



Preparing consumer finance today for regulatory enforcement tomorrow

EY Forensic & Integrity Services
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Consumer finance continues to be one of the most heavily regulated segments of the financial services industry, with multiple regulatory agencies focused on the industry at both the federal and state levels. The Consumer Financial Protection Bureau (CFPB) is the principal federal regulator responsible for enforcement of consumer financial law.¹ The digitization of consumer finance and evolving regulations have increased compliance risk and, consequently, regulatory enforcement. Understanding regulatory priorities and the leading practices for responding to regulatory inquiries is essential for financial organizations.

Key CFPB enforcement priorities for 2023

Junk fees

The CFPB launched an initiative aimed at assessing the reasonableness of fees charged to consumers by financial institutions that it has labeled “junk fees.” The CFPB defines junk fees as fees that “far exceed the marginal cost of the service they purport to cover” (e.g., convenience fees for processing payments, minimum balance fees). As a result, many large financial institutions have proactively announced the elimination or reduction of some fees.

Expansive policies on UDAAP and fair lending enforcement and discrimination

The CFPB is expanding fair lending enforcement to cover all credit products and enhancing its unfair, deceptive, or abusive acts and practices (UDAAP) examination procedures to further protect consumers from discriminatory conduct.

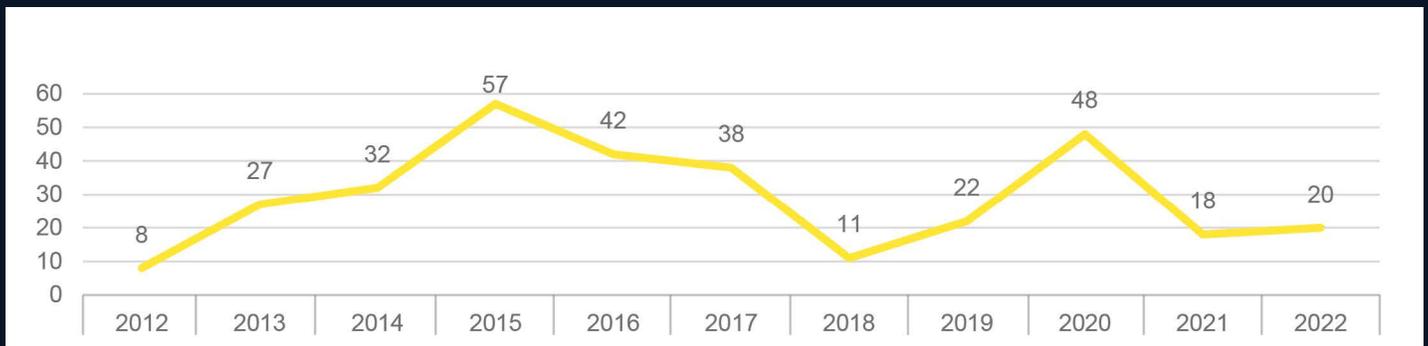
Corporate recidivism

A repeat offender unit has been created within CFPB’s Supervision Division to focus on identifying the root causes of recurring violations. The unit will recommend and pursue remedies to hold companies accountable for failing to comply with federal law. It will be focused on designing a model to review and monitor recidivists to reduce repeat violations in the future. However, questions remain as to what criteria determines a “repeat offense.” In December 2022, the CFPB proposed a rule² that would require nonbanks to report any state and local court orders or judgments involving consumer financial products. The bureau intends to create a registry for nonbanks to submit information about enforcement orders in order to facilitate the repeat offenders unit.

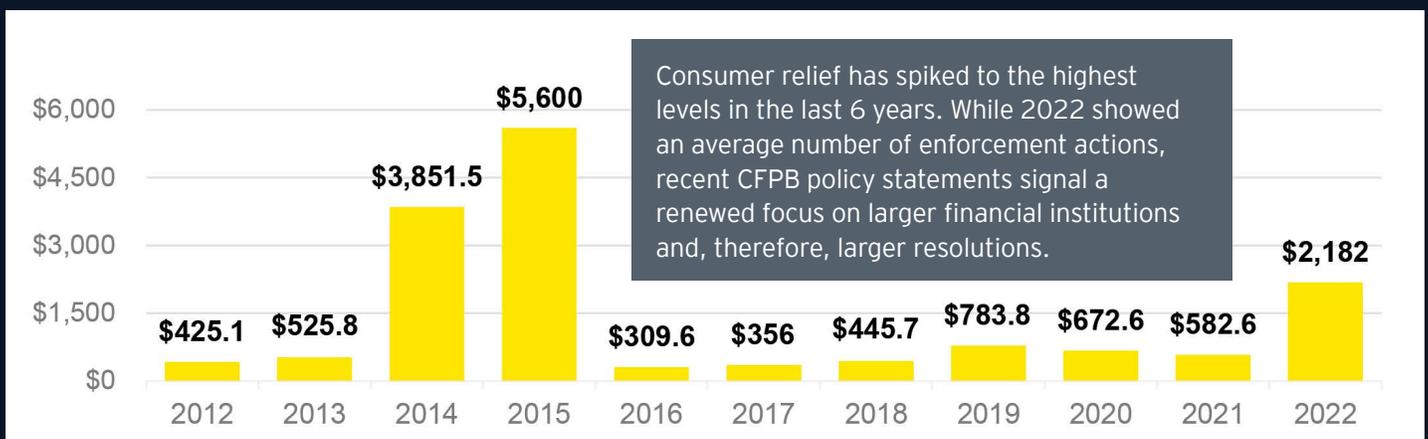
Money transfer service fraud and scams

Fraudulent money transfers via peer-to-peer payment platforms may soon be the responsibility of the banks. The CFPB has stated it is holding financial institutions accountable for their investigation and error-resolution obligations.

Enforcement actions by year of filing date³



Consumer relief by year of filing date (millions)³



Managing CFPB scrutiny requires forward thinking

- ✓ **Consult with** legal counsel familiar with CFPB investigations
- ✓ **Gather and preserve** all information; objectively assess your situation
- ✓ **Consider** the role of data analytics in regulatory inquiries
- ✓ **Focus on data** quality and consistency
- ✓ **Negotiate the terms** of the information request with the agency
- ✓ **Maintain good faith** cooperation and open communication with the regulatory agency
- ✓ **Maintain** timeliness and accuracy of responses

¹ [About Consumer Financial Protection Circulars | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#)

² [CFPB Proposes Registry to Detect Repeat Offenders | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#)

³ [Enforcement Actions | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#)

Key takeaway

In order to be prepared for regulatory inquiries, **assess how each of the CFPB priorities applies to your business.** Start by asking questions and gathering information on your institution today.

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