

Semi-Annual Report of the Bureau of Consumer Financial Protection



Message from the Director

February 3, 2020

I am pleased to present the Consumer Financial Protection Bureau's (CFPB or Bureau) Semi-Annual Report to Congress for the period April 1, 2019–September 30, 2019.

Consumers are at the heart of everything we do at the CFPB, just as Congress intended, and we are driven by one goal:

We protect, promote, and preserve the financial well-being of the American consumer.

We tackle this goal through promoting compliance by responsible entities, tirelessly enforcing the law and deterring unscrupulous financial predators, advancing the public's overall financial skills, and encouraging appropriate and innovative choice in the marketplace.

In addition to building upon the hard work outlined in the rest of this report, I am also focusing on two areas of importance: **encouraging saving** and **unleashing innovation** wherever appropriate and possible.

Encouraging saving:

We all know that savings are important. Too many of our most vulnerable consumers do not see that saving even a small amount can be important to their long-term financial well-being. That's why I have launched the "Start Small, Save Up" initiative.

Encouraging saving is part of an effort that endeavors to create an American financial landscape that sees people able to fully meet current and ongoing financial obligations, feel secure in their own financial futures, and be empowered with the ability to make choices that allow them to enjoy life.

If we are able to get more people to put aside just a few dollars per paycheck:

1. It puts greater control of day-to-day finances back in consumers' hands;
2. It creates and increases consumer capacity to absorb and recover from an unexpected financial shock;
3. It puts people on track to meet their own personal financial goals; and
4. It provides people financial freedom to make choices that improve their quality of life.

When it comes to saving, starting small can be a huge first step, and one that can help relieve anxiety and foster financial independence.



Unleashing innovation:

I've also taken renewed steps to advance one of the Bureau's statutorily required goals: encouraging innovation in the financial marketplace.

We will do this by removing unnecessary, onerous, and redundant regulatory obstacles that inhibit consumer choices, including by reducing regulatory uncertainty through three new or revised innovation policies that we issued in 2019. At the same time, we will be fostering streamlined connectivity between federal and state regulators and the innovators we regulate. This allows the marketplace to deliver safe and effective benefits to American consumers without them being unnecessarily stymied.

By working with state partners, we can create more streamlined processes to facilitate innovators in bringing safe and effective choices to consumers.

One thing is for sure: neither Washington nor the states can predict what will evolve in the minds of entrepreneurs. What we can do is ensure that their revolutionary ideas do not "die on the vine" because of bureaucratic red tape and overzealous regulation.

Last year, I launched the American Consumer Financial Innovation Network (ACFIN), a network to enhance coordination among federal and state regulators to facilitate financial innovation. This effort began with eight members and has now grown to 17. These bipartisan members include both the state attorneys general and state financial regulators. My hope is that this effort brings innovators and regulators together to discuss regulatory uncertainty and ensures innovators understand what regulators require of them.

I look forward to sharing more about these two initiatives, saving and innovation, in the coming months. In the meantime, I am proud of the work that is highlighted in this report and thank the Bureau staff who have been instrumental in leading these efforts. We will continue to build on our efforts going forward to prevent consumer harm and ensure that consumers are protected.

Sincerely,



Kathleen L. Kraninger

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1. Significant problems faced by consumers in shopping for or obtaining consumer financial products or services

During the reporting period, the Bureau released two Quarterly Consumer Credit Trends (qCCT) reports and one Market Snapshot that address aspects of credit reporting and credit scoring, which may cause consumers to experience significant problems in obtaining consumer financial products or services. These reports use a longitudinal, nationally representative sample of approximately five million de-identified credit records from one of the three nationwide consumer reporting agencies. In addition, the Bureau issued its biennial report on the credit card market that includes findings on problems consumers may experience in shopping for or obtaining credit and on the choices consumers make in this market.

1.1 Credit scores and credit reporting

Credit scores are generally derived from credit file data furnished to and maintained by the national credit reporting agencies (NCRAs). Many creditors use credit scores to determine to whom they will offer credit and on what terms. Creditors may also obtain credit reports, generally compiled by the NCRAs from the credit file data furnished to them and use those reports for underwriting and pricing. As a result, credit reports and credit scores have a significant effect on consumers' ability to shop for and obtain credit.

Credit reports can contain information from third-party debt collectors who collect delinquent or defaulted debt on behalf of creditors and from debt buyers who purchase charged-off accounts and collect on those accounts in their own names. A collections "tradeline" can negatively affect the consumer's credit score or otherwise negatively affect the consumer's ability to obtain credit. In *Market Snapshot: Third-Party Debt Collections Tradeline, Reporting*,¹ the Bureau examined the reporting of collections tradelines.

Key findings include:

¹ https://files.consumerfinance.gov/f/documents/201907_cfpb_third-party-debt-collections_report.pdf.

- As of Q2 2018, over one in four consumers had a third-party collections tradeline in their credit files at the NCRAs. Of the reported collections tradelines, 87.5 percent were reported by non-buyer third-party collectors and the remaining 12.5 percent were reported by debt buyers.
- Fifty-eight percent of all collections tradelines—and about two-thirds of the non-buyer tradelines—were for medical debt, and another 20 percent were for telecommunications or utilities debt. These are all non-financial debts where positive payment information is generally not reported to consumer reporting agencies. Non-buyer collectors are primarily responsible for reporting these tradelines; buyer tradelines primarily were for banking, retail, and financial debt with only one percent of buyer tradelines for medical debt.

Credit reports also may contain information on bankruptcy filings, which also can negatively affect credit scores or otherwise negatively affect the consumer’s ability to obtain credit. In a qCCT report entitled *Consumer Bankruptcy, BAPCPA, and the Great Recession*,² the Bureau examined trends regarding bankruptcy filings and their relationship to credit scores.

Key findings include:

- Each year approximately 750,000 consumers petition for bankruptcy. In recent years, around 63 percent have invoked Chapter 7, which allows debt that cannot be repaid out of certain assets to be discharged, while the remainder have invoked Chapter 13, which generally provides a three- or five-year repayment plan for repaying at least a portion of the debt.
- The median credit score for filers one year before filing is quite low—for 2018 Chapter 7 filers, the median score was below 580, and for Chapter 13 filers 600. Median credit scores for Chapter 7 filers rise steeply in the first few years after filing, although the median score remains within the subprime range. For Chapter 13 filers, median scores increase more slowly than for Chapter 7 filers.

As the bankruptcy data indicate, credit scores are not static, but do fluctuate for any given consumer. In a second qCCT report, *Timing of Applications for Consumer Credit*,³ the Bureau

² https://files.consumerfinance.gov/f/documents/cfpb_quarterly-consumer-credit-trends_consumer-bankruptcy_2019-08.pdf.

³ https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-trends_timing-applications-consumer-credit_2019-05.pdf.

examined fluctuations in credit scores and their relationship with when consumers apply for credit (specifically credit cards).

Key findings include:

- For consumers whose credit scores could be observed for at least 29 quarters over a nine-year period, almost two-thirds experienced at least a 100-point swing in their credit score. Two-thirds of those consumers experienced their maximum score first, and the remainder experienced a minimum score before reaching a maximum. It took more than five years for consumers to go from minimum to maximum, but less than three years to move from maximum to minimum. Younger consumers and consumers with lower average scores were more likely to experience these large swings in their credit scores.
- Consumers' rate of applying for a credit card appears to increase as they approach their maximum credit score, with a spike approximately four quarters before reaching the maximum. After reaching the maximum score, the rate of applications declines quickly. However, consumers in relatively high credit score bands have generally stable application rates as they approach their maximum score and experience small declines thereafter.
- Consumers' application rate also gradually increases as they approach their minimum credit score, but with a sharp decline in the application rate around the time that consumers reach their minimum. After reaching the minimum, the application rate rises steadily.

1.2 The consumer credit card market

Every two years, the Bureau issues a report to Congress on the consumer credit card market as required by the Credit Card Accountability, Responsibility and Disclosure Act (CARD Act).⁴ As with prior reports, the Bureau's 2019 report,⁵ which was issued during the reporting period, examines the availability of credit in this market and the means by which consumers seek and obtain credit.

⁴ 15 U.S.C. 1616(a).

⁵ https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2019.pdf. The Bureau has placed in its Reading Room Excel tables containing the data reflected in the graphs and charts that appear in the report. <https://www.consumerfinance.gov/foia-requests/foia-electronic-reading-room/2019-consumer-credit-card-market-report-figure-data/>.

Key findings relating to consumers shopping for and obtaining credit cards include:

- In 2018, credit card issuers collectively sent, on average, 341 million direct mail solicitations per month for credit cards, of which 51.6 percent were pre-screened. Direct mail solicitation volume remains less than one half of its pre-recession level, and the share of pre-screened offers was its lowest mark since at least 2013. Spending on digital marketing remains small compared to physical mail, but it has grown significantly.
- In 2018, consumers submitted more than 165 million credit card applications to mass market issuers. A slight majority were for retail accounts (i.e., credit cards that can be used only at a single merchant or a small group of related merchants) as opposed to general purpose accounts (i.e., accounts with cards that can transact over a network accepted by a wide variety of merchants, including the Visa, Mastercard, American Express, and Discover networks). Over 75 percent of general-purpose applications were submitted digitally with one half of those coming via a mobile device. In contrast, over 60 percent of retail card applications were submitted in person with digital channels accounting for 36 percent.
- Third-party comparison sites (TPC sites) offer information intended to make it easier for consumers to compare credit cards. More than one in four applications for general purpose cards that were submitted to mass market issuers came through TPC sites. Consumers with lower credit scores were more likely to apply via TPC sites than consumers with higher credit scores. TPC sites are not owned or operated by issuers but many are funded primarily by issuer payments for sourcing new accounts.
- Approval rates vary widely by credit tier. This is true both for general purpose credit cards and for retail cards. For example, the approval rate for superprime consumers was 83 percent for general purpose cards and 91 percent for retail cards, while the approval rate for subprime and deep subprime consumers was 17 percent for general purpose cards and under seven percent for retail cards.
- Even within a credit tier, approval rates vary significantly by channel of application. For example, for superprime consumers applying for a general purpose card, the approval rate for those applying by mail was 85 percent, whereas it was 73 percent for those applying via mobile device. For subprime and deep subprime consumers, the comparable figures were 70 percent and 16 percent.
- Overall, consumers obtained roughly 106 million new credit card accounts in 2018, of which roughly 65 million were for general purpose cards. Among general purpose card originations, 61 percent were for products with a reward feature such as cash rewards or

travel rewards. This rate varies substantially by credit tier: for example, for superprime consumers, 71 percent of new general purpose cards offered rewards, whereas for subprime and deep subprime consumers, only 21 percent did.

2. Justification of the budget request of the previous year

The Bureau's Strategic Plan, Budget, and Performance Plan and Report, which is available online at www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/, includes estimates of the resources needed for the Bureau to carry out its mission. The document also describes the Bureau's performance goals and accomplishments, supporting the Bureau's long-term Strategic Plan.

2.1 Fiscal year (FY) 2019 spending through the end of the second quarter of FY 2019

2.1.1 Bureau fund

As of September 30, 2019, the end of the fourth quarter of FY 2019, the Bureau had spent approximately \$510.1 million⁶ in FY 2019 funds to carry out the authorities of the Bureau under Federal financial consumer law, including approximately \$300.5 million for employee compensation and benefits. There were 1,430 Bureau employees on board at the end of the quarter.⁷

TABLE 1: FY 2019 SPENDING BY EXPENSE CATEGORY

Expense Category	Fiscal Year 2019
Personnel Compensation	218,684,000
Benefit Compensation	81,324,000
Benefit Compensation – former employees	512,000
Travel	14,660,000
Transportation of Things	164,000

⁶ 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

⁷ This figure reflects the employees on board during pay-period 19, calendar year 2019.

Expense Category	Fiscal Year 2019
Rents, Communications, Utilities & Misc.	14,525,000
Printing and Reproduction	4,115,000
Other Contractual Services	145,059,000
Supplies & Materials	4,233,000
Equipment	21,736,000
Land and Structures	5,136,000
Interest & Dividends	1,000
Total (as of September 30, 2019)	\$510,149,000

2.1.2 FY 2019 funds transfers received from the Federal Reserve

The Bureau 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 of 2010 (Dodd-Frank Act). As of September 30, 2019, the Bureau had received the following transfers for FY 2019. The amounts and dates of the transfers are shown below.⁸

TABLE 2: FUND TRANSFERS

Funds Transferred	Date
\$172.9M	October 01, 2018
\$122.8M	January 02, 2019
\$120.5M	April 02, 2019
\$52.0M	July 01, 2019
\$468.2M	Total

Additional information about the Bureau's finances, including information about the Bureau's Civil Penalty Fund and Bureau-Administered Redress programs, is available in the annual

⁸ Current year spending in excess of funds received is funded from the prior year's unobligated balance.

financial reports and the Chief Financial Officer (CFO) quarterly updates published online at www.consumerfinance.gov/about-us/budget-strategy/financial-reports/.

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

3. List of the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year, and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period⁹

3.1 Significant rules¹⁰

The Bureau issued two significant notices of proposed rulemaking during the preceding year:

⁹ Separate from the Bureau's obligation to include in this report "a list of the significant rules and orders adopted by the Bureau . . . during the preceding year," 12 U.S.C. 5496(c)(3), the Bureau is required to "conduct an assessment of each significant rule or order adopted by the Bureau" under Federal consumer financial law and issue a report of such assessment "not later than 5 years after the effective date of the subject rule or order," 12 U.S.C. 5512(d). The Bureau will issue separate notices as appropriate identifying rules and orders that qualify as significant for assessment purposes.

¹⁰ The statutory requirement under 1016(c)(3) calls for the Bureau to report a list of the significant rules and orders adopted by the Bureau. This list includes significant notices of proposed rulemakings.

- Proposed Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans ¹¹
- Proposed Rule: Debt Collection Practices (Regulation F) ¹²

The Bureau plans to finalize the two proposed rules in FY 2020. For more information, see the Bureau’s plan for upcoming rules in Section 3.4 below.

The Bureau issued one significant final rule:

- Final Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date; Correcting Amendments. ¹³ The Bureau issued this final rule to delay the August 19, 2019 compliance date for the mandatory underwriting provisions of the regulation promulgated by the Bureau in November 2017 governing [Payday, Vehicle Title, and Certain High-Cost Installment Loans](https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/payday-vehicle-title-and-certain-high-cost-installment-loans/). Compliance with the provisions finalized in 2017 was delayed by 15 months to November 19, 2020. The Bureau also made certain corrections to address several clerical and non-substantive errors it identified in other aspects of the rule.

3.2 Less significant rules ¹⁴

- Final Rule: Technical Specifications for Submissions to the Prepaid Account Agreements Database ¹⁵
- Final Rule: Availability of Funds and Collection of Checks (Regulation CC) ¹⁶

¹¹ <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/payday-vehicle-title-and-certain-high-cost-installment-loans/>.

¹² <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/debt-collection-practices-regulation-f/>.

¹³ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/payday-vehicle-title-and-certain-high-cost-installment-loans-delay-compliance-date-correcting-amendments/>.

¹⁴ This list includes less significant rules, and it is not comprehensive. This list may exclude certain non-major rules, proposed rules, procedural rules, and other miscellaneous routine rules such as annual threshold adjustments. More information about the Bureau’s rulemaking activities is available in the Unified Agenda at <https://www.reginfo.gov/public/>, and on the Bureau’s public website at <https://www.consumerfinance.gov/policy-compliance/rulemaking/>.

¹⁵ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/technical-specifications-submissions-prepaid-account-agreements-database/>.

¹⁶ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/availability-funds-and-collection-checks-regulation-cc/>.

- Final Rule: Home Mortgage Disclosure (Regulation C)—2019 Final Rule¹⁷
- Proposed Rule: Home Mortgage Disclosure (Regulation C)¹⁸

3.3 Significant initiatives

- *Home Mortgage Disclosure Act Data Release.* In August 2019, on behalf of the Federal Financial Institutions Examination Council (FFIEC), the Bureau released data on mortgage lending transactions at U.S. financial institutions covered by the Home Mortgage Disclosure Act (HMDA). Covered institutions include banks, savings associations, credit unions, and mortgage companies. The loan-level HMDA data covering 2018 lending activity includes lending activity submitted to the Bureau through August 2019. Many of the data points are available for the first time in the 2018 HMDA data. Certain smaller-volume financial institutions are not required to report all these data, pursuant to the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). The Bureau released with these data two reports. The first Data Point article is the second in an annual series of Bureau articles describing mortgage market activity over time. It summarizes the historical data points in the 2018 HMDA data, as well as recent trends in mortgage and housing markets.¹⁹ The second Data Point article introduces the new and revised data points in the 2018 HMDA data and provides some initial observations about the nation’s mortgage market in 2018 based on those new or revised data points.²⁰
- *Credit Card Market Report.* Every two years, the Bureau reports on the state of the consumer credit card market.²¹ The report for 2019 covered how consumers use cards, the price they pay for using them, the availability of credit cards, the practices used by

¹⁷ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/home-mortgage-disclosure-regulation-c-2019-final-rule/>.

¹⁸ <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/home-mortgage-disclosure-regulation-c/>.

¹⁹ <https://www.consumerfinance.gov/data-research/research-reports/data-point-2018-mortgage-market-activity-and-trends/>.

²⁰ <https://www.consumerfinance.gov/data-research/research-reports/introducing-new-revised-data-points-hmda/>.

²¹ In 2009, the CARD Act made substantial changes to the legal requirements applicable to the credit card market, with Section 502 of the CARD Act also requiring that a report be issued every two years with respect to the market.

credit card companies and debt collectors, academic literature on the possible effects of the CARD Act, and innovation in the credit card market.²²

- *Research Reports.* During the reporting period, in addition to the HMDA data reports and the Credit Card Market Report, the Bureau released the following research reports:
 - *Quarterly Consumer Credit Trends: Timing of Applications for Consumer Credit.* This report explores the relationship between fluctuations in consumers' credit scores and the timing of consumers' applications for credit.²³
 - *Data point: Credit card revolvers.* This report studies patterns of revolving and repayment of credit card accounts in the United States and examines how often balances are revolved on an account, or borrowed, how long balances are revolved, and how regularly they are paid down.²⁴
 - *Market Snapshot: Third-Party Debt Collections Tradelines Reporting.* This report provides a basic overview of third-party debt collections credit reporting tradelines.²⁵
 - *Planning for tax-time savings.* This report presents the results of a large-scale field experiment that the tax preparation company H&R Block conducted in collaboration with the Bureau. The field experiment investigated whether customers could be encouraged, through consumer communications with and without the offer of a small financial incentive, to use a savings feature on a prepaid card to save a portion of their tax refunds from all sources, including state and federal refunds.²⁶
 - *Credit Characteristics, Credit Engagement Tools, and Financial Well-Being.* This report presents results from a joint research study between the Bureau and Credit Karma. The purpose of the study is to examine how consumers' subjective financial well-being relates to objective measures of consumers' financial health, specifically, consumers' credit report characteristics. The study also seeks to relate consumers'

²² <https://www.consumerfinance.gov/data-research/research-reports/the-consumer-credit-market-2019/>.

²³ <https://www.consumerfinance.gov/data-research/research-reports/quarterly-consumer-credit-trends-timing-applications-consumer-credit/>.

²⁴ <https://www.consumerfinance.gov/data-research/research-reports/data-point-credit-card-revolvers/>.

²⁵ <https://www.consumerfinance.gov/data-research/research-reports/market-snapshot-third-party-debt-collections-tradelines-reporting/>.

²⁶ <https://www.consumerfinance.gov/data-research/research-reports/planning-tax-time-savings/>.

subjective financial well-being to consumers' engagement with financial information through educational tools.²⁷

- *Quarterly Consumer Credit Trends: Consumer Bankruptcy, BAPCPA, and the Great Recession.* This report explores how the volume and types of bankruptcy filings have changed throughout the period 2001–2018, which includes the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) and the Great Recession. The report considers changes in the attributes of bankruptcy filers by analyzing credit scores and the amount of debt consumers hold prior to bankruptcy.²⁸
- *Bureau Symposia Series.* Director Kraninger announced a symposia series to explore consumer protection in today's dynamic financial services marketplace. The series is aimed at stimulating a proactive and transparent dialogue to assist the Bureau in its policy development process. Two symposia were held during the reporting period, the first addressing abusive acts and practices in Section 1031 of the Dodd-Frank Act, and the second addressing behavioral law and economics.
- *Request for Information: Remittances.* In April 2019, the Bureau issued a Request for Information (RFI) seeking information on two aspects of the Bureau's Remittance Rule. First, the Bureau asked for information to determine whether to propose changes to the Rule given the impending expiration of a temporary exception, which permits depository institutions under certain circumstances to estimate certain fees and other costs when providing disclosures. Second, the Bureau asked for information to determine whether to propose changes to the Rule's safe harbor for determining whether a provider is engaged in providing remittances in the normal course of business.²⁹
- *Advance Notice of Proposed Rulemaking: Home Mortgage Disclosure Act.* In May 2019 the Bureau issued an Advance Notice of Proposed Rulemaking (ANPR) seeking information to determine whether to propose changes to the data points that the Bureau's 2015 HMDA rule added to Regulation C or revised to require additional information. Additionally, the Bureau solicited comments relating to the requirement that institutions report certain business- or commercial-purpose transactions under

²⁷ <https://www.consumerfinance.gov/data-research/research-reports/credit-characteristics-credit-engagement-tools-financial-well-being/>.

²⁸ <https://www.consumerfinance.gov/data-research/research-reports/quarterly-consumer-credit-trends-consumer-bankruptcy-bapcpa-great-recession/>.

²⁹ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-request-information-remittance-rule/>.

Regulation C. The ANPR seeks information regarding the costs and benefits of these data points.³⁰

- *Advance Notice of Proposed Rulemaking: Ability-to-Repay and Qualified Mortgages.* In July 2019 the Bureau issued an ANPR asking for information relating to the expiration of the temporary GSE provision of the Bureau’s Ability-to-Repay and Qualified Mortgage Rule. Under that provision, mortgages which are eligible for purchase or guarantee by one of the Government-Sponsored Entities and which satisfy certain statutory criteria relating primarily to features of the mortgage are generally deemed to be Qualified Mortgages (QMs). This provision is scheduled to expire in January 2021, and the Bureau’s ANPR sought information to determine whether to propose changes in the general definition of QM considering that expiration.³¹
- *Section 610 Review of Significant Rules.* In May 2019 the Bureau published a plan for the review of rules which have a significant economic impact on a substantial number of small entities.³² These reviews are required by Section 610 of the Regulatory Flexibility Act. The Bureau invited public comment on its plan. Concurrently with the publication of this plan, the Bureau launched a Section 610 review of a rule regulating overdraft services which the Federal Reserve Board adopted in 2009 and invited public comment with respect to the review of that rule.³³
- *Final Policy Guidance: Disclosure of Loan-Level HMDA Data.*³⁴ In December 2018, the Bureau issued final policy guidance describing modifications that the Bureau intends to apply to the loan-level data that financial institutions report under HMDA and Regulation C before the data are disclosed to the public. These modifications are made if the Bureau’s disclosure of the unmodified data would create risks to applicant and borrower privacy that are not justified by the benefits of such disclosure to the public.
- *Advance Notice of Proposed Rulemaking: Residential Property Assessed Clean Energy.*³⁵ Section 307 of the EGRCPA amends the Truth in Lending Act (TILA) to

³⁰<https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/home-mortgage-disclosure-regulation-c-data-points-and-coverage-extension-comment-period/>.

³¹<https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/qualified-mortgage-definition-under-truth-lending-act-regulation-z/>.

³²<https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/plan-review-bureau-rules-purposes-regulatory-flexibility-act/>.

³³<https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/overdraft-rule-review-pursuant-regulatory-flexibility-act/>.

³⁴<https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-announces-policy-guidance-disclosure-home-mortgage-data/>.

³⁵<https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/advance-notice-proposed-rulemaking-residential-property-assessed-clean-energy-financing/>.

mandate that the Bureau prescribe certain regulations relating to “Property Assessed Clean Energy” (PACE) financing. In March 2019, the Bureau issued an ANPR on PACE financing to facilitate the Bureau’s rulemaking process. As defined in EGRRCPA Section 307, PACE financing results in a tax assessment on a consumer’s real property and covers the costs of home improvements. The required regulations must carry out the purposes of TILA’s ability-to-repay (ATR) requirements, currently in place for residential mortgage loans, with respect to PACE financing, and apply TILA’s general civil liability provision for violations of the ATR requirements the Bureau will prescribe for PACE financing. The EGRRCPA directs that such requirements account for the unique nature of PACE financing.

- *Assessments of Significant Rules.* Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law.
 - *Remittance Rule assessment report.*³⁶ In October 2018, the Bureau published the findings of the assessment of the Remittance Rule, which took effect on October 28, 2013. In general, the Remittance Rule gives certain protections to consumers that send remittance transfers from the United States to another country.
 - *Ability to Repay and Qualified Mortgage Rule assessment report.*³⁷ The Bureau issued the Ability to Repay and Qualified Mortgage Rule in January 2013 to implement provisions of the Dodd-Frank Act that require lenders, before making a residential mortgage loan, to make a reasonable and good faith determination based on verified and documented information that the consumer has a reasonable ability to repay the loan. The rule took effect in January 2014. The assessment, issued in January 2019, used a range of data sources, including a unique data set the Bureau assembled for purposes of this assessment, to comprehensively examine the extent to which the rule has affected consumers’ access to credit and the cost of credit.
 - *2013 Real Estate Settlement Procedures Act (RESPA) Mortgage Servicing Rule assessment report.*³⁸ The Bureau issued the RESPA Mortgage Servicing Rule in January 2013 to implement certain provisions of the Dodd-Frank Act imposing new obligations on mortgage servicers who are generally responsible for billing borrowers for amounts due, collecting payments, disbursing funds, and providing customer

³⁶ <https://www.consumerfinance.gov/data-research/research-reports/remittance-rule-assessment-report/>.

³⁷ <https://www.consumerfinance.gov/data-research/research-reports/2013-ability-repay-and-qualified-mortgage-assessment-report/>.

³⁸ <https://www.consumerfinance.gov/data-research/research-reports/2013-respa-servicing-rule-assessment-report/>.

service. The rule also added new protections which the Bureau deemed appropriate or necessary to carry out the consumer protection purposes of RESPA. This rule took effect in January 2014. The assessment, issued in January 2019, used a range of data, including a unique data set the Bureau assembled, to examine how the rule has affected the experiences and outcomes for consumers, with a particular focus on those who fall behind on their mortgage payments.

- *Trial Disclosure Programs.*³⁹ In September 2019, the Bureau issued its revised Policy to Encourage Trial Disclosure Programs (Policy). Because the Bureau had not permitted a single trial disclosure program under the original 2013 version of the Policy, the Bureau determined revisions were necessary. The Bureau voluntarily sought public comment on the revised Policy proposal in September 2018 during a 30-day comment period and received approximately 30 distinct comment letters from a broad array of stakeholders, including consumer advocacy groups and civil rights organizations, industry trade associations and individual financial service providers, and state attorneys general and associations of state regulatory agencies. The Bureau gave each comment careful consideration and adopted several of the suggested changes designed to improve the Policy. The Bureau is now accepting applications under the revised Policy.
- *No-Action Letters.*⁴⁰ In September 2019, the Bureau issued its revised Policy on No-Action Letters. The Bureau determined that revisions to the original 2016 Policy were necessary because the Bureau had issued only one no-action letter under the 2016 Policy. The revised Policy brings the Bureau's program more in line with certain features of no-action letter programs successfully operated by other Federal agencies. The Bureau voluntarily sought comment during a 60-day comment period on a two-part proposal to (i) revise the 2016 Policy on No-Action Letters and (ii) create a Product Sandbox and received approximately 30 distinct comment letters from a broad array of stakeholders; including consumer advocacy groups and civil rights organizations, industry trade associations and individual financial service providers, and state attorneys general and associations of state regulatory agencies. Upon careful consideration of comments received, the Bureau elected to separate the two-part proposal into distinct final policies—the revised Policy on No-Action Letters and the Policy on the Compliance Assistance Sandbox (discussed below). The Bureau is now accepting applications for No-

³⁹ https://files.consumerfinance.gov/f/documents/cfpb_final-policy-to-encourage-tdp.pdf.

⁴⁰ https://files.consumerfinance.gov/f/documents/cfpb_final-policy-on-no-action-letters.pdf.

Action Letters (NALs) under the revised Policy and has granted two NALs and a NAL template under the revised Policy to date.

- *Compliance Assistance Sandbox.*⁴¹ In September 2019, the Bureau issued its Policy on the Compliance Assistance Sandbox (CAS Policy). The Bureau proposed the CAS Policy to address stakeholder demand for forms of compliance assistance that provide greater protection from liability than is provided by no-action letters. Under the final CAS Policy, innovators can apply for an approval that provides a safe harbor from liability for conduct compliant with the law under certain statutes within the Bureau’s jurisdiction. The Bureau is now accepting applications for approvals under the CAS Policy.
- *ACFIN.* The American Consumer Financial Innovation Network (ACFIN) is a network of federal and state officials and regulators seeking to facilitate consumer-beneficial innovation. Launched in September 2019 by the Bureau and state partners, ACFIN benefits consumers by enabling federal and state officials to coordinate efforts to facilitate innovation and further shared objectives such as competition, consumer access, and financial inclusion. ACFIN members hold joint Office Hours programs and share information on innovation-related matters, as appropriate. ACFIN members may also coordinate on No-Action Letters or Sandbox trials.
- *GFIN.* The Bureau is also a coordinating member of the Global Financial Innovation Network (GFIN), an organization of over 50 regulatory agencies worldwide working together to support financial innovation in the interest of consumers. Formally launched in January 2019, GFIN seeks to: (a) act as a network of regulators to collaborate and share experiences on innovation in respective markets, including emerging technologies and business models; (b) provide a forum for joint policy work and discussions; and (c) give firms an environment that allows for trials of cross-border solutions.
- *Tech Sprints Request for Information.*⁴² In September 2019, the Bureau issued an RFI seeking comments and information to help the Bureau identify opportunities to utilize Tech Sprints to encourage regulatory innovation and collaborate with stakeholders in developing viable solutions to regulatory compliance challenges.⁴³ The information provided will help the Bureau identify how stakeholders can work together to create a regulatory environment (1) that allows innovation to flourish, is flexible, efficient, and

⁴¹ https://files.consumerfinance.gov/f/documents/cfpb_final-policy-on-cas.pdf.

⁴² https://files.consumerfinance.gov/f/documents/cfpb_rfi_tech-sprints.pdf. For additional information, see *infra* Section 8.3.1.

⁴³ https://files.consumerfinance.gov/f/documents/cfpb_rfi_tech-sprints.pdf. The deadline for submission of comments and information closed on November 9, 2019, and the Bureau is currently considering the responses received.

effective; (2) where new and/or emerging risks can be identified and managed effectively; and (3) where consumers have the appropriate level of protection and suitable access to the benefits of technological advancement. The information may also help identify responsible innovations that can be implemented in a consumer-friendly way to help serve populations currently underserved by the mainstream credit system.

- *Start Small, Save Up Initiative.*⁴⁴ In the previous reporting period, the Bureau launched the Start Small, Save Up campaign. The initiative aims to increase people’s opportunities to save and empower them to achieve their savings goals as a step to improved financial well-being. Through Start Small, Save Up, the Bureau is making a commitment to helping consumers build emergency savings over the next few years by working with employers to prioritize emergency savings and automated solutions in the workplace; engaging with partners to highlight emergency savings products that work and make more accessible products available; and partnering with trusted community institutions to tailor savings solutions to unique audiences. The Start Small, Save Up initiative includes a robust research and evaluation component to ensure the Bureau is learning about its own efforts, as well as the efforts of others who are also working toward a similar goal of helping consumers save. The initiative is also advancing the Start Small, Save Up message in the national and local dialogue through several partners and directly to consumers through various channels. For example, the Start Small, Save Up website has tools and resources to help people get started with saving. Additionally, the Bureau launched the CFPB Savings Boot Camp, a multi-week email course to guide people through the fundamentals of saving. The Bureau also released the fourth in a series of booklets for social services providers to talk with people about money topics that are important to them: *Building your Savings? Start with Small Goals*. The booklet contains colorful, engaging tools to support people in setting savings goals, preparing for the unexpected, finding a place to save, and making the most of tax services providers, financial coaches, and financial educators.
- *Reporting of Suspected Elder Financial Exploitation by Financial Institutions.*⁴⁵ In 2016, the Bureau released an Advisory for Financial Institutions, which includes a comprehensive set of voluntary recommendations for preventing and responding to elder financial exploitation. In July 2019, the Bureau updated the advisory, building on earlier recommendations and its recent research on Suspicious Activity Reports (SARs) on Elder Financial Exploitation (EFE). The update provides new information about

⁴⁴ <https://www.consumerfinance.gov/start-small-save-up/>.

⁴⁵ <https://www.consumerfinance.gov/data-research/research-reports/reporting-suspected-elder-financial-exploitation-financial-institutions-update-2016-advisoru-and-recommendations/>.

reporting EFE based on federal and state law changes. The new analysis of current laws aims to help financial institutions in their efforts to combat elder fraud.

- *Misadventures in Money Management for Active Duty Servicemembers.* The Bureau made Misadventures in Money Management (MiMM) available for active duty servicemembers reporting to their first service station. MiMM is an online training that engages servicemembers with real life financial choices in a fun and interactive manner and provides a just-in-time financial curriculum. MiMM is also available to future servicemembers in the Delayed Entry Program (DEP), as well as future leaders in the Junior Reserve Officers' Training Corps (JROTC) and Reserve Officer Training Corps (ROTC).
- *Managing Someone Else's Money guides.*⁴⁶ The Bureau made its Managing Someone Else's Money guides available for co-branding so that banks, credit unions, legal services programs, area agencies on aging, and other service providers can add a logo to the covers of the booklets by following a few steps listed on the Bureau's website. These guides provide practical guidance to the millions of Americans who manage money and property for someone unable to do so independently.
- *Classroom Activities for Teaching the Building Blocks of Financial Capability.*⁴⁷ The Bureau launched a set of activities for middle school teachers to incorporate lessons into the classroom that support the development of financial skills. The middle school activities are available alongside the activities for high school teachers that were launched in late 2018. These activities are based on the building blocks for youth to develop financial capability in adulthood. Children and youth need to develop all three of the interconnected building blocks to support financial capability in adulthood. The building blocks are executive function; financial habits and norms; and financial knowledge and decision-making skills. The searchable teacher platform on consumerfinance.gov includes 105 specific classroom activities for high school teachers to use with their students.
- *Your Money, Your Goals.*⁴⁸ In FY 2019, the Bureau's financial empowerment program for front-line staff and volunteers entered its seventh year. Your Money, Your Goals provides a suite of financial empowerment tools and resources that frontline staff and volunteers can use to build their own financial skills and confidence and to start money conversations with the people they serve. The Bureau uses a train-the-trainer model to provide training and technical assistance to help an annual cohort of organizations build

⁴⁶ <https://www.consumerfinance.gov/co-brandMSEM>.

⁴⁷ <https://www.consumerfinance.gov/practitioner-resources/youth-financial-education/teach/activities/>.

⁴⁸ <https://www.consumerfinance.gov/practitioner-resources/your-money-your-goals/>.

capacity to integrate Your Money, Your Goals tools and information into their work. From 2013 through September 2019, nearly 30,000 front line staff and volunteers have been trained to use Your Money, Your Goals, and conservative estimates indicate that the program has been used with more than one million consumers. The suite of materials now includes the core toolkit and training materials; companion guides that focus on money topics specific to Native communities, people with criminal records, and people with disabilities; and four issue-focused booklets, “Behind on bills?”, “Debt getting in your way,” “Want credit to work for you?” and “Building Your Savings?”

- *Financial Well-Being of Veterans report*.⁴⁹ The Bureau’s review of the data about veterans in the financial well-being survey found that veterans reported higher levels of financial well-being than the average U.S. adult. However, the analysis also found that veterans, like other U.S. adults, have financial experiences that are negatively associated with financial well-being, including having student loan debt; using non-bank, short-term credit products; and being contacted by a debt collector. The analysis suggests that for veterans, as for the general population, there is a pathway from financial skill to financial well-being.
- *Convening Community to Build Elder Fraud Prevention and Response Networks report*.⁵⁰ This report describes the Bureau-facilitated convenings in Florida, Oklahoma, Tennessee, Montana, and Oregon, which have sparked the creation of new elder fraud prevention and response networks or have enhanced existing networks. The lessons learned from these pilot convenings can help other communities develop networks that improve coordination and collaboration between responders and service providers to protect older people from financial harm.
- *A Review of Youth Financial Education: Effects and Evidence*.⁵¹ This literature review was issued to help education policymakers, program leaders, financial educators, and academic researchers make evidence-informed policy, programming, and resourcing decisions about school-based financial education.
- *Youth Financial Education Research Priorities report*.⁵² This report lays out key unanswered research questions in youth financial education identified by a range of stakeholders. The goal is to encourage investigation into these questions to point the

⁴⁹ <https://www.consumerfinance.gov/data-research/research-reports/financial-well-being-veterans/>.

⁵⁰ <https://www.consumerfinance.gov/data-research/research-reports/convening-communities-build-elder-fraud-prevention-and-response-networks/>.

⁵¹ <https://www.consumerfinance.gov/data-research/research-reports/review-youth-financial-education-effects-and-evidence/>.

⁵² <https://www.consumerfinance.gov/data-research/research-reports/youth-financial-education-research-priorities/>.

way towards evidence-based solutions that are effective, scalable, and invite implementation.

- *Consumer Complaint Database.* In September 2019, the CFPB announced that it will continue the publication of consumer complaints, data fields and narrative descriptions through the Bureau’s Consumer Complaint Database while making several enhancements to the information available to users of the database. The Bureau already made changes to its website to:
 - More prominently display disclosures making it clear that the Consumer Complaint Database is not a statistical sample of consumers’ experiences in the marketplace;
 - Highlight the availability of answers to common financial questions for consumers to help inform them before they submit a complaint; and
 - Encourage consumers to contact the financial company directly to get answers to their specific questions.

To further enhance the database in 2020, the Bureau will:

- Build and launch dynamic visualization tools including geospatial and trend views based on recent complaint data to help users of the database understand current and recent marketplace conditions; and
 - Emphasize features for aggregation and analysis while continuing to make all the underlying data available for analysis.⁵³
- *Private Education Loan Ombudsman.* The position of the Private Education Loan Ombudsman was filled.
 - *Memorandum of Understanding (MOU) with the Department of Education (Department).* The CFPB and the Department initiated the interagency process to reestablish the MOU regarding complaints. The agreement will reflect the coordination between the two agencies under the terms of the Consumer Financial Protection Act and the Higher Education Act and is designed to coordinate efforts to informally resolve complaints regarding Federal and private education loans.
 - *MOU with the Federal Trade Commission (FTC).*⁵⁴ The CFPB and the FTC have reauthorized their MOU. The agreement reflects the ongoing coordination between the

⁵³ More information can be found here: <https://www.consumerfinance.gov/about-us/newsroom/director-kraningers-speech-national-consumer-empowerment-conference/>.

⁵⁴ https://files.consumerfinance.gov/f/documents/cfpb_ftc_memo-of-understanding_2019-02.pdf.

two agencies under the terms of the Consumer Financial Protection Act and is designed to coordinate efforts to protect consumers and avoid duplication of federal law enforcement and regulatory efforts.

- *Outreach.* From April to September, the Director engaged with a broad range of the Bureau's stakeholders. In April, she delivered her inaugural speech at the Bipartisan Policy Center in Washington, DC, at which she announced a symposia series over the coming year. The Director's inaugural speech was followed by speaking engagements in Los Angeles, CA; Denver, CO; San Antonio, TX; New Orleans, LA; and Chicago, IL. She also participated in a wide array of events and meetings with Bureau stakeholders in these cities as well as in Austin, TX; St. Louis, MO; Asheville, NC; Bristol, TN; and Milwaukee, WI. In May, the Bureau held a field hearing on debt collection in Philadelphia, PA, that was open to the public and featured testimony from experts, practitioners, and advocates. In September, the Bureau issued revised innovation policies at an event in Atlanta, GA. Additionally, at CFPB Headquarters in Washington, DC, the Bureau held two Hill Day events, one with Members of Congress in May followed by another with Congressional Staffers in September. In June, the Bureau hosted the members of the Consumer Advisory Board (CAB), the Community Bank Advisory Council (CBAC), and the Credit Union Advisory Council (CUAC) for their in-person meetings. In May, the Bureau held a conference call with the members of the Academic Research Council (ARC).
- *Enhancements to the Bureau's Advisory Committees:*
 - The CAB, CBAC, and CUAC will continue their joint public meetings. The ARC will meet separately, in-person and twice a year. Additionally, the ARC was elevated to a Director-level advisory committee. The membership terms for the committees were extended from a one-year term to two-year terms, and the terms were staggered.
 - In addition to a Chair, each committee will be assigned a Vice-Chair. Both the Chair and the Vice-Chair will serve a one-year term in their respective positions, with the Vice-Chair assuming the Chair the following year. The Bureau also announced the opening of the application window for new advisory committee members.
- *Other Guidance Documents.* The Bureau also issued the following guidance documents over the past year:⁵⁵

⁵⁵ The Bureau posts many documents relating to compliance and guidance on its website at <https://www.consumerfinance.gov/policy-compliance/guidance/>. For the purpose of this Semi-Annual Report,

- Winter 2019 *Supervisory Highlights*⁵⁶
- Summer 2019 *Supervisory Highlights*⁵⁷
- Statement on Collection of Demographic Information by Community Development Financial Institutions⁵⁸
- Automobile Finance Examination Procedures⁵⁹
- Equal Credit Opportunity (ECOA) Baseline Review Examination Procedures⁶⁰
- HMDA Examination Procedures⁶¹
- Prepaid Account Examination Procedures⁶²
- Short-Term, Small-Dollar Lending Examination Procedures⁶³
- TILA Examination Procedures⁶⁴
- Electronic Fund Transfer Act (EFTA) Examination Procedures⁶⁵
- CFPB Supervision and Examination Process⁶⁶

the term “guidance” is used informally to refer broadly to documents that could serve to inform and advise regulated entities.

⁵⁶ https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-18_032019.pdf.

⁵⁷ https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-19_092019.pdf.

⁵⁸ https://files.consumerfinance.gov/f/documents/20190627_cfpb_statement-on-collection-demographic-information.pdf.

⁵⁹ https://files.consumerfinance.gov/f/documents/201908_cfpb_automobile-finance-examination-procedures.pdf.

⁶⁰ https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_ecoa-baseline-exam-procedures_2019-04.pdf.

⁶¹ https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_hmda-exam-procedures_2019-04.pdf.

⁶² https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_prepaid-account-exam-procedures.pdf.

⁶³ https://files.consumerfinance.gov/f/documents/cfpb_payday_manual_revisions.pdf.

⁶⁴ https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_tila-exam-procedures_2019-03.pdf.

⁶⁵ https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_efta-exam-procedures-incl-remittances_2019-03.pdf.

⁶⁶ https://files.consumerfinance.gov/f/documents/cfpb_examination-process-section.pdf.

- Examination Report Template⁶⁷
- Supervisory Letter Template⁶⁸

3.4 Plan for upcoming initiatives

- *Symposia Series.* The Bureau will hold two more symposia in its symposia series during the first six months of FY 2020. The first will address the topic of small business lending and Section 1071 of the Dodd-Frank Act⁶⁹ and the second will address consumer access to financial data and Section 1033 of the Act.⁷⁰ Future symposia will address cost-benefit analysis and the disparate impact doctrine under the ECOA. The symposia series will be open to the public and webcast on the Bureau's website.⁷¹
- *CFPB-FTC Workshop.* The Bureau and the FTC will hold a workshop on credit reporting accuracy.⁷²
- *Research Reports.* The Bureau will release several research reports in the first six months of FY 2020. These will include a report on the experience of student loan borrowers using income-driven repayment plans; a report on public records, credit reports and credit performance; and a report on small business lending before, during and after the Great Recession; and a report on applications for mortgages.⁷³

⁶⁷ https://files.consumerfinance.gov/f/documents/cfpb_examination-report_template.pdf.

⁶⁸ https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_supervisory-letter_template.pdf.

⁶⁹ 15 U.S.C. 16910-2.

⁷⁰ 12 U.S.C. 5533. Additional activity has occurred with this matter since the end of this reporting period. On November 13, 2019, the Bureau held a symposium with respect to Section 1071. A video of that symposium is available at <https://www.consumerfinance.gov/about-us/events/archive-past-events/cfpb-symposium-section-1071-dodd-frank-act/>.

⁷¹ Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: <https://www.consumerfinance.gov/about-us/newsroom/bureau-announces-symposia-series/>.

⁷² Additional activity has occurred with this matter since the end of this reporting period. On December 10, 2019, the Bureau and FTC convened this workshop on credit reporting accuracy. The agenda for that workshop is available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-panels-for-cfpb-ftc-accuracy-in-consumer-reporting-workshop/>. The video and transcript from that workshop are available at <https://www.ftc.gov/news-events/events-calendar/accuracy-consumer-reporting-workshop/>.

⁷³ Additional activity has occurred with this matter since the end of this reporting period. In November 2019 the Bureau released a report on income driven repayment, <https://www.consumerfinance.gov/data-research/research-reports/data-point-borrower-experiences-income-driven-repayment/>, and in December the Bureau issued a report on public records and credit reporting, <https://www.consumerfinance.gov/data-research/research-reports/public-records-and-credit-reporting/>.

- *Research Conference.* The Bureau will host its fourth research conference. The conference will include six sessions at which leading researchers will present research papers as well as a poster session and a keynote address.⁷⁴
- *Section 610 Review.* The Bureau will complete a review, under Section 610 of the Regulatory Flexibility Act,⁷⁵ of an overdraft regulation promulgated by the Board of Governors of the Federal Reserve System in 2009. The review will consider whether the rule should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rule upon a substantial number of small entities. The Bureau will announce the outcome of the review in the Spring 2020 Unified Agenda.⁷⁶
- *TRID Assessment.* The Bureau will issue an RFI seeking public input to inform the Bureau’s assessment of the effectiveness of the TILA-RESPA Integration Disclosure Rule (TRID) in, among other factors, meeting the purposes and objectives of Title X of the Dodd-Frank Act and the specific goals stated by the Bureau, and, subject to receiving approval from the Office of Management and Budget pursuant to the Paperwork Reduction Act, the Bureau will conduct an industry survey as part of the assessment. That assessment, which is being conducted pursuant to Section 1022(d) of the Dodd-Frank Act, will be completed in Fall 2020.⁷⁷
- *Abusiveness.* The Bureau will publish a Policy Statement with respect to the manner in which the Bureau will apply the abusiveness provision of the Dodd-Frank Act in its supervisory and enforcement work. This Policy Statement will provide much needed

[research/research-reports/quarterly-consumer-credit-trends-public-records-credit-scores-and-credit-performance/.](https://www.consumerfinance.gov/data-research/cfpb-research-conference/2019-cfpb-research-conference/)

⁷⁴ Additional activity has occurred with this matter since the end of this reporting period. On December 12-13, 2019 the Bureau hosted the research conference. The agenda for that conference is available at [https://www.consumerfinance.gov/data-research/cfpb-research-conference/2019-cfpb-research-conference/.](https://www.consumerfinance.gov/data-research/cfpb-research-conference/2019-cfpb-research-conference/)

⁷⁵ 5 U.S.C. 610.

⁷⁶ Additional activity has occurred with this matter since the end of this reporting period. The review was completed in November 2019.

⁷⁷ Additional activity has occurred with this matter since the end of this reporting period. In November 2019 the Bureau released the TRID RFI, which is available at <https://www.federalregister.gov/documents/2019/11/22/2019-25260/request-for-information-regarding-the-integrated-mortgage-disclosures-under-the-real-estate>. In October 2019, the Bureau published in the Federal Register the request for approval of the TRID survey: <https://www.federalregister.gov/documents/2019/10/18/2019-22771/agency-information-collection-activities-submission-for-omb-review-comment-request>.

guidance to the market with respect to the Bureau's approach to this novel provision of the Dodd-Frank Act.⁷⁸

- *MOU with the Department of Education (Department)*. The CFPB and the Department initiated the interagency process to reestablish the MOU regarding oversight of compliance obligations. The agreement will be designed to coordinate efforts to oversee regulated entities and protect consumers.
- *Start Small, Save Up*. The Bureau plans to host a convening with several financial institutions to engage them in a dialogue about helping consumers and their workforce build emergency savings, exploring new research opportunities, understanding successful ways to market savings solutions to consumers, and seeking opportunities to collaborate with the Bureau on these efforts. The convening will be a first step in a series of discussions with financial institutions about how they can participate in Start Small, Save Up.⁷⁹ A major goal of the Start Small, Save Up initiative is to encourage emergency saving in the workplace by engaging partner employers as well as the Bureau's own workforce. To make the Bureau a model workforce, beginning in early 2020, it will encourage the CFPB workforce to save for the unexpected through the allotments program or other automated tools. By implementing such a program at the Bureau, staff working on Start Small, Save Up can better understand the inherent challenges and be able to offer lessons-learned to partner employers as the Bureau engages them in pilot efforts.
- *Office of the Chief Experience Officer*. The Bureau plans to establish the Office of the Chief Experience Officer. This office will focus on improving our internal staff experience through enhanced operational services enabling the workforce to be more effective and efficient in meeting the Bureau's mission.
- *Consolidation of Bureau Headquarters*. The Bureau is finalizing the consolidation of all Washington, DC-based staff from two office buildings into one to increase effectiveness of the organization and to significantly improve the collaboration across all teams and divisions. Moves are planned to be completed in January 2020.
- *Outreach*. In October, the Bureau will welcome the new members of the Advisory Committees, hosting an orientation and in-person meetings in Washington, DC. Regarding upcoming engagements, the Director plans to travel to Las Vegas, NV in

⁷⁸ Additional activity has occurred with respect to this matter since the end of the reporting period. In January 2020 the Bureau released the statement, which is available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-policy-regarding-prohibition-abusive-acts-practices/>.

⁷⁹ Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: <https://www.consumerfinance.gov/about-us/blog/cfpb-hosts-savings-summit-to-help-people-save/>.

October to participate in the Money 20/20 Conference followed by a trip to New York, NY in November to deliver remarks before The Clearing House and Bank Policy Institute. In December, she plans to speak at the Winter Meeting of The American Association of Credit Union Leagues in Florida followed by delivering keynote remarks at the National Association of Attorneys General's Capital Forum in Washington, DC.

- *Guidance Documents:*
 - Annual Report to Congress on the TILA, EFTA, and CARD Act ⁸⁰
 - Fall 2019 Supervisory Highlights Consumer Reporting Special Edition ⁸¹
 - October 2019 Annual Report of the CFPB Private Education Loan Ombudsman ⁸²

3.5 Plan for upcoming rules

The Bureau published its Fall 2019 Rulemaking Agenda as part of the Fall 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget. ⁸³ As an independent regulatory agency, the Bureau voluntarily participates in the Unified Agenda. Among other things, the Unified Agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from October 1, 2019, to September 30, 2020. ⁸⁴

During the reporting period, the Bureau was engaged in several rulemakings to implement directives mandated in the EGRRCPA, the Dodd-Frank Act, and other statutes. As part of these rulemakings, the Bureau is working to achieve the consumer protection objectives of the statutes while minimizing regulatory burden on financial services providers, including through facilitating industry compliance with rules.

Pre-rulemaking initiatives, as reflected in the Bureau's Fall 2019 Unified Agenda:

⁸⁰ Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_tila-efta-card-act-annual-report_2019.pdf. The TILA, EFTA, CARD Act Report containing 2018 calendar year information is included in this Fall 2019 Semi-Annual Report at Appendix A: Addendum.

⁸¹ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-20_122019.pdf.

⁸² Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_annual-report_private-education-loan-ombudsman_2019.pdf.

⁸³ <https://www.consumerfinance.gov/about-us/blog/fall-2019-rulemaking-agenda/>.

⁸⁴ <https://www.consumerfinance.gov/policy-compliance/rulemaking/regulatory-agenda/>.

- *Business Lending Data (Regulation B).* The Bureau is working to develop rules to implement Section 1071 of the Dodd-Frank Act. Section 1071 amended the ECOA to require financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau resumed pre-rulemaking activities on Section 1071. In November 2019, the Bureau conducted a symposium on small business loan data collection.
- *Higher-Priced Mortgage Loan Escrow Exemption.* Prior to the enactment of the Dodd-Frank Act, the Board of Governors of the Federal Reserve System (Board) issued a rule requiring the establishment of escrow accounts for payment of property taxes and insurance payments for certain “higher-priced mortgage loans,” a category which the Board defined to include what it deemed to be subprime loans. Pursuant to the Dodd-Frank Act, the Bureau in 2013 issued a rule creating an exemption from the escrow requirement for creditors with under \$2 billion in assets and meeting other criteria. Section 108 of the EGRRCPA amended 15 U.S.C. 1639d to direct the Bureau to conduct a rulemaking to exempt from the escrow requirement loans made by certain creditors with assets of \$10 billion or less and meeting other criteria. The Bureau plans to publish a notice of proposed rulemaking during FY 2020 concerning this exemption.
- *Property Assessed Clean Energy (PACE) Financing.* Section 307 of the EGRRCPA amends the TILA to mandate that the Bureau prescribe certain regulations relating to PACE financing. As defined in EGRRCPA Section 307, PACE financing results in a tax assessment on a consumer’s real property and covers the costs of home improvements. The required regulations must carry out the purposes of TILA’s ATR requirements, currently in place for residential mortgage loans, with respect to PACE financing, and apply TILA’s general civil liability provision for violations of the ATR requirements the Bureau will prescribe for PACE financing. The EGRRCPA directs that such requirements account for the unique nature of PACE financing. In March 2019, the Bureau issued an ANPR on PACE financing to facilitate the Bureau’s rulemaking process. The Bureau is reviewing comments it received in response to the ANPR as it considers next steps to facilitate the development of a Notice of Proposed Rulemaking.⁸⁵ The Bureau will publish a notice seeking public comment with respect to a proposed information collection relating to PACE financing to further inform the Bureau’s rulemaking.
- *Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z).* In July 2019, the CFPB issued an ANPR to solicit information about possible amendments to the qualified mortgage provisions of Regulation Z. With certain exceptions, Regulation Z

⁸⁵ <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/advance-notice-proposed-rulemaking-residential-property-assessed-clean-energy-financing/>.

requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any residential mortgage loan, and loans that meet Regulation Z's requirements for "qualified mortgages" obtain certain protections from liability. One category of qualified mortgages (QMs) covers certain loans that are eligible for purchase or guarantee by either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), known collectively as the government sponsored enterprises (GSEs). Under Regulation Z, this category of QMs (Temporary GSE QM loans) is scheduled to expire no later than January 10, 2021. The Bureau currently plans to allow the Temporary GSE QM loan category to expire and will issue a Notice of Proposed Rulemaking to revise Regulation Z's general qualified mortgage definition considering this planned expiration. The Bureau also will propose a limited extension of the expiration date only as necessary to provide for a smooth and orderly transition away from the Temporary GSE QM loan category. In July 2019, the Bureau issued the ANPR to request information about issues related to the scheduled expiration of the Temporary GSE QM loan category.⁸⁶

Proposed rules for the upcoming period, as reflected in the Fall 2019 Unified Agenda:

- *Remittance Transfers.* Section 1073 of the Dodd-Frank Act contains an exception to disclosure requirements for international remittance transfers that permits insured depository institutions and insured credit unions in certain circumstances to estimate certain pricing information. As mandated by statute, this exception will expire on July 21, 2020. The Bureau will issue a Notice of Proposed Rulemaking, which will propose changes to the Remittance Rule to mitigate the effects of the expiration of this exception and will also propose an increase in the safe harbor threshold for defining remittance providers who are not covered by the Rule.⁸⁷
- *Home Mortgage Disclosure Act (Regulation C) Data Collection and Reporting Requirements.* The Bureau announced in December 2017, that it intends to open a rulemaking to reconsider various aspects of a 2015 final rule that amended regulations implementing HMDA. In May 2019, the Bureau issued an ANPR that solicited comments about the costs and benefits of collecting and reporting the data points the 2015 HMDA Rule added to Regulation C and certain preexisting data points that the

⁸⁶ <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/qualified-mortgage-definition-under-truth-lending-act-regulation-z/>.

⁸⁷ In December, the Bureau issued a Notice of Proposed Rulemaking. More information can be found here: <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/remittance-transfers-under-electronic-fund-transfer-act-regulation-e/>.

2015 HMDA Rule revised.⁸⁸ The Bureau expects to issue a Notice of Proposed Rulemaking in July 2020.

- *Public Release of Home Mortgage Disclosure Act Data.* In December 2018 the Bureau issued final policy guidance which sets forth the modifications the Bureau intends to apply to the loan-level HMDA data before releasing those data publicly. The Bureau plans to engage in a legislative rulemaking to allow the Bureau to further consider this issue after receiving further public comment. The Bureau expects to issue a Notice of Proposed Rulemaking in July 2020.

Final rules for the upcoming period as reflected in the Bureau's Fall 2019 Unified Agenda:

- *Payday, Vehicle Title, and Certain High-Cost Installment Loans.* The Bureau announced in 2018 that it intended to open a rulemaking to reconsider its 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. The rule has a compliance date in August 2019. The Bureau issued a Notice of Proposed Rulemaking in February 2019 reconsidering provisions of the rule concerning the underwriting of covered short-term and longer-term balloon payment loans.⁸⁹
- *Home Mortgage Disclosure Act (Regulation C).* The Bureau issued a Notice of Proposed Rulemaking in spring 2019 to follow up on a previous temporary adjustment to the thresholds for collecting and reporting data with respect to open-end lines of credit and to seek comment on adjustments to these thresholds as well as to the thresholds for collecting and reporting data with respect to closed-end mortgage loans, and to incorporate an interpretive and procedural rule that it issued in August 2018 to clarify partial HMDA exemptions created by the EGRRCPA.⁹⁰ In the Fall 2019 Unified Agenda, the Bureau announced its plans to issue two separate final rules to address different aspects of the proposed rule. The first rule would address the proposed two-year extension of the temporary threshold for collecting and reporting data on open-end lines of credit and the EGRRCPA partial exemption provisions and the second rule would

⁸⁸ <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/home-mortgage-disclosure-regulation-c-data-points-and-coverage/>.

⁸⁹ <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/payday-vehicle-title-and-certain-high-cost-installment-loans/>.

⁹⁰ More information can be found here: <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/home-mortgage-disclosure-regulation-c/>; <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/home-mortgage-disclosure-regulation-c-data-points-and-coverage-extension-comment-period/>.

address the proposed changes to the permanent thresholds for collecting and reporting data on open-end lines of credit and closed-end mortgage loans.⁹¹

⁹¹ Additional activity has occurred with this matter since the end of the reporting period. In October 2019 the Bureau issued a final rule extending for two-years the temporary threshold with respect to the reporting of data with respect to open-end lines of credit. <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/home-mortgage-disclosure-regulation-c-2019-final-rule/>.

4. Analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year

During the period October 1, 2018, through September 30, 2019, the Bureau received approximately 342,500 consumer complaints.⁹² This is an approximately seven percent increase from the prior reporting period.⁹³ Consumers submitted approximately 83 percent of these complaints through the Bureau's website and six percent via telephone calls. Referrals from other state and federal agencies accounted for seven percent of complaints. Consumers submitted the remainder of complaints by mail, email, and fax. The Bureau sent approximately 275,600 (80 percent) of complaints received to companies for review and response.⁹⁴ Companies responded to approximately 95 percent of complaints that the Bureau sent to them for response during the period. The remaining complaints were either pending response from the company at the end of the period or did not receive a response. 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 response. Companies' responses describe a range

⁹² This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. The Bureau does not verify all the facts alleged in complaints but takes steps to confirm a commercial relationship between the consumer and the company. For more information on our complaint process refer to the Bureau's website at <https://www.consumerfinance.gov/complaint/process>.

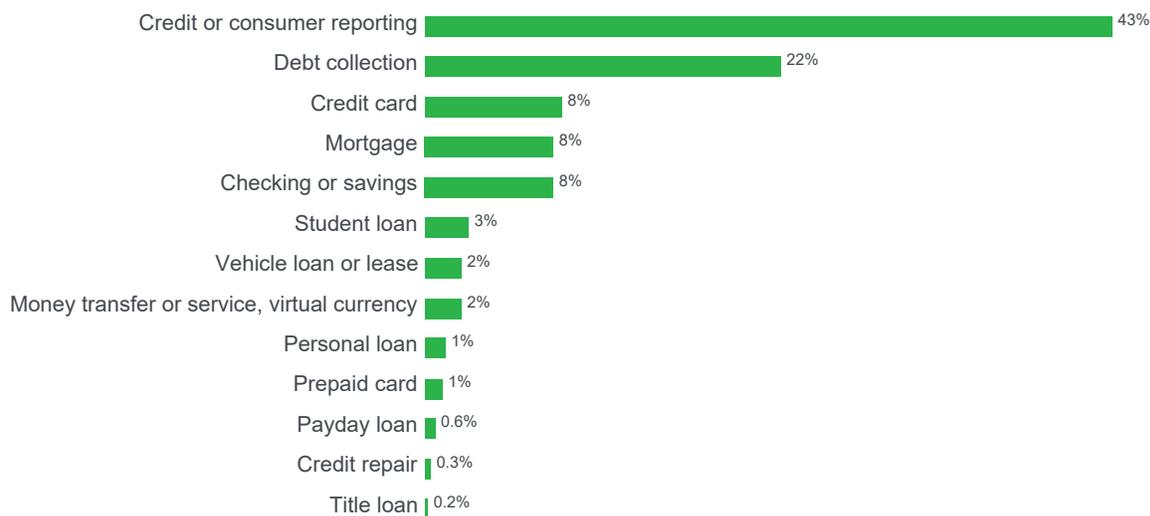
⁹³ The prior reporting period, April 1, 2018, to March 31, 2019, reported 321,200 consumer complaints. See Consumer Fin. Prot. Bureau, *Semi-Annual Report Spring 2019 (Oct. 2019)*, available https://files.consumerfinance.gov/f/documents/cfpb_semi-annual-report-to-congress_spring-2019.pdf.

⁹⁴ The Bureau referred 14 percent of the complaints it received to other regulatory agencies and found four percent to be incomplete. At the end of this period, 0.6 percent of complaints were pending with the consumer and 0.3 percent were pending with the Bureau. Percentages in this section of the report may not sum to 100 percent due to rounding.

of relief. Examples of relief include stopping unwanted calls from debt collectors; mortgage foreclosure alternatives that help consumers keep their home; correcting consumers' credit reports; correcting account information; and addressing formerly unmet customer service issues. Ninety-nine percent of companies' responses to complaints were timely.

When consumers submit complaints, the Bureau'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 Bureau uses these consumer selections to group the financial products and services about which consumers complain to the Bureau for public reports. As shown in Figure 1, credit or consumer reporting, debt collection, credit card, mortgage, and checking or savings accounts are the most-complained-about consumer financial products and services.

FIGURE 1: CONSUMER COMPLAINTS BY PRODUCT



Consumer Response analyzes consumer complaints, company responses, and consumer feedback to assess the accuracy, completeness, and timeliness of company responses so that the Bureau, other regulators, consumers, and the marketplace have relevant information about consumers' challenges with financial products and services. Consumer Response uses a variety of approaches to analyze consumer complaints, including cohort and text analytics to identify trends and possible consumer harm. These analyses support the Bureau's work to supervise companies, enforce Federal consumer financial laws, propose rules, and develop tools that help empower consumers to make informed financial decisions.

The Bureau also shares consumer complaint information with prudential regulators, the FTC, other federal agencies, and state agencies.

Complaints give us insights into problems people are experiencing in the marketplace and help us regulate consumer financial products and services under existing Federal consumer financial laws, enforce those laws judiciously, and educate and empower consumers to make informed financial decisions. The Bureau also publishes complaint data and reports on complaint trends annually in Consumer Response's Annual Report to Congress.⁹⁵

⁹⁵ From October 1, 2018, to September 30, 2019, the Bureau published complaint snapshot reports about servicemembers and mortgages, and the Office of Servicemember Affairs' Annual Report. The Bureau also publishes the Consumer Response Annual Report, which provides a more detailed analysis of complaints. These reports can be viewed at <https://www.consumerfinance.gov/data-research/research-reports>.

5. List, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year

5.1 Supervisory activities

The Bureau's supervisory activities with respect to individual institutions are non-public. The Bureau has, however, issued numerous supervisory guidance documents and bulletins during the preceding year. These documents are listed under Section 3.3 of this Report as issued guidance documents undertaken within the preceding year.

5.2 Enforcement activities⁹⁶

The Bureau was a party in the following public enforcement actions from October 1, 2018, through September 30, 2019, detailed as follows and listed in descending chronological order by filing or issue date. This section also identifies those actions involving Office of Administrative Adjudication Orders with respect to covered persons that are not credit unions or depository institutions.

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

⁹⁶ Enforcement activity summaries are current as of September 30, 2019, and do not include activities that occurred after the reporting period.

Outsourcing of New England, Inc., and FCO Worldwide, Inc. The Bureau also named Michael E. Sobota, the chief executive officer, president, director, and owner of FCO Holding, Inc. as a defendant. The Bureau alleges that FCO violated the Fair Credit Reporting Act (FCRA) and Regulation V by failing to maintain reasonable policies and procedures regarding the accuracy and integrity of the information it furnishes, including the handling of consumer disputes, failing to conduct reasonable investigations of certain consumer disputes, and furnishing information that was alleged to have been the result of identity theft before it made any determination of whether the information was accurate. The Bureau also alleges that FCO and Michael Sobota violated the Fair Debt Collection Practices Act (FDCPA) when FCO represented that consumers owed certain debts when, in fact, FCO did not have a reasonable basis to assert that the consumers owed those debts. The Bureau seeks an injunction, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of a civil money penalty. The case remains pending.

Bureau of Consumer Financial Protection v. Certified Forensic Loan Auditors, LLC, Andrew Lehman, and Michael Carrigan (C.D. Cal. No. 2:19-cv-07722). On September 6, 2019, the Bureau filed a complaint in federal court in the Central District of California against Certified Forensic Loan Auditors, LLC (CFLA), Andrew Lehman (Lehman), and Michael Carrigan (Carrigan). The Bureau alleges that CFLA and Lehman have engaged in deceptive and abusive acts and practices and have charged unlawful advance fees in connection with the marketing and sale of financial advisory and mortgage assistance relief services to consumers. CFLA is a foreclosure relief services company, and Lehman is CFLA's president and CEO. The Bureau alleges that Carrigan, who was the Company's sole auditor, provided substantial assistance to CFLA and Lehman. Concurrent with the complaint, the Bureau and Carrigan filed a proposed stipulated final judgment and order to resolve the substantial assistance claims against Carrigan; it bans him from providing mortgage assistance relief services or consumer financial products and services and imposes a \$493,000 civil money penalty, all but \$5,000 of which is suspended based on his limited ability to pay more based on sworn financial statements.

In the Matter of Financial Credit Service, Inc., d/b/a Asset Recovery Associates (File No. 2019-BCFP-0009) (not a credit union or depository institution). On August 28, 2019, the Bureau issued a consent order against Asset Recovery Associates (ARA), a debt-collection company headquartered in Illinois. ARA, also known as Financial Credit Service, Inc., collects debts from consumers throughout the United States. The Bureau found that ARA violated the FDCPA by threatening to sue or arrest consumers even though it did not intend to take such action, falsely representing to consumers that company employees were attorneys, threatening to garnish consumers' wages or place liens on their homes even though it did not intend to do so, and representing that consumers' credit reports would be negatively affected if they did not pay, even though ARA does not report consumer debts to credit-reporting agencies. The Bureau found that these false statements were also deceptive, in violation of the Consumer Financial

Protection Act of 2010 (CFPA). Under the terms of the consent order, ARA will pay at least \$36,800 in restitution to affected consumers and a \$200,000 civil money penalty to the Bureau. The consent order also prohibits ARA from continuing to engage in this conduct and requires ARA to record calls with consumers to help ensure collectors do not make false statements in the future.

In the Matter of Maxitransfers Corporation (File No. 2019-BCFP-0008) (not a credit union or depository institution). On August 27, 2019, the Bureau issued a consent order against Maxitransfers Corporation (Maxi), which provides remittance transfer services that allow consumers to send money overseas electronically. From October 2013 until May 2017, Maxi sent approximately 14.5 million remittance transfers for consumers in the U.S. The Bureau found that Maxi violated the EFTA and the Remittance Rule by using inaccurate language in certain required disclosures, failing to provide other required disclosures altogether, and not maintaining all the required error-resolution policies and procedures. The Bureau also found that Maxi violated the CFPA by stating to consumers that it was not responsible for errors made by its third-party payment agents when in fact under the Remittance Transfer Rule a provider is liable for any violation by an agent when such agent acts for the provider. The consent order requires Maxi to pay a civil money penalty of \$500,000 and prohibits Maxi from stating that it is not responsible for the acts of its agents. The consent order also requires Maxi to take steps to improve its compliance management to prevent future violations of the CFPA, EFTA, and the Remittance Transfer Rule.

Bureau of Consumer Financial Protection v. Andrew Gamber, Voyager Financial Group, LLC, BAIC, Inc., SoBell Corp (E.D. Ark. No. 4:19-cv-00565-BSM). On August 14, 2019, the Bureau filed a proposed stipulated judgment with Andrew Gamber, Voyager Financial Group, LLC, BAIC, Inc., and SoBell Corp., which the court entered on September 4, 2019. The companies were brokers of contracts offering high-interest credit to veterans and other consumers and were owned and operated by Gamber. The Bureau alleged that Gamber and his companies misrepresented to consumers that the contracts the companies facilitate are valid and enforceable when, in fact, they are void under federal and state law; misrepresented to consumers that the product is a sale of payments and not a high-interest credit offer; misrepresented to consumers when they will receive their funds; and failed to inform consumers of the applicable interest rate on the credit offer. The order bans the defendants from the industry and imposes a judgment for \$2.7 million in redress. Under the order, full payment of the redress judgment will be suspended upon paying \$200,000 towards redress, and upon paying \$1 for a civil money penalty to the Bureau, and \$75,000 to the State of Arkansas. The Bureau filed this complaint in coordination with the Office of the Arkansas Attorney General.

Bureau of Consumer Financial Protection v. Equifax, Inc. (N.D. Ga. No. 1:19-cv-03300-TWT). On July 22, 2019, the Bureau, the Federal Trade Commission (FTC), and 48 states, the District

of Columbia, and Puerto Rico entered into a global settlement with Equifax that provides up to \$700 million in monetary relief and penalties. The Bureau filed a stipulated judgment in federal district court in the Northern District of Georgia, which the court entered on July 23, 2019. The Bureau alleged that Equifax engaged in unfair and deceptive practices in connection with the 2017 data breach of Equifax's systems, which impacted approximately 147 million consumers. The settlement with the Bureau provides up to \$425 million in monetary relief to consumers, a \$100 million civil money penalty, and other relief.

Bureau of Consumer Financial Protection v. Student CU Connect CUSO, LLC (S.D. Ind. No. 1:19-cv-02397-JRS-DLP). On June 14, 2019, the Bureau filed a complaint against Student CU Connect CUSO, LLC (CUSO) along with a proposed stipulated judgment, which the court entered on June 20, 2019. CUSO was set up to hold and manage private loans for students at ITT Technical Institute. The Bureau alleged that CUSO provided substantial assistance to ITT Educational Services, Inc. (ITT) in engaging in unfair acts and practices. Under the terms of the stipulated judgment, CUSO must stop collecting on all outstanding CUSO loans, discharge all outstanding CUSO loans, and ask all consumer reporting agencies to which CUSO furnished information to delete tradelines relating to CUSO loans. The order also requires CUSO to provide notice to all consumers with outstanding CUSO loans that their debt has been discharged and is no longer owed and that CUSO is seeking to have the relevant tradelines deleted. The total amount of loan forgiveness is estimated to be \$168 million. Forty-four states plus the District of Columbia have also settled with CUSO on the same terms.

In the Matter of Freedom Mortgage Corporation (File No. 2019-BCFP-0007) (not a credit union or depository institution). On June 5, 2019, the Bureau issued a consent order against Freedom Mortgage Corporation (Freedom), which has its principal place of business in Mount Laurel, New Jersey. The Bureau found that Freedom violated the HMDA and Regulation C by submitting mortgage-loan data for 2014 to 2017 that contained errors. The Bureau found that Freedom reported inaccurate race, ethnicity, and sex information and that much of Freedom's loan officers' recording of this incorrect information was intentional. The consent order requires Freedom to pay a civil money penalty of \$1.75 million and take steps to improve its compliance management to prevent future violations.

In the Matter of Servis One, Inc., d/b/a BSI Financial Services (File No. 2019-BCFP-0006) (not a credit union or depository institution). On May 29, 2019, the Bureau issued a consent order against BSI Financial Services (BSI), a mortgage servicer headquartered in Irving, Texas. The Bureau found that BSI violated the CFPA, RESPA, and TILA by handling mortgage servicing transfers with incomplete or inaccurate loss mitigation and escrow information; inadequately overseeing service providers; failing to promptly enter interest rate adjustment loan data for adjustable rate mortgage loans into its servicing system; and maintaining an inadequate document management system. The consent order requires BSI to pay a civil money penalty of

\$200,000 and restitution estimated to be at least \$36,500. BSI must also establish and maintain a comprehensive data integrity program to ensure the accuracy, integrity, and completeness of the data for loans that it services and implement an information technology plan to ensure its systems comply with Federal consumer financial laws.

Bureau of Consumer Financial Protection v. Forster & Garbus, LLP (E.D.N.Y. No. 2:19-cv-02928). On May 17, 2019, the Bureau filed a complaint in the federal district court in the Eastern District of New York against Forster & Garbus, LLP, a New York debt-collection law firm. The Bureau alleges that Forster & Garbus violated the FDCPA by representing to consumers that attorneys were behind its lawsuits when, in fact, attorneys were not meaningfully involved in preparing or filing them. The Bureau also alleges that Forster & Garbus violated the CFPA's prohibition against deceptive acts and practices by making such representations to consumers through its lawsuits. The Bureau seeks an injunction against Forster & Garbus, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of a civil money penalty. After holding an initial status conference on September 23, 2019, the court stayed discovery. The case remains pending.

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, PLLC, d/b/a/ Lexington Law (D. Utah No. 2:19-cv-00298-DBP). On May 2, 2019, the Bureau filed a complaint against PGX Holdings, Inc. and its subsidiaries (collectively, Progrexion) and against John C. Heath, Attorney at Law PLLC, which does business as Lexington Law, in the federal district court in the District of Utah. The Bureau alleges the defendants violated the Telemarketing Sales Rule (TSR) by requesting and receiving payment of prohibited upfront fees for their credit repair services. The Bureau also alleges that Progrexion and its subsidiaries violated the TSR and the CFPA by making deceptive representations in its marketing, or by substantially assisting others in doing so. The Bureau seeks an injunction, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. Defendants filed a motion to dismiss on July 19, 2019. The Bureau filed its opposition to the motion to dismiss on August 30, 2019, and the Defendants filed their reply on September 24, 2019. The case remains pending.

In the Matter of Conduent Education Services, LLC (File No. 2019-BCFP-0005) (not a credit union or depository institution). On May 1, 2019 the Bureau issued a consent order against Conduent Education Services, LLC (CES), a student loan servicing company that formerly operated under the name of ACS Education Services. CES is in the process of winding down its business. The Bureau found that CES engaged in unfair practices in violation of the CFPA by failing to adjust in a timely manner principal balances of student loans made under the Federal Family Education Loan Program. The consent order requires that CES, if it has not already done so, make proper adjustments to the principal balances of the relevant loans or otherwise

make restitution to borrowers or any third parties who paid off such loans. The order also requires CES to pay a \$3.9 million civil money penalty.

In the Matter of CMM, LLC, et al. (collectively d/b/a Cash Tyme) (File No. 2019-BCFP-0004) (not a credit union or depository institution). On February 5, 2019, the Bureau issued a consent order against CMM, LLC, and its wholly owned subsidiaries, which operate under the name of Cash Tyme, a payday retail lender with outlets in seven states. The Bureau found that Cash Tyme violated the CFPA by failing to take adequate steps to prevent unauthorized charges to consumers; failing to promptly monitor, identify, correct and refund overpayments; making collection calls to third parties that disclosed or risked disclosing debts to third parties; misrepresenting that it collected third-party references from borrowers for verification purposes when it was using such information for marketing purposes; and displaying signage advertising unavailable services. The Bureau also found that Cash Tyme violated the Gramm-Leach-Bliley Act and Regulation P by failing to provide initial privacy notices to consumers. Finally, the Bureau found that Cash Tyme violated the TILA and Regulation Z by failing to include a payday loan fee charged to Kentucky consumers in the annual percentage rate (APR) in loan contracts and advertisements; rounding APRs to whole numbers in advertisements; and by publishing advertisements that included example APR and payment amounts based on example terms of repayment without disclosing the corresponding repayment terms used to calculate the APR. The Bureau's order requires Cash Tyme to ensure that all consumers who made overpayments would receive refunds and imposes a civil money penalty of \$100,000. The requirements of the order also include prohibitions on Cash Tyme using reference information collected in connection with loan applications for any reason other than underwriting, and on transferring or selling any such reference information to third parties.

In the Matter of Enova International, Inc. (File No. 2019-CFPB-0003) (not a credit union or depository institution). On January 25, 2019, the Bureau issued a consent order against Enova International, Inc. The Bureau found that Enova violated the CFPA by debiting consumers' bank accounts without authorization. The Bureau also found that Enova failed to honor loan extensions it granted to consumers. Under the terms of the consent order, Enova is barred from making or initiating electronic fund transfers without valid authorization. The order also imposes a civil money penalty of \$3.2 million.

In the Matter of Mark Corbett (File No. 2019-BCFP-0002) (not a credit union or depository institution). On January 23, 2019, the Bureau issued a consent order against Mark Corbett. The Bureau found that Corbett violated the CFPA by misrepresenting to consumers that the contracts he facilitated were valid and enforceable when, in fact, the contracts were void because veterans' pension payments are unassignable under federal law; misrepresenting to consumers that the offered product was a purchase of payments and not a high-interest credit offer; misrepresenting to consumers when they would receive their funds; and failing to disclose to

consumers the applicable interest rate on the credit offer. The Bureau's order permanently bans Corbett from brokering, offering, or arranging agreements between veterans and third parties under which the veteran purports to sell a future right to an income stream from the veteran's pension. The order also required Corbett to pay a civil money penalty of \$1 because of his demonstrated inability to pay.

Bureau of Consumer Financial Protection v. Sterling Jewelers, Inc. (S.D.N.Y. No. 19-cv-0448 LGS). On January 16, 2019, the Bureau and the People of the State of New York filed a joint complaint and proposed stipulated final judgment and order against Sterling Jewelers, Inc., which the district court entered on February 7, 2019. The Bureau's and the State's joint complaint alleged that Sterling violated the CFPA by opening store credit-card accounts without customer consent; enrolling customers in payment-protection insurance without their consent; and misrepresenting to consumers the financing terms associated with the credit-card accounts. The Bureau also alleged that Sterling violated the TILA by signing customers up for credit-card accounts without having received an oral or written request or application from them. Under the settlement, Sterling is required to pay a \$10 million civil money penalty to the Bureau and a \$1 million civil money penalty to the State of New York. The settlement also includes injunctive relief designed to prevent the continuation of the claimed illegal conduct.

In the Matter of USAA Federal Savings Bank (File No. 2019-BCFP-0001). On January 3, 2019, the Bureau issued a consent order against USAA. The Bureau found that USAA violated the CFPA and the EFTA. The Bureau found that USAA violated the EFTA by failing to honor consumers' requests to stop preauthorized electronic fund transfers and failing to initiate and complete reasonable error resolution investigations. The Bureau found that USAA violated the CFPA by unfairly reopening bank accounts that previously had been closed by consumers. The order requires USAA to comply with the EFTA and the CFPA, and orders USAA to pay \$12.2 million in restitution to certain consumers who were denied a reasonable error resolution investigation and to pay a \$3.5 million civil money penalty.

In the Matter of State Farm Bank, FSB (File No. 2018-BCFP-0009). On December 6, 2018, the Bureau issued a consent order against State Farm Bank, FSB. The Bureau found that State Farm Bank violated the FCRA, Regulation V, and the CFPA by obtaining consumer reports without a permissible purpose; furnishing to consumer reporting agencies (CRAs) information about consumers' credit that the bank knew or had reasonable cause to believe was inaccurate; failing to promptly update or correct information furnished to CRAs; furnishing information to CRAs without providing notice that the information was disputed by the consumer; and failing to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information provided to CRAs. The Bureau's order requires State Farm Bank to not violate the FCRA or Regulation V and to implement and maintain reasonable written

policies, procedures, and processes to address the practices at issue in the consent order and prevent future violations.

Bureau of Consumer Financial Protection v. Village Capital and Investment, LLC (D. Nev. No. 2:18-cv-02304). On December 4, 2018, the Bureau filed a complaint and proposed stipulated final judgment and order against Village Capital and Investment, LLC, which the district court entered on December 21, 2018. The Bureau alleged that Village Capital violated the CFPB by misleading veterans regarding its Interest Rate Reduction Refinancing Loans—loans that allow veterans to refinance their mortgages at lower interest rates with a loan guaranteed by the Department of Veterans Affairs. Specifically, the Bureau alleged that Village Capital misled veterans by overstating the benefits of refinancing. The order requires Village Capital to pay \$268,869 in redress to consumers and a civil money penalty of \$260,000. The order also prohibits Village Capital from misrepresenting the terms or benefits of mortgage refinancing.

In the Matter of Santander Consumer USA Inc. (File No. 2018-BCFP-0008) (not a credit union or depository institution). On November 19, 2018, the Bureau issued a consent order against Santander Consumer USA Inc. The Bureau found that Santander engaged in deceptive acts and practices in violation of the CFPB by (1) not properly describing the benefits and limitations of its S-GUARDGAP product, an optional add-on product offered in connection with auto loans; and (2) failing to properly disclose the impact on consumers of obtaining a loan extension. Under the terms of the consent order, Santander must provide approximately \$9.29 million in restitution to certain consumers, pay a \$2.5 million civil money penalty, and clearly and prominently disclose the terms of its loan extensions and add-on product, among other provisions.

In the Matter of Cash Express, LLC (File No. 2018-CFPB-0007) (not a credit union or depository institution). On October 24, 2018, the Bureau issued a consent order against Cash Express LLC. The Bureau found that Cash Express violated the CFPB by deceptively threatening in collection letters that it would take legal action against consumers, even though the debts were past the date for suing on legal claims, and it was not Cash Express's practice to file lawsuits against these consumers. The Bureau also found that Cash Express violated the CFPB by misrepresenting that it might report negative credit information to consumer reporting agencies for late or missed payments, when the company did not actually report this information. The Bureau also found that Cash Express violated the CFPB by abusively withholding funds during check-cashing transactions to satisfy outstanding amounts on prior loans, without disclosing this practice to the consumer during the initiation of the transaction. Under the terms of the consent order, Cash Express and its subsidiaries are barred from taking check cashing proceeds to pay off previous debts unless consumers consent in writing. Cash Express is further barred from making misrepresentations about its consumer reporting activities and its intention or likelihood of filing suit to collect a debt. The order requires Cash

Express to pay approximately \$32,000 in restitution to consumers and imposes a civil money penalty of \$200,000.

In the Matter of Bluestem Brands, Inc.; Bluestem Enterprises, Inc.; and Bluestem Sales, Inc., d/b/a Fingerhut and Gettington.com (File No. 2018-BCFP-0006) (not a credit union or depository institution). On October 4, 2018, the Bureau issued a consent order against Bluestem Brands, Inc., and its subsidiaries. The Bureau found that Bluestem violated the CFPA by unfairly delaying the transfer of payments that customers had made to the Bluestem companies on charged-off accounts to the third-party debt buyers that had purchased those accounts. These delays were likely to subject customers to misleading collection activity, including collection activity on accounts that they had completely paid off. The Bureau's order requires Bluestem to improve its processes to timely identify and forward customer payments on accounts that are sold to third-party debt buyers. Bluestem is also required to improve its process to prevent consumers from making payments by phone or on the companies' websites on sold accounts, and to notify customers who make payments to Bluestem on sold accounts that their accounts have been sold. The order also requires Bluestem to pay a civil money penalty of \$200,000.

Bureau of Consumer Financial Protection v. Future Income Payments, LLC, et al. (C.D. Cal. No. 8:18-cv-01654). On September 13, 2018, the Bureau filed a complaint against Future Income Payments, LLC, Scott Kohn, and several related entities. The Bureau 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 Bureau also alleged that the defendants failed to disclose a measure of the cost of credit, expressed as a yearly rate, for its loans. Among other relief, the Bureau sought compensation for harmed consumers, civil money penalties, and injunctive relief. The defendants waived service of the Bureau's complaint but failed to answer or otherwise respond to it. The Bureau obtained a clerk's entry of default in December 2018, and in August 2019, the Bureau moved for entry of default judgment against all defendants, appointment of a receiver, and to transfer the action to the District of South Carolina.

Consumer Financial Protection Bureau v. Think Finance, LLC f/k/a Think Finance, Inc., et al. (D. Mont. No. 17-cv-0127); In re Think Finance, LLC, et al., (Bankr. N.D. Tex. No. 17-33964). On November 15, 2017, the Bureau filed a complaint against Think Finance and its wholly owned subsidiaries. The Bureau alleges that they collect debts that were not legally owed. Specifically, the Bureau alleges that Think Finance collects on loans that are void ab initio under state laws governing interest rate caps or the licensing of lenders. The Bureau alleges that Think Finance made deceptive demands and took money from consumers' bank accounts for debts that were not legally owed, in violation of federal law. The Bureau seeks restitution, injunctive

relief, and a civil money penalty. On April 24, 2018, the defendants filed a motion to dismiss, which the court denied on August 3, 2018. Defendants filed an answer on August 31, 2018. The Bureau also filed a proof of claim in the Think Finance bankruptcy case. The Bureau's enforcement action is currently stayed pending resolution of bankruptcy-court proceedings that could result in a consent order resolving the Bureau's action.

Consumer Financial Protection Bureau v. Freedom Debt Relief, LLC and Andrew Housser (N.D. Cal. No. 17-cv-6484). On November 8, 2017, the Bureau filed a complaint against Freedom Debt Relief, the nation's largest debt-settlement services provider, and its co-CEO Andrew Housser. The Bureau alleged that Freedom Debt Relief violated the TSR by charging advance fees and failing to inform consumers of their rights to funds they deposited with the company. The Bureau also alleged that Freedom Debt Relief violated the CFPA by charging consumers without settling their debts as promised, charging consumers after having them negotiate their own settlements with creditors, and misleading consumers about the company's fees and its ability to negotiate directly with all a consumer's creditors. On July 9, 2019, the Bureau filed a stipulated final judgment, which the court entered on the same day. The judgment requires Freedom Debt Relief to pay \$20 million in restitution to affected consumers and a \$5 million civil money penalty and enjoins it from engaging in this conduct in the future. The company also agreed to a consent order with the Federal Deposit Insurance Corporation (FDIC). The Bureau will remit \$493,500 of the \$5 million civil penalty it assessed considering the penalty that the company was ordered to pay the FDIC.

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 Bureau filed a complaint and proposed consent judgment against several National Collegiate Student Loan Trusts (collectively, "NCSLT"). The Bureau 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. The proposed consent judgment against the NCSLT would require an independent audit of all 800,000 student loans in the NCSLT portfolio. It would also prohibit the NCSLT, and any company it hires, from attempting to collect, reporting negative credit information, or filing lawsuits on any loan the audit shows is unverified or invalid. In addition, it would require the NCSLT to pay at least \$19.1 million, which would include redress to consumers, disgorgement, and a civil money penalty. Soon after the Bureau's filing, several entities moved to intervene to object to the proposed consent judgment. The judge granted the intervention motions, and the parties are currently engaged in discovery. The case remains pending.

Consumer Financial Protection Bureau v. Ocwen Financial Corporation, Ocwen Mortgage Servicing, Inc., and Ocwen Loan Servicing, LLC (S.D. Fla. No. 17-cv-90495). On April 20, 2017,

the Bureau filed a complaint against mortgage loan servicer Ocwen Financial Corporation and its subsidiaries. The Bureau alleges that they used inaccurate and incomplete information to service loans, misrepresented to borrowers that their loans had certain amounts due, illegally foreclosed on homeowners that were performing on agreements on loss mitigation options, enrolled and charged consumers for add-on products without their consent, failed to adequately investigate and respond to borrower complaints, and engaged in other conduct in violation of the CFPA, TILA, FDCPA, RESPA, and Homeowners Protection Act (HPA). On June 23, 2017, Ocwen moved to dismiss. On September 5, 2019 the Court ruled on the motion to dismiss, rejecting the majority of Ocwen's arguments but requiring the Bureau to re-plead its allegations. The Bureau filed an amended complaint, and the case remains pending.

Consumer Financial Protection Bureau v. RD Legal Funding, LLC, RD Legal Finance, LLC, and RD Legal Funding Partners, LP, and Roni Dersovitz (S.D.N.Y. No. 1:17-cv-0890). On February 7, 2017, the Bureau and the New York Attorney General filed a complaint against RD Legal Funding, LLC, two related entities, and the companies' founder and owner, Roni Dersovitz. The Bureau alleges that they made misrepresentations to potential borrowers and engaged in abusive practices in connection with cash advances on settlement payouts from victim-compensation funds and lawsuit settlements. The lawsuit seeks monetary relief, disgorgement, and civil money penalties. On May 15, 2017, the defendants filed a motion to dismiss the Bureau's complaint, which the Bureau 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 for-cause removal provision that applies to the Bureau's Director violates the constitutional separation of powers and cannot 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 parties' appeals are now pending before the United States Court of Appeals for the Second Circuit.

Consumer Financial Protection Bureau v. Vincent Howard, Lawrence W. Williamson, Howard Law, P.C., The Williamson Law Firm, LLC, and Williamson & Howard, LLP (C.D. Cal. No. 17-cv-0161). On January 30, 2017, the Bureau filed a complaint against several law firms and attorneys. The Bureau alleged that they violated the TSR by: (1) charging consumers upfront fees for debt relief services; (2) misrepresenting that consumers would not be charged upfront fees for debt relief services when, in fact, they were; and (3) providing substantial assistance to Morgan Drexen and Walter Ledda while knowing or consciously avoiding knowing that Morgan Drexen and Ledda were engaging in these violations. The Bureau also alleged that Howard Law, P.C., the Williamson Law Firm, LLC, and Williamson & Howard, LLP, as well as attorneys Vincent Howard and Lawrence Williamson, ran this debt relief operation along with Morgan Drexen, Inc., which shut down in 2015 following the Bureau's lawsuit against that company. The defendants filed a motion to dismiss, which the court denied on March 30, 2017. The defendants then asserted two counterclaims. The court dismissed those claims with prejudice.

on December 19, 2017. On March 27, 2019, the court entered a consent judgment resolving the Bureau's claims. Under the consent judgment, the defendants are permanently banned from telemarketing any consumer financial product or service or otherwise offering or providing debt relief services. The judgment imposes a \$40 million civil money penalty and orders the defendants to pay redress in the amount of \$35,256,275. The money judgment and civil money penalty are suspended, provided that certain conditions are met.

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 Bureau filed a complaint against Navient Corporation and its subsidiaries, Navient Solutions, Inc., and Pioneer Credit Recovery, Inc. The Bureau 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 Bureau 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 Bureau 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. The case remains pending.

Consumer Financial Protection Bureau v. Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, Lee Jundanian, Raffi Boghosian, Michael Borkowski, and Charles Smith (D. Md. No. 1:16-cv-3759). On November 21, 2016, the Bureau filed a complaint against Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, three of the companies' principals—Lee Jundanian, Raffi Boghosian, and Michael Borkowski—and a Maryland attorney, Charles Smith. The Bureau alleges that they deceptively induced individuals to enter into settlement funding agreements, in which the individuals agreed to receive an immediate lump sum payment in exchange for significantly higher future settlement payments. The Bureau also alleges that the companies and their principals steered consumers to receive "independent advice" from Smith, who was paid directly by Access Funding and indicated to consumers that the transactions required very little scrutiny. The Bureau further alleges that Access Funding advanced money to some consumers and represented to those consumers that the advances obligated them to go forward with transactions even if they realized that the transactions were not in their best interests. On September 13, 2017, the court granted defendants' motions to dismiss counts I–IV, arising out of Smith's conduct, on the grounds that he had attorney-client relationships with the consumers in question. The court denied the defendants' motions to dismiss the Bureau's claim relating to the advances Access Funding offered consumers. The court granted the Bureau's motion to file an amended complaint alleging Smith did not have attorney-client

relationships with the consumers in question. Defendants again filed motions to dismiss, which the court denied. The defendants filed a motion for partial summary judgment, which the court denied on January 18, 2019. On May 24, 2019, the Bureau moved to modify the scheduling order and for leave to file a second amended complaint. The case remains pending.

Consumer Financial Protection Bureau v. Northern Resolution Group (W.D.N.Y. No. 16-cv-0880). On November 2, 2016, the Bureau, in partnership with the New York Attorney General, filed a complaint against debt collectors Northern Resolution Group, LLC, Douglas MacKinnon, Mark Gray, Enhanced Acquisitions, LLC, and Delray Capital, LLC. The Bureau alleged that Douglas MacKinnon and Mark Gray operated a network of companies that harass, threaten, and deceive consumers across the nation into paying inflated debts or amounts they may not owe. The defendants asserted counterclaims against the Bureau and New York, which the court dismissed on January 8, 2018. On July 25, 2019, the Bureau and New York Attorney General filed proposed settlements, which the court approved on August 22, 2019. The final judgment and order against MacKinnon, Northern Resolution Group, and Enhanced Acquisitions bans them from the industry and requires that they pay \$40 million in redress to consumers and a \$10 million civil money penalty to each of the Bureau and New York. The final judgment and order against Delray Capital and Gray bans them from the industry and imposes a judgment for redress of \$4 million, a judgment for civil money penalties of \$1 million to the Bureau, and a judgment for civil money penalties of \$1 million to the New York Attorney General; full payment of those amounts are suspended subject to those defendants paying a \$1 civil money penalty to the Bureau and \$10,000 for consumer redress.

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 Bureau filed a complaint against two companies, All American Check Cashing, Inc. and Mid-State Finance, Inc., which offer check-cashing services and payday loans, and their president and sole owner, Michael Gray. The Bureau alleges that All American 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 Bureau also alleges that All American made deceptive statements about the benefits of its high-cost payday loans and failed to provide refunds after consumers made overpayments on their loans. The Bureau's lawsuit seeks injunctive relief, restitution, and the imposition of a civil money penalty. On July 15, 2016, the court denied defendants' motion for a more definite statement. The defendants moved for judgment on the pleadings on May 24, 2017, and the Bureau moved for summary judgment on August 4, 2017. The court has not yet ruled on the Bureau's summary judgment motion. On March 21, 2018, the court denied the defendants' motion for judgment on the pleadings, and on March 26, 2018, the defendants moved to certify that denial for interlocutory appeal. The next day, the court granted the defendants' motion in part, holding that interlocutory appeal was justified with respect to defendants' constitutional challenge to the Bureau's statutory structure. On April 24, 2018, the

court of appeals granted the defendants' petition for permission to appeal the district court's interlocutory order. The district court action has been stayed pending the appeal. The United States Court of Appeals for the Fifth Circuit heard oral arguments in the appeal on March 12, 2019 and has not yet issued a decision.

Consumer Financial Protection Bureau v. D and D Marketing, Inc., d/b/a T3Leads, Grigor Demirchyan, and Marina Demirchyan (C.D. Cal. No. 15-cv-9692); Consumer Financial Protection Bureau v. Dmitry Fomichev (C.D. Cal. No. 16-cv-2724); and Consumer Financial Protection Bureau v. Davit Gasparyan a/k/a David Gasparyan (C.D. Cal. No. 16-cv-2725). On December 17, 2015, the Bureau filed a complaint against T3Leads and its then current executives, Grigor Demirchyan and Marina Demirchyan. The Bureau alleged that T3 engaged in unfair and abusive acts and practices in the sale of consumer-loan applications to small-dollar lenders and others acting unlawfully, and in operating a loan-application network that prevented consumers from understanding the material risks, costs, or conditions of their loans. On April 21, 2016, the Bureau filed two separate but related complaints against the company's past executives—Dmitry Fomichev and Davit Gasparyan—that alleged that they substantially assisted T3's violations. The complaints sought monetary relief, injunctive relief, and penalties. On November 17, 2016, the court denied the defendants' motions to dismiss but found the Bureau unconstitutionally structured. The Ninth Circuit granted interlocutory appeal on that issue. On September 8, 2017, the district court entered a stipulated final judgment and order against one of the defendants, Davit Gasparyan. The order imposes injunctive relief and requires Gasparyan to pay a \$250,000 penalty. On September 29, 2017, the Ninth Circuit dismissed Gasparyan's interlocutory appeal. On March 7, 2019, after stipulation of the parties, the district court dismissed with prejudice the action against Fomichev, and on the same day, the Ninth Circuit dismissed Fomichev's pending interlocutory appeal. On March 28, 2019, the district court entered a stipulated final judgment and order against T3 and former T3 officers, Grigor and Marina Demirchyan, imposing injunctive relief, \$1 million in damages jointly and severally against the defendants, a \$3 million civil money penalty against T3, and a \$1 penalty against each of the Demirchyans. The Ninth Circuit dismissed T3's and the Demirchyans' pending interlocutory appeals on April 1, 2019.

In the Matter of Integrity Advance, LLC and James R. Carnes (File No. 2015-CFPB-0029) (not a credit union or depository institution). On November 18, 2015, the Bureau filed a notice of charges against an online lender, Integrity Advance, LLC, and its CEO, James R. Carnes. The Bureau alleges 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 Bureau also alleges that the company unfairly used remotely created checks to debit consumers' bank accounts even after the consumers revoked authorization for automatic withdrawals. The Bureau is seeking injunctive relief, restitution, and the imposition of a civil money penalty. On September 27, 2016, the Administrative Law Judge issued a

Recommended Decision finding liability and recommending injunctive and monetary relief. The Recommended Decision was appealed to the Director, but further activity on that appeal was held in abeyance pending a decision in *PHH Corp. v. CFPB*, No. 15-1177 (D.C. Cir.), and, subsequently, pending a decision in *Lucia v. SEC*, No. 17-0130 (S. Ct.). Subsequent to the Supreme Court's ruling in *Lucia* that suggested that the Administrative Law Judge that presided over the proceedings in this case may have been improperly appointed, the Director remanded the case for a new hearing and recommended decision by the Bureau's Administrative Law Judge. The case remains pending.

Consumer Financial Protection Bureau v. Global Financial Support, Inc., d/b/a Student Financial Resource Center, d/b/a College Financial Advisory; and Armond Aria a/k/a Armond Amir Aria, individually, and as owner and CEO of Global Financial Support, Inc. (S.D. Cal. No. 15-cv-2440). On October 29, 2015, the Bureau filed a complaint against Global Financial Support, Inc., which operates under the names Student Financial Resource Center and College Financial Advisory, and Armond Aria. The Bureau alleges that Global Financial Support, Inc., issued marketing letters instructing students to fill out a form and pay a fee in exchange for the company conducting extensive searches to target or match them with individualized financial aid opportunities. The Bureau also alleges that consumers who paid the fee received nothing or a generic booklet that failed to provide individualized advice. The Bureau also alleges that the defendants misrepresented their affiliation with government and university financial aid offices and pressured consumers to enroll through deceptive statements. The complaint seeks injunctive relief, restitution, and the imposition of a civil money penalty. A stay was entered by the court on May 17, 2016, pending an ongoing criminal proceeding involving one of the defendants. The court lifted the stay on May 27, 2019, and the case remains pending.

Consumer Financial Protection Bureau and Anthony J. Albanese, Acting Superintendent of Financial Services of the State of New York v. Pension Funding, LLC; Pension Income, LLC; Steven Covey; Edwin Lichtig; and Rex Hofelter (C.D. Cal. No. 8:15-cv-1329). On August 20, 2015, the Bureau and the New York Department of Financial Services (NYDFS) filed a complaint against two companies, Pension Funding, LLC and Pension Income, LLC, and three of the companies' individual managers. The Bureau and NYDFS allege that they deceived consumers about the costs and risks of their pension-advance loans. Specifically, the Bureau and NYDFS allege that from 2011 until about December 2014, Pension Funding and Pension Income offered consumers lump-sum loan payments in exchange for the consumers agreeing to redirect all or part of their pension payments to the companies for eight years. The Bureau and NYDFS also allege that the individual defendants, Steven Covey, Edwin Lichtig, and Rex Hofelter, designed and marketed these loans and were responsible for the companies' operations. The Bureau and NYDFS allege that all the defendants violated the CFPA's prohibitions against unfair, deceptive, and abusive acts or practices. On January 8, 2016, the court appointed a receiver over defendants Pension Funding and Pension Income. The receiver's responsibilities include taking

control of all funds and assets of the companies and completing an accounting of all pension-advance transactions that are the subject of the action. On February 10, 2016, the court entered a stipulated final judgment and order as to two of the individual defendants, Lichtig and Hofelter. The order imposes bans on these individuals' participation in pension-advance transactions and requires them to pay money to the receivership estate. On July 11, 2016, the court granted a default judgment against the final individual defendant, Covey, who did not appear in the case. The court's order imposes a ban and requires Covey to pay disgorgement of approximately \$580,000. The court-appointed receiver's work with respect to the companies is ongoing.

Consumer Financial Protection Bureau v. NDG Financial Corp., et al. (S.D.N.Y. No. 15-cv-5211). On July 6, 2015, the Bureau filed a complaint against the NDG Financial Corporation and nine of its affiliates. The Bureau alleged that they engaged in unfair, deceptive, and abusive practices relating to its payday lending enterprise. Specifically, the Bureau alleged that the enterprise, which has companies located in Canada and Malta, originated, serviced, and collected payday loans that were void under state law, represented that U.S. federal and state laws did not apply to the defendants or the payday loans, and used unfair and deceptive tactics to secure repayment, all in violation of the CFPA. On December 2, 2016, the court denied the defendants' motions to dismiss. On December 6, 2017, the clerk entered default against the Maltese defendants. On February 5, 2018, the court voluntarily dismissed the former owners and their holding corporations as defendants and relief defendants. The Bureau moved for the sanction of default judgment against the remaining defendants, which the court granted on March 29, 2018. The case was resolved through a stipulated judgment, entered by the court on February 4, 2019, which permanently barred the remaining defendants from any consumer lending in the United States, from collecting on any of the existing loans to United States consumers, and from disclosing, using, or benefiting from consumer information associated with loans made to consumers in the United States.

Consumer Financial Protection Bureau v. Nationwide Biweekly Administration, Inc., et al. (N.D. Cal. No. 3:15-cv-2106). On May 11, 2015, the Bureau filed a complaint against Nationwide Biweekly Administration, Inc., Loan Payment Administration LLC, and Daniel S. Lipsky. The Bureau alleged that they engaged in abusive and deceptive acts and practices in violation of the CFPA and the TSR regarding a mortgage payment product known as the "Interest Minimizer Program," or IM Program. The Bureau alleged 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 Bureau sought a permanent injunction, consumer redress, and civil money penalties. A trial was held beginning on April 24, 2017, and on September 8, 2017, the court issued an opinion and order finding that the defendants had

engaged in deceptive and abusive conduct in violation of the CFPA and TSR. The court imposed a \$7.93 million civil money penalty but denied the Bureau'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 have filed a notice of appeal. The parties' appeals are currently pending before the United States Court of Appeals for the Ninth Circuit.

Consumer Financial Protection Bureau v. Universal Debt & Payment Solutions, LLC, et al. (N.D. Ga. No. 15-cv-0859). On March 26, 2015, the Bureau filed a complaint against a group of seven debt collection agencies, six individual debt collectors, four payment processors, and a telephone marketing service provider alleging unlawful conduct related to a phantom debt collection operation. Phantom debt is debt consumers do not actually owe or debt that is not payable to those attempting to collect it. The Bureau alleges that the individuals, acting through a network of corporate entities, used threats and harassment to collect "phantom" debt from consumers. The Bureau alleges the defendants violated the FDCPA and the CFPA's prohibition on unfair and deceptive acts and practices and provided substantial assistance to unfair or deceptive conduct. The Bureau is seeking permanent injunctive relief, restitution, and the imposition of a civil money penalty. On April 7, 2015, the Bureau obtained a preliminary injunction against the debt collectors that froze their assets and enjoined their unlawful conduct. On September 1, 2015, the court denied the defendants' motion to dismiss. On August 25, 2017, the court dismissed the Bureau's claims against the payment processors as a discovery sanction against the Bureau. On November 15, 2017, the Bureau, and two remaining defendants moved for summary judgment. On January 29, 2018, the court granted the Bureau's motion for contempt against one of the defendants for violating the court's preliminary injunction. The Bureau has filed additional motions for contempt against several defendants, which the court has not ruled on. On March 21, 2019, the court granted the Bureau's motion for summary judgment on all its claims against five of the debt collector defendants, and one of its claims against two other debt collector defendants. The court denied the Bureau's motion for summary judgment on its other claims against the latter two debt collector defendants and denied those two defendants' motion for summary judgment against the Bureau. The court has not ruled on the Bureau's requested relief. On August 21, 2019, the court entered a stipulated final judgment and order as to two debt collector defendants. Among other things, the stipulated judgment ordered the settling defendants to transfer all of the funds in their various bank accounts in partial satisfaction of a judgment of equitable monetary relief and damages in the amount of \$633,710, which was partially suspended based on inability to pay, permanently banned the settling them from engaging in debt collection activities, and prohibited them from making certain misrepresentations. The case remains pending.

Consumer Financial Protection Bureau v. The Mortgage Law Group, LLP, d/b/a The Law Firm of Macey, Aleman & Searns; Consumer First Legal Group, LLC; Thomas G. Macey; Jeffrey J. Aleman; Jason E. Searns; and Harold E. Stafford (W.D. Wis. No. 3:14-cv-0513). On July 22, 2014, the Bureau filed a complaint against The Mortgage Law Group, LLP (TMLG), the Consumer First Legal Group, LLC, and attorneys Thomas Macey, Jeffrey Aleman, Jason Searns, and Harold Stafford. The Bureau 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 Bureau 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. On November 15, 2018, the court issued an opinion and order ruling that certain defendants violated Regulation O by taking upfront fees, by failing to make required disclosures, 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. Briefing on those issues was completed on February 19, 2019. The case remains pending.

Consumer Financial Protection Bureau v. ITT Educational Services, Inc. (S.D. Ind. No. 14-cv-0292). On January 6, 2014, the Bureau filed a complaint against for-profit college chain ITT Educational Services, Inc. The Bureau alleges that ITT encouraged new students to enroll by providing them funding for the tuition gap that was not covered by federal student loan programs with a zero-interest loan called “Temporary Credit.” This loan typically had to be paid in full at the end of the student’s first academic year. The Bureau alleges that ITT knew from the outset that many students would not be able to repay their Temporary Credit balances or fund their second-year tuition gap and that ITT illegally pushed its students into repaying their Temporary Credit and funding their second-year tuition gaps through high-cost private student loan programs, on which ITT knew students were likely to default. In September of 2016, ITT closed all its schools and filed for bankruptcy. On September 8, 2017, the court entered an order administratively closing the case without prejudice to the right of either party to move to reopen it within sixty days of the approval of a settlement by the bankruptcy court overseeing ITT’s Chapter 7 case. On August 12, 2019, the Bureau filed a stipulated final judgment and order, which the court entered on August 16, 2019, to resolve the matter. The judgment and order, among other things, includes a judgment against ITT for \$60 million and an injunction prohibiting ITT from offering or providing student loans in the future.

Consumer Financial Protection Bureau v. CashCall, Inc., et al. (C.D. Cal. No. 15-cv-7522). On December 16, 2013, the Bureau filed a complaint against online lender CashCall Inc., its owner, a subsidiary, and an affiliate. The Bureau alleged that they violated the CFPA's prohibition against unfair, deceptive, and abusive acts and practices by collecting and attempting to collect consumer-installment loans that were void or partially nullified because they violated either state caps on interest rates or state licensing requirements for lenders. The Bureau 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. On August 31, 2016, the court granted the Bureau's motion for partial summary judgment, concluding that CashCall was the true lender on the Western Sky loans. Based in part on that finding, the court concluded that the choice-of-law provision in the loan agreements was not enforceable, found that the law of the borrowers' states applied, and that the loans were void. 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. A trial was held from October 17 to 18, 2017, on the issue of appropriate relief. 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 Bureau's request for restitution and an injunction. The parties' appeals remain pending before the United States Court of Appeals for the Ninth Circuit; oral argument was heard on September 9, 2019.

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

The Bureau's *Supervisory Highlights* publications provide general information about the Bureau's supervisory activities at banks and nonbanks without identifying specific companies. The Bureau published two issues of *Supervisory Highlights* between October 1, 2018, and September 30, 2019.⁹⁷

All public enforcement actions are listed in Section 5.2 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.

⁹⁷ Winter 2019, https://files.consumerfinance.gov/f/documents/cfpb_supervisoru-highlights_issue-18_032019.pdf; Summer 2019, https://files.consumerfinance.gov/f/documents/cfpb_supervisoru-highlights_issue-19_092019.pdf.

7. Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law⁹⁸

For purposes of the Section 1016(c)(7) reporting requirement, the Bureau determined that any actions asserting claims pursuant to Section 1042 of the Dodd-Frank Act are “significant.” The Bureau is aware of the following State actions asserting Dodd-Frank Act claims that were initiated during the October 1, 2018, through September 30, 2019, reporting period.

Commonwealth of Puerto Rico v. Equifax, Inc., No. 3:18-cv-01424 (D.P.R. Apr. 2, 2019). On April 2, 2019, the Attorney General of Puerto Rico filed an amended complaint against Equifax, Inc. The complaint alleged that Equifax, Inc. engaged in deceptive acts or practices in violation of the CFPA, 12 U.S.C. 5531(a). The complaint also asserted that Equifax, Inc. acted negligently, in violation of common law and state law, and violated Puerto Rico’s state consumer protection law. Puerto Rico voluntarily dismissed its complaint with prejudice on July 25, 2019.

People of the State of New York v. Vision Property Management, LLC; KAJA Holdings 2, LLC; RVFM 11 Series, LLC; DSV SPV 1, LLC; DSV SPV 2, LLC; DSV SPV 3, LLC; Alan Investments III, LLC; Alex Szkaradek; and John Dows 1-50, No. 19-CV-7191 (S.D.N.Y. Aug. 1, 2019). On August 1, 2019, the New York Attorney General and New York Superintendent of Financial Services filed a complaint against Vision Property Management, LLC (Vision), various affiliated companies, and Alex Szkaradek, Vision’s Chief Executive Officer and Managing Member. The complaint alleges that the parties engaged in illegal practices in the course of entering into seller-financed purchase transactions with consumers in upstate New York. These practices allegedly violated the CFPA, 12 U.S.C. 5531(a), TILA, 12 U.S.C. 1638, TILA’s implementing regulation, Regulation Z, 12 C.F.R. 1026 *et seq.*, and New York state law.

⁹⁸ State action summaries are current as of September 30, 2019, and do not include activities that occurred after the reporting period.

8. Analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau

This Semi-Annual Report update is focused on highlights from the Bureau’s fair lending enforcement⁹⁹ and rulemaking¹⁰⁰ activities from October 1, 2018, through September 30, 2019, and continued efforts to fulfill the fair lending mission of the Bureau through supervision, interagency coordination, and outreach, from April 1, 2019, through September 30, 2019.¹⁰¹

8.1 Fair lending supervision

The Bureau’s Fair Lending Supervision program assesses compliance with Federal fair lending consumer financial laws and regulations at banks and nonbanks over which the Bureau has supervisory authority. As a result of the Bureau’s efforts to fulfill its fair lending mission in this reporting period, the Bureau’s Fair Lending Supervision program initiated 16 supervisory events at financial services institutions under the Bureau’s jurisdiction to determine compliance with federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities, including the ECOA and HMDA.

For exam reports issued by Supervision during the reporting period, the most frequently cited violations were:

- Section 1003.4(a): Failure by a financial institution to collect and accurately report data regarding applications for [covered loans](#) that it receives, originates, or purchases in a calendar year, or, failure to collect and accurately report data regarding certain requests under a preapproval program in a calendar year;

⁹⁹ *Dodd-Frank Act §1016(c)(5).*

¹⁰⁰ *Dodd-Frank Act §1016(c)(3). The Bureau’s fair lending rulemaking activity pertaining to HMDA and Regulation C is discussed above in Section 3.*

¹⁰¹ *Dodd-Frank Act §1016(c)(8).*

- Section 1002.12.9(a)(1)(i), (b)(2), (c): Failure to provide notice to the applicant 30 days after receiving a completed application concerning the creditor’s approval of, counteroffer or adverse action on the application; failure to provide sufficient information in an adverse action notification, including the specific reasons the application was denied; failure to timely and/or appropriately notify an applicant of either action taken or of incompleteness after receiving an application that is incomplete;
- Section 1002.4(a): Discrimination on a prohibited basis in a credit transaction;
- Section 1002.6(b): Improperly considering receipt of public assistance in a system of evaluating applicant creditworthiness.

In the current reporting period, the Bureau initiated 16 supervisory events, which is six more than the 10 fair lending supervisory events initiated during the prior reporting period. In the current reporting period, the Bureau issued more matters requiring attention (MRAs) or memoranda of understanding (MOUs) than in the prior period. MRAs and MOUs direct entities to take corrective actions and are monitored by the Bureau through follow-up supervisory events.

Consistent with BCFP Bulletin 2018-01,¹⁰² the Bureau issues Supervisory Recommendations (SRs) to address the Bureau’s supervisory concerns related to financial institutions’ compliance management systems. SRs do not include provisions for periodic reporting nor expected timelines for implementation. During the current reporting period, the Bureau provided SRs relating to supervisory concerns related to weak or nonexistent fair lending policies and procedures, risk assessments, fair lending testing, and/or fair lending training.

8.2 Fair lending enforcement¹⁰³

The Bureau has the statutory authority to bring actions to enforce the requirements of HMDA and ECOA. In this regard, the Bureau has the authority to engage in research, conduct investigations, file administrative complaints, hold hearings, and adjudicate claims through the Bureau’s administrative enforcement process. The Bureau also has independent litigating authority and can file cases in federal court alleging violations of fair lending laws under the

¹⁰² https://files.consumerfinance.gov/f/documents/bcfp_bulletin-2018-01_changes-to-supervisory-communications.pdf.

¹⁰³ Section 1016(c)(5) of the Dodd-Frank Act requires the Bureau to include in the semi-annual report public enforcement actions the Bureau was a party to during the preceding year, which is October 1 2018, through September 30, 2019, for this report.

Bureau's jurisdiction. Like other federal bank regulators, the Bureau is required to refer matters to the U.S. Department of Justice (DOJ) when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.¹⁰⁴

During the reporting period, the Bureau filed one fair lending public enforcement action: In the Matter of Freedom Mortgage Corporation (File No. 2019-BCFP-0007).¹⁰⁵ In addition, during this reporting period,¹⁰⁶ the Bureau referred one matter to the DOJ about discrimination pursuant to Section 706(g) of the ECOA.

During the reporting period, the Bureau continued to implement and oversee compliance with the pending public enforcement orders that were entered by federal courts or issued by the Bureau's Director in prior years.

On June 29, 2016, the Bureau and the DOJ announced a joint action against BancorpSouth Bank (BancorpSouth) for discriminatory mortgage lending practices that harmed African Americans and other minorities. The consent order, which was entered by the Court on July 25, 2016, requires BancorpSouth to pay \$4 million in direct loan subsidies in minority neighborhoods¹⁰⁷ in Memphis; at least \$800,000 for community programs, advertising, outreach, and credit repair; \$2.78 million to African-American consumers who were unlawfully denied or overcharged for loans; and a \$3 million penalty.¹⁰⁸ On June 25, 2018, the Bureau announced that participation materials were mailed to potentially eligible African-American borrowers identified as harmed by BancorpSouth's alleged discrimination in mortgage lending between 2011 and 2015, notifying them how to receive redress. Starting on March 15, 2019, checks were mailed to African-American borrowers who were confirmed as eligible to receive a payment.

On February 2, 2016, working with the DOJ, the Bureau ordered¹⁰⁹ Toyota Motor Credit Corporation (Toyota Motor Credit) to pay up to \$21.9 million in damages to harmed African-

¹⁰⁴ See 15 U.S.C. §1691e(h).

¹⁰⁵ See *supra* Section 5.2.

¹⁰⁶ October 1, 2018, through September 30, 2019.

¹⁰⁷ Majority-minority neighborhoods or minority neighborhoods refers to census tracts with a minority population greater than 50 percent.

¹⁰⁸ Consent Order, *United States v. BancorpSouth Bank*, No. 1:16-cv-00118-GHD-DAS (N.D. Miss. July 25, 2016), ECF No. 8, https://files.consumerfinance.gov/f/documents/201606_cfpb_bancorpSouth-consent-order.pdf.

¹⁰⁹ Consent Order in re *Toyota Motor Credit Corporation*, CFPB No. 2016-CFPB-0002 (Feb. 2, 2016), https://files.consumerfinance.gov/f/201602_cfpb_consent-order-touota-motor-credit-corporation.pdf.

American and Asian and/or Pacific Islander borrowers for unlawful discrimination.¹¹⁰ On December 29, 2017, participation materials were mailed to potentially eligible borrowers whom Toyota Motor Credit overcharged for their auto loans notifying them how to participate in the settlement fund. On February 1, 2019, checks were mailed to eligible, participating consumers.

On September 28, 2015, working in coordination with the DOJ, the Bureau ordered¹¹¹ Fifth Third Bank (Fifth Third) to pay \$18 million in damages to harmed African-American and Hispanic borrowers for unlawful discrimination in auto lending.¹¹² On December 17, 2018, participating African-American and Hispanic borrowers, whom Fifth Third overcharged for their auto loans, were mailed checks totaling \$12 million, plus accrued interest.

8.3 Fair lending outreach

The Bureau is committed to hearing from and communicating directly with stakeholders in a variety of ways. The Bureau regularly engages in outreach through consumerfinance.gov, internal stakeholders, private industry, fair lending, civil rights and consumer and community advocates, academia, and other government agencies and regulators to: (1) educate them about fair lending compliance and access to credit issues and (2) hear their views on the Bureau's work to inform policy decisions.

Outreach is accomplished through numerous channels, such as issuing compliance bulletins and statements targeted to industry; publishing blog posts, brochures and reports regarding fair lending issues; delivering speeches, webinars, and presentations addressing fair lending and access to credit issues; and participating in smaller meetings and discussions with external stakeholders, including Federal and State regulators and agencies. During the reporting period, Bureau staff participated in 42 outreach events for fair lending and access to credit issues. In these events, staff worked directly with stakeholders and shared information on fair lending priorities and emerging issues. The Bureau also heard feedback on fair lending issues and how

¹¹⁰ On May 21, 2018, the President signed a joint resolution passed by Congress disapproving the Bureau's Bulletin titled "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act" (Bulletin), which had provided guidance about ECOA and its implementing regulation, Regulation B. Consistent with the joint resolution, the Bulletin has no force or effect. The ECOA and Regulation B are unchanged and remain in force and effect.

¹¹¹ Consent Order, *In re Fifth Third Bank*, CFPB No. 2015-CFPB-0024 (Sept. 28, 2015), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-fifth-third-bank-for-auto-lending-discrimination-and-illegal-credit-card-practices/>.

¹¹² See *supra* note 110.

innovation can promote fair, equitable, and nondiscriminatory access to credit. Some examples of the topics covered include fair lending priorities, innovations in lending, HMDA, small business lending, the Bureau's Tech Sprints Request for Information and the use of alternative data.

8.3.1 Tech Sprints Request for Information

In September 2019, the Bureau, through a collaboration between the Offices of Innovation, Technology and Innovation, and Fair Lending and Equal Opportunity, issued an RFI¹¹³ seeking comments and information to identify opportunities to utilize Tech Sprints to encourage regulatory innovation.¹¹⁴

Used successfully by the Financial Conduct Authority in the United Kingdom, Tech Sprints gather regulators, technologists, financial institutions, and subject matter experts from key stakeholders for several days to work together to develop innovative solutions to clearly identified challenges. Small teams include participants from both the regulator and a diversity of entities to ensure the inclusion of regulatory, industry, and technology perspectives. The regulator assigns a specific regulatory compliance or market problem to each team and challenges the teams to solve or mitigate the problem using modern technologies and approaches. The most promising ideas can then be further developed either in collaboration with the regulator or by external parties.

Specifically, the Bureau is interested in using Tech Sprints to:

- Leverage cloud solutions, machine automated compliance checks that allow for independent validation by regulators, and other developments that may reduce or modify the need for regulated entities to transfer data to the Bureau.
- Continue to innovate HMDA data submission, processing, and publication to help ease burden, increase flexibility, and resolve compliance challenges, while satisfying all legal requirements.
- Identify new technologies and approaches that can be used by the Bureau to provide more cost-effective oversight of supervised entities, effective evaluation of compliance

¹¹³ https://files.consumerfinance.gov/f/documents/cfpb_rfi_tech-sprints.pdf.

¹¹⁴ *Additional activity has occurred with this matter since the end of this reporting period. The deadline for submission of comments and information closed on November 9, 2019. The Bureau is currently considering the responses received.*

and risk, and closer interface with financial industry systems and technology that may include the use, for example, of analytical tools in the review of mortgage origination data.

- Explore other technological approaches to robust and secure data access or exchange between regulated entities and the Bureau.
- Reduce unwarranted regulatory compliance burdens.

In the RFI, the Bureau sought responses to questions, including:

- What regulatory compliance issues, problems, procedures, or requirements could benefit from innovation through a Bureau Tech Sprint?
- What financial technology or other advances hold the most promise for helping modernize regulatory compliance?
- Other than organizing Tech Sprints, what else might the Bureau do to encourage innovation in financial products and services? For example, could advances be encouraged by changes to certain Bureau rules or policies?

8.4 Fair lending coordination

The Bureau's fair lending activity involves regular coordination with other federal and state regulatory and enforcement partners. During the reporting period, the Bureau coordinated its fair lending regulatory, supervisory, and enforcement activities with those of other federal agencies and state regulators to promote consistent, efficient, and effective enforcement of federal fair lending laws. This interagency engagement seeks to address current and emerging fair lending risks. The Bureau, along with the FTC, Department of Housing and Urban Development (HUD), FDIC, Federal Reserve Board (FRB), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), DOJ, and the Federal Housing Finance Agency (FHFA), comprise the Interagency Task Force on Fair Lending. The Bureau chairs the Task Force, which 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 Bureau 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. The agencies use these meetings to also discuss fair lending developments and trends, methodologies for evaluating fair lending risks and violations, and coordination of fair lending enforcement efforts. In addition to these

interagency working groups, the Bureau meets periodically and on an ad hoc basis with DOJ, HUD, and prudential regulators to coordinate the Bureau's fair lending work.

During the reporting period, the Bureau also chaired the FFIEC¹¹⁵ HMDA¹¹⁶/Community Reinvestment Act Data Collection Subcommittee, a subcommittee of the FFIEC Task Force on Consumer Compliance (Task Force), that 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 the Task Force.

¹¹⁵ *Federal Financial Institutions Examination Council.*

¹¹⁶ *Home Mortgage Disclosure Act.*

9. Analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion (OMWI).

During the reporting period, the Bureau published its Annual Report of OMWI activities. The 2018 Annual Report was issued on April 3, 2019.¹¹⁷

In July 2019, the Bureau developed and published the Diversity and Inclusion Strategic Plan Update, FY 2019–FY 2022.¹¹⁸ The Bureau continued executing on objectives and strategies outlined in the Bureau’s Strategic Plan FY 2018–2022,¹¹⁹ which complements and reinforces the Diversity and Inclusion Strategic Plan FY 2019–2022.

Specifically, Objective 3.2 of the Bureau’s Strategic Plan commits the Bureau to “maintain a talented, diverse, inclusive and engaged workforce.” The plan requires the Bureau to achieve this objective with specific strategies, which are:

- Establish and maintain human capital policies and programs to help the Agency effectively and efficiently manage a talented, diverse, and inclusive workforce.
- Offer learning and development opportunities that foster a climate of professional growth and continuous improvement.

¹¹⁷ <https://www.consumerfinance.gov/data-research/research-reports/fy-2018-office-minority-and-women-inclusion-annual-report-congress/>.

¹¹⁸ <https://www.consumerfinance.gov/data-research/research-reports/cfpb-diversity-and-inclusion-strategic-plan-update-2019-2022/>.

¹¹⁹ <https://www.consumerfinance.gov/about-us/budget-strategy/strategic-plan/>.

- Develop human capital processes, tools, and technologies that continue to support the maturation of the Bureau and the effectiveness of human resource operations.
- Build a positive work environment that engages employees and enables them to continue doing their best work.
- Maintain comprehensive equal employment opportunity compliance and diversity and inclusion programs, including those focused on minority and women inclusion.

9.1 Increasing workforce diversity

As of September 2019, an analysis of the Bureau’s current workforce reveals the following key points:

- Women represent 50 percent of the Bureau’s workforce in FY 2019 ¹²⁰ with a one percent increase from FY 2018. ¹²¹
- Minorities (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander, American Indian/Alaska Native, and employees of Two or More races) represent 41 percent of the Bureau workforce in FY 2019 with a one percent increase from FY 2018.
- As of September 30, 2019, 12.9 percent of Bureau employees on permanent appointments identified as individuals with a disability. Of the permanent workforce, 3.4 percent of employees identified as individuals with a targeted disability. As a result, the Bureau continues to exceed the 12 percent workforce goals for employees with disabilities and two percent for employees with targeted disabilities—in both salary categories as required in the EEOC’s Section 501 regulations.

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

- Staffing:
 - The Bureau continues to enhance diversity by recruiting, hiring, and retaining highly qualified individuals from diverse backgrounds to fill positions at the Bureau.
 - During the reporting period, the Bureau conducted a comprehensive Staffing Planning initiative which resulted in new headcount allocations for each Division.

¹²⁰ October 1, 2018–September 30, 2019.

¹²¹ October 1, 2017–September 30, 2018.

- The Bureau had 59 new hires which included 32 (54.2 percent) women and 20 (33.9 percent) minorities.
- The Bureau utilized the student volunteer internship program for the summer of 2019 to host 33 students in positions across the Bureau.
- The Bureau also utilized the student volunteer internship program, other professional development programs, and recruitment efforts directed to reach veterans and applicants with disabilities to assist in the Bureau’s workforce needs.
- Workforce engagement:
 - To promote an inclusive work environment, the Bureau focuses on strong engagement with employees and utilizes an integrated approach of education, training, and engagement programs that ensures diversity and inclusion and non-discrimination concepts are part of the learning curriculum and work environment. Employee resource groups, cultural education programs, and diversity and inclusion training are key components of this effort.

9.2 Increasing contracting diversity

In accordance with the mandates in Section 342(b)(2)(B) of the Dodd-Frank Act, Section 2.4 of the Bureau’s Diversity and Inclusion Strategic Plan describes the efforts the Bureau takes to increase contracting opportunities for diverse businesses including Minority-owned and Women-owned Businesses (MWOBs). The Bureau’s OMWI and Procurement offices collectively work to increase procurement opportunities for participation by MWOBs.

9.2.1 Outreach to contractors

The Bureau promotes opportunities for the participation of small and large Minority-owned and Women-owned Businesses by:

- Actively engaging Bureau business units with MWOB contractors throughout the acquisition cycle.
- Developing a quarterly “How to Do Business with the CFPB” forum series that includes technical assistance outreach and other resources—such as procurement forecasts of

upcoming contract opportunities—digitally on the Bureau’s website.¹²² OMWI conducted the forum pilot in July 2019 and launched the series in November 2019.¹²³

- Participating in three national supplier diversity conferences that help to foster business partnerships between the federal government, its U.S. prime contractors, minority-owned businesses, and advocacy for women business owners and entrepreneurs.

As a result of these efforts, 31.3 percent of the \$60 million in contracts that the Bureau awarded or obligated during the reporting period went to MWOBs. The Bureau’s spend with MWOBs in each MWOB category increased since the last report. The following table represents the total amount of dollars spent/disbursed to MWOBs as a result of contract billing.

TABLE 3: DOLLARS SPENT TOWARD MINORITY-OWNED AND WOMEN-OWNED BUSINESSES.¹²⁴

Dollars Spent	Percent of Total	MWOB Category
\$9,000,110	14.9%	Women Owned
\$1,059,632	1.8%	Black/African American
\$1,912,289	3.2%	American Indian/Alaskan Native
\$10,080,536	16.7%	Asian/Pacific Islander American
\$874,697	1.5%	Hispanic American

9.3 Diversity within the Bureau contractors’ workforces

In accordance with the mandates in Section 342(c)(2) of the Dodd-Frank Act, OMWI has developed Good Faith Effort (GFE) standards for the collection and assessment of documentation of its contractor’s workforce and subcontractor diversity practices. The Bureau

¹²² <https://www.consumerfinance.gov/about-us/doing-business-with-us/>.

¹²³ *Doing Business with the CFPB series launched November 2019.*

¹²⁴ *Data in this table is for FY 2019 through September 30. A single Contractor may qualify for more than one socioeconomic category; total numbers count each Contractor only once.*

continues to include a GFE clause in all CFPB contracts that notifies Contractors of their responsibilities under Dodd-Frank.

9.4 Assessing diversity of regulated entities

Pursuant to Section 342 (b) (2) (c) of the Dodd-Frank Act, CFPB developed a process to assess the diversity policies and practices of the entities the Bureau regulates. The Bureau conducted a multi-pronged outreach strategy including direct entity contact, meetings with trade organizations, and joint outreach with other federal regulators to engage entities to participate in the voluntary self-assessment process in the Fall 2019. The Bureau developed an online data collection tool to collect and manage submitted assessment data. The tool is available on the Bureau's website. The Bureau will continue to conduct direct outreach to encourage entities to assess their diversity and inclusion policies and practices and submit their self-assessment to the Bureau.

APPENDIX A: ADDENDUM

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)¹²⁵ and the Electronic Fund Transfer Act (EFTA)¹²⁶ require the Consumer Financial Protection Bureau (CFPB or Bureau) 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)¹²⁷ requires reporting on supervisory and enforcement activities with respect to compliance by credit card issuers with applicable Federal consumer protection statutes and regulations.¹²⁸

This Report provides the information required by TILA, EFTA, and the CARD Act for the period January 1, 2018–December 31, 2018.¹²⁹ This Report describes the Bureau’s and other agencies’

¹²⁵ 15 U.S.C. § 1613.

¹²⁶ 15 U.S.C. § 1693p.

¹²⁷ 15 U.S.C. § 1616(e).

¹²⁸ In 2012, the Federal Reserve Board (FRB) and the Bureau agreed that responsibility for the reporting required by the CARD Act passed to the Bureau under the terms of the Consumer Financial Protection Act of 2010.

¹²⁹ In order to facilitate reporting on an interagency basis, this TILA, EFTA, and CARD Act Report is based on the full calendar year of 2018. The TILA, EFTA, and CARD Act Report containing 2016 and 2017 calendar year

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),¹³⁰ and Regulation E (for EFTA). It also provides an assessment of the extent of compliance with the provisions of TILA, EFTA, and their implementing regulations.

information can be found on the Bureau's public website at <https://www.consumerfinance.gov/data-research/research-reports/annual-report-to-congress-on-tila-efta-and-card-act/>. Prior reports can be found in the Bureau's 2013–2016 Fall Semi-Annual Reports to Congress, and as with this 2018 report, future reports will be included as an addendum in the Bureau's Fall Semi-Annual Report.

¹³⁰ The Federal Trade Commission's (FTC) enforcement action summaries in this Report also include references to violations of the Consumer Leasing Act (CLA) and Regulation M. The CLA is an amendment to TILA. See 15 U.S.C. § 1667-1667f.

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

TILA: Public enforcement actions and reimbursements

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

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

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

- the Bureau,
- the Federal Deposit Insurance Corporation (FDIC),
- the Federal Reserve Board (FRB),
- the National Credit Union Administration (NCUA),
- the Office of the Comptroller of the Currency (OCC),
- the Federal Trade Commission (FTC),
- the Department of Transportation (DOT),
- the Farm Credit Administration (FCA), and

- the Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA).¹³¹

During the reporting period of January 1, 2018, through December 31, 2018, the following agencies reported public enforcement actions under TILA, including:

TABLE 1: 2018 PUBLIC ENFORCEMENT ACTIONS RELATED TO TILA

Agency	Summary
CFPB	Issued a consent order against a bank for failing to reevaluate and reduce the annual percentage rates (APRs) for certain consumer credit card accounts and for failing to have reasonable written policies and procedures in place to conduct APR reevaluations, in violation of TILA and Regulation Z.
	Issued a consent order against a small-dollar lender for, among other violations, failing to disclose properly the finance charges associated with its auto title loans and for using advertisements that failed to disclose the APR and other information, in violation of TILA and Regulation Z.
	Filed a complaint against a company for, among other violations, allegedly failing to disclose for its loans a measure of the cost of credit, expressed as a yearly rate, in violation of TILA and Regulation Z.
FDIC	Issued three public enforcement actions related to violations of Regulation Z.
DOT	Issued a consent order against an airline for, among other violations, failing to issue timely refunds with respect to purchases of certain tickets for children under the age of two, in violation of TILA and Regulation Z.
FTC	Filed a complaint against a group of four auto dealers for, among other violations, allegedly failing to disclose required terms in social media advertisements in violation of TILA and Regulation Z (credit) and CLA and Regulation M (leases).

No other agencies with TILA enforcement authority reported taking any public enforcement actions related to TILA during the January 1, 2018, through December 31, 2018, time period.

¹³¹ The Grain Inspection, Packers, and Stockyards Administration (GIPSA) was eliminated as a standalone agency within the U.S. Department of Agriculture (USDA) in 2017. The functions previously performed by GIPSA have been incorporated into the Agricultural Marketing Service (AMS), and TILA and EFTA reporting now comes from the Packers and Stockyards Division, Fair Trade Practices Program, AMS.

For TILA and Regulation Z violations found during the same time period, the CFPB, FDIC, FRB, and NCUA required 46 institutions to reimburse an estimated 1.8 million consumers approximately \$337.4 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. 15 U.S.C. § 1693(b).

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 Bureau 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, and consumer reliance upon electronic payments relative to that of non-electronic payments is increasing. According to the 2018 Survey of Consumer Payment Choice, the average consumer makes 72 payments a month. For the average consumer, 60.0 percent of payments use a debit, credit, or prepaid card; 28.8 percent use cash, paper checks, or some other paper payment instrument; and 10.4 percent use some other form.¹³² Consumer use of cash has been steady since 2010; however, check use has declined steadily and now makes up five percent of all payments.¹³³ Check use is diminishing even among consumers that use checking accounts: while 90 percent of consumers had a checking account, only 78 percent had paper checks, down from 90 percent in 2008.¹³⁴ Debit (and credit) card payments have generally increased to replace the declining check and cash

¹³² The remaining 0.8 percent of payments are direct deductions from income. See Kevin Foster, Claire Green, and Joanna Stavins, “The 2018 Surveys of Consumer Payment Choice: Summary Results.” Available at: <https://www.frbatlanta.org/-/media/documents/banking/consumer-payments/survey-of-consumer-payment-choice/2018/2018-survey-of-consumer-payment-choice.pdf>, pp. T-6.

¹³³ *Id.*

¹³⁴ *Id.*

share.¹³⁵ In addition, more than one third of all consumers had made a mobile payment, regardless of the underlying electronic method.¹³⁶

Within the universe of electronic payments, consumers conduct an array of electronic fund transfers (EFTs), including debit card, electronic benefit transfer (EBT) card, prepaid card (including gift card), automated clearinghouse (ACH), and mobile phone-enabled person-to-person (P2P) payments. In addition, EFTs include consumer automated teller machine (ATM) transactions and certain remittance transfers.

Consumers conduct over 85 billion debit, EBT, and prepaid card payments and transact over \$3 trillion across transaction (non-credit) card accounts annually. According to the most recent Federal Reserve Payments Study, debit card volume totaled \$2.75 trillion and 72.7 billion transactions in 2018.¹³⁷ That same year, EBT payments totaled approximately \$60 billion and 2.2 billion transactions.¹³⁸ Further, prepaid card payments totaled \$290 billion and 11.6 billion transactions in 2018.¹³⁹ According to the 2018 Survey of Consumer Payment Choice, slightly over 80 percent of consumers owned a debit card and approximately half of consumers owned a prepaid card.¹⁴⁰

Although consumers tend to conduct fewer ACH transactions relative to card transactions, the consumer dollar volume over ACH is higher. ACH volume totaled approximately 23 billion transactions and \$51.2 trillion in 2018.¹⁴¹ These totals increased approximately 7.0 percent and 9.4 percent, respectively, from 2017.¹⁴² The Bureau estimates consumer account debits represent slightly more than half of all ACH transaction volume and over 40 percent of ACH dollar volume.¹⁴³

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ Available at: <https://www.federalreserve.gov/newsevents/pressreleases/files/2019-payments-study-20191219.pdf>.

¹³⁸ *Id.* Note, however, that many of the requirements of EFTA and Regulation E do not apply to EBT systems that are established under State or local law or administered by a State or local government.

¹³⁹ *Id.*

¹⁴⁰ *Supra* note 132.

¹⁴¹ NACHA press release. Available at <https://www.nacha.org/news/ach-network-moves-23-billion-payments-and-51-trillion-2018>.

¹⁴² NACHA press release. Available at <https://www.nacha.org/news/ach-network-volume-and-value-hit-new-highs-2017>.

¹⁴³ For reference, in 2015, consumer ACH debit volume totaled approximately 12.5 billion transactions and \$18.3 trillion, while the ACH Network processed a total of 24B transactions totaling \$41.6T volume. See NACHA press

P2P represents an emerging and fast-growing category of EFTs. The P2P EFT marketplace is challenging to size for several reasons. First, a number of firms facilitate P2P EFTs over a variety of proprietary platforms. In addition, many P2P services utilize legacy EFT platforms to transmit payment messages and settle transactions. As a result, P2P transaction volume is often conflated with that of the legacy payment systems upon which the P2P services rely. Further, the Bureau's Prepaid Account Rule, which became effective on April 1, 2019, established a definition for prepaid accounts (which includes certain mobile wallets) and explicitly brought prepaid accounts within the scope of Regulation E. Going forward, this rule could expand the universe of payments that are subject to Regulation E.¹⁴⁴ An industry analyst reported, based on survey results and estimates, that 144 million, or 57 percent of U.S. consumers made a P2P payment in 2017.¹⁴⁵

ATM transaction volume has decreased slightly in recent years. According to the most recent Federal Reserve Payments Study, ATM cash withdrawals totaled 5.1 billion in 2018, down from 5.2 billion in 2015. The total value of ATM withdrawals, however, increased from \$0.77 trillion to \$0.80 trillion over the same span. The average value of ATM cash withdrawals increased from \$146 in 2015 to \$156 in 2018.¹⁴⁶

The Bureau published the Remittance Rule assessment report on October 26, 2018, which includes data on remittance transfers by financial institutions, including volume of transfers, dollar volume, and information about the structure of the remittance market.¹⁴⁷ In 2017, consumers in the U.S. transferred over 325 million remittances worth more than \$175 billion. Money services businesses (MSBs) conducted 95.6 percent of all remittance transfers and accounted for 54.6 percent of the dollar volume.¹⁴⁸

The incremental costs associated with the EFTA are difficult to quantify because it is difficult 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 Bureau will continue to consider the potential benefits and costs to consumers and financial institutions in

release. Available at <https://www.nacha.org/news/ach-volume-grows-56-percent-adding-13-billion-payments-2015-0>.

¹⁴⁴ See 12 CFR 1005.3(b)(1) for the general definition of an EFT within Regulation E. The Prepaid Rule expands the definition of an account within Regulation E at 12 CFR 1005.2(b)(3)(i). Comment 12 CFR 1005.2(b)(3)(i)-10 addresses accounts with a primary function of conducting P2P transfers.

¹⁴⁵ Talie Baker and Judy Fishman, *Person-to-person Payments in the U.S.: The Case for Real Time*, Aité Group (Feb. 2019), available at <https://aitegroup.com/report/person-person-payments-us-case-real-time>.

¹⁴⁶ *Supra* note 137.

¹⁴⁷ Available at https://files.consumerfinance.gov/f/documents/bcfr_remittance-rule-assessment_report.pdf.

¹⁴⁸ *Id.*

evaluating new rules under EFTA. The Bureau 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 Bureau,
- the FDIC,
- the FRB,
- the NCUA,
- the OCC,
- the FTC,
- the DOT, and
- the Securities and Exchange Commission.

During the reporting period of January 1, 2018, through December 31, 2018, the following agencies reported public enforcement actions under EFTA, including:

TABLE 2: 2018 PUBLIC ENFORCEMENT ACTIONS RELATED TO EFTA

Agency	Summary
FDIC	<p>Issued three public enforcement actions related to violations of Regulation E.</p> <p>Filed a complaint and obtained a temporary restraining order and asset freeze against a group of Internet marketers and sellers of products including skin creams and electronic cigarettes for violating EFTA and Regulation E by allegedly failing to obtain from consumers a signed or similarly authenticated written authorization for preauthorized electronic fund transfers from their accounts, and for failing to provide them a copy of the authorization.</p>
FTC	<p>Filed a complaint and obtained a temporary restraining order against a group of Internet marketers of personal care products and dietary supplements for allegedly debiting consumers' bank accounts on a recurring basis without obtaining a written authorization from them or providing them a copy of the authorization in violation of EFTA and Regulation E.</p> <p>Filed a complaint and obtained a temporary restraining order against a</p>

Agency	Summary
	<p>company marketing products for smoking cessation and weight loss for violating EFTA and Regulation E by allegedly debiting consumers' bank accounts on a recurring basis without obtaining a written authorization or providing consumers with a copy of the authorization.</p> <p>Obtained a settlement against a health products company and its owner for, among other things, allegedly obtaining and charging consumers' debit card numbers without authorization in violation of EFTA.</p> <p>Obtained court orders against skincare marketers for violating EFTA and Regulation E by allegedly failing to obtain written authorizations in a manner that complies with EFTA.</p>

No other agencies with EFTA enforcement authority reported taking any public enforcement actions related to EFTA during the January 1, 2018, through December 31, 2018, time period.

For EFTA and Regulation E violations found during the same time period, the CFPB and NCUA required 11 institutions to reimburse an estimated 124,855 consumers approximately \$6.8 million. This amount includes reimbursements required by non-public supervisory or enforcement actions.

CARD Act: Public enforcement actions and reimbursements

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

During the reporting period of January 1, 2018, through December 31, 2018, the following agencies reported public enforcement actions under the applicable Federal consumer financial protection laws:

TABLE 3: 2018 ENFORCEMENT ACTIONS RELATED TO THE CARD ACT OR SECTION 5 OF THE FTC ACT

Agency	Summary
OCC	Issued a consent order against a bank for, among other things, a discrepancy between the disclosed and actual activation dates of a credit-card backed overdraft protection product, in violation of Section 5 of the FTC Act.

No other agencies reported taking public enforcement actions related to the CARD Act or other applicable Federal consumer financial laws during the January 1, 2018, through December 31, 2018, 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.¹⁴⁹ The agencies did report, however, that more institutions were cited for violations of Regulation Z than Regulation E over the 2018 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 each reporting period.¹⁵⁰

For the reporting period of January 1, 2018, through December 31, 2018, the most frequently cited violations of Regulation Z across the FFIEC agencies were:

- 12 C.F.R. § 1026.19(e) – On closed-end credit, failure to disclose good faith estimates of the disclosures.
- 12 C.F.R. § 1026.37(a) – For each transaction subject to 12 C.F.R. § 1026.19(e), failure to disclose the general information contained in this section.
- 12 C.F.R. § 1026.38(a) – Failure to disclose the title of the form, “Closing Disclosure,” using that term for certain mortgage transactions.
- 12 C.F.R. § 1026.38(f) – Failure to provide consumers with specific information under the heading “Loan Costs” on the Closing Disclosure.

For the reporting period of January 1, 2018, through December 31, 2018, 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.

¹⁴⁹ 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.

¹⁵⁰ Because the FFIEC agencies use different methods to compile data, the information presented here supports only general conclusions.

- 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 2018, the FTC issued a staff perspective on its earlier military consumer financial workshop, which brought together military consumer advocates, government representatives, military legal clinics, all service branches, and industry representatives to examine financial issues and scams that can affect military consumers, including servicemembers and veterans. Among other things, the staff perspective discussed protections under the Federal consumer financial protection laws, including TILA, CLA, and EFTA. The FTC also issued several blog posts discussing the FTC's cases and other initiatives in the areas of automobiles, military consumer issues, and payday lending. The FTC released a blog post for businesses about pet leasing, a relatively new practice, and advised businesses about the need to comply with the CLA, by providing lease terms in writing, clearly and conspicuously to consumers before they sign lease agreements, and for retailers that advertise pet leases to include required lease terms in their promotions. The FTC issued blog posts for consumers and businesses providing guidance about negative option plans and “free” trial offers and recent cases on these issues, including addressing EFTA and Regulation E violations and offering tips to consumers to avoid incurring automatic debits to their accounts. The FTC also released a blog post on card skimmers at gas pumps and illegal card readers, with guidance about Federal law protections (e.g., TILA and EFTA) for consumers as to unauthorized credit card purchases and electronic fund transfers.