generative AI Investigation (Sept. 18, 2024), <https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-reaches-settlement-first-its-kind-healthcare-generative-ai-investigation>.

<sup>56</sup> Press Release, FTC, FTC Announces Crackdown on Deceptive AI Claims and Schemes (Sept. 25, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-announces-crackdown-deceptive-ai-claims-schemes>.

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States have been especially active in targeting cryptocurrency firms alleging that they sell unregistered securities,<sup>57</sup> offer crypto-related lending products without proper licensing, operate in ways that regulators allege violate consumer protection laws,<sup>58</sup> or fail to safeguard consumers from cryptocurrency-related scams and fraudulent schemes.<sup>59</sup> The rise in state enforcement actions against the cryptocurrency industry is likely to intensify following the DOJ's decision to disband its dedicated crypto crime enforcement team.<sup>60</sup>

### ***Officers under fire: the expanding scope of individual liability.***

- Under former Director Chopra's leadership, the CFPB actively sought to include individuals in enforcement actions. Similarly, states are showing a growing interest in holding executives and officers personally accountable for their organizations' alleged misconduct, a trend that could carry significant implications for businesses. In doing so, states generally assert that executives, officers, or control persons meaningfully participated in the alleged unlawful conduct, negligently turned a blind eye toward their subordinates doing the same, or were informed of compliance issues but failed to take corrective action.
- ***Laying the groundwork for stronger enforcement.***
- Recent legislative initiatives are also likely to bolster state enforcement efforts targeting new financial products and services. As background, there has been a big push by advocates, especially from

former CFPB Director Chopra, to encourage states to adopt the "abusive" standard under UDAAP in jurisdictions where such a concept is not already part of state law. For example, in early March 2025, the New York AG (encouraged by former CFPB Director Chopra and former FTC Chair Lina Khan) proposed to expand its consumer and small business protections through the FAIR Act.<sup>61</sup> The bill seeks to broaden the scope of prohibited business practices beyond the current focus on "deceptive" acts to include "unfair" and "abusive" practices as well. According to Attorney General James, the state's existing framework is no longer sufficient to adequately protect residents from the increasingly sophisticated and varied forms of consumer finance products and unfair practices that exist today, including issues like "deed theft, [AI]-based schemes, and online phishing scams."<sup>62</sup> As federal consumer protection efforts face rollbacks, the New York AG's increasingly assertive stance on safeguarding consumers and small businesses from UD(A)APs signals a likely rise in enforcement activity if the FAIR Act is enacted.

- Connecticut also passed a law expanding the AG's authority to enforce certain provisions of Dodd-Frank. While the AG previously had the ability to file civil actions to enforce Dodd-Frank, the new law grants the AG subpoena power over both in-state and out-of-state banks for enforcement purposes, eliminating the need for approval from the Connecticut Department of Banking.<sup>63</sup>

### **LOOKING AHEAD: IMPLICATIONS FOR THE FINANCIAL SERVICES INDUSTRY.**

Unlike past White House transitions, when federal regulators' priorities remained relatively consistent, recent years have shown that political agendas are

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<sup>57</sup> Press Release, N.Y. Att'y Gen., Attorney General James Continues Crackdown on Unregistered Cryptocurrency Platforms (Mar. 9, 2023), <https://ag.ny.gov/press-release/2023/attorney-general-james-continues-crackdown-unregistered-cryptocurrency-platforms>.

<sup>58</sup> Consent Order, *DFPI v. Salt Lending, LLC*, No. 60DBO-87584 (Cal. DFPI Dec. 2024); Consent Order, *DFPI v. BlockFi Lending LLC* (Cal. DFPI Feb. 2022).

<sup>59</sup> Iowa Attorney Department of Justice, Attorney General Bird Sues Crypto ATM Companies for Costing Iowans More than \$20 Million (Feb. 26, 2025), <https://www.iowaattorneygeneral.gov/newsroom/attorney-general-bird-sues-crypto-atm-companies-for-costing-iowans-more-than-20-million#:~:text=The%20lawsuits%20allege%20that%20both,the%20Iowa%20Consumer%20Fraud%20Act>.

<sup>60</sup> DOJ, Ending Regulation By Prosecution (Apr. 7, 2025), <https://www.justice.gov/dag/media/1395781/dl?inline>.

<sup>61</sup> Fostering Affordability and Integrity through Reasonable Business Practices Act, <https://ag.ny.gov/sites/default/files/2025-03/fostering-affordability-and-legislative-bill-drafting-commission-integrity-through-reasonable-business-practices-fair-business-practices-act-2025.pdf>; *see also* Press Release, N.Y. Att'y Gen., Attorney General James Takes Action to Protect New York Consumers and Small Businesses (Mar. 13, 2025), <https://ag.ny.gov/press-release/2025/attorney-general-james-takes-action-protect-new-york-consumers-and-small>.

<sup>62</sup> *Id.*

<sup>63</sup> Ct. Pub. Act No. 24-75, <https://cga.ct.gov/2024/act/pa/pdf/2024PA-00075-R00SB-00121-PA.pdf>.

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becoming more polarized and designed to upend historical notions of administrative-connectivity from administration to administration. With the Trump Administration's 2.0 agenda likely to continue to refocus the priorities of federal regulators, banks, and fintech companies operating across the country are likely to face increased regulatory, enforcement, and political uncertainty.

This evolving landscape presents heightened challenges for financial institutions, especially those operating nationwide but subject to the whims of state-

level enforcement efforts. This shift highlights the importance of reprioritizing beyond a federal-centric compliance focus so as to more efficiently navigate an increasingly complex and varied patchwork of state-level supervisory and enforcement priorities. First and foremost, businesses should understand where they are regulated *and* where they operate. And businesses should be prepared for increased scrutiny from a wide array of states armed with tools honed from years of experience — and not just those in traditionally aggressive jurisdictions. ■