

# Consumer Financial Services Outlook 2019

Wednesday, January 9, 2019, 2:00 pm – 3:15 pm ET

## Panelists

**R. Andrew Arculin**  
Partner

**Andrew E. Bigart**  
Partner

**Allyson B. Baker**  
Partner

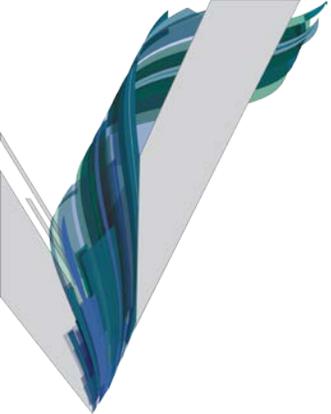
**Meredith L. Boylan**  
Counsel

**Ellen T. Berge**  
Partner

**Joshua H. Raymond**  
Partner

**Laura R. Biddle**  
Partner

**Jonathan L. Pompan**  
Partner  
Moderator



# Welcome to Today's Webinar

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# Today's Discussion

- New Congress: Policymaking and Investigations
- State Attorneys General and Regulators
- New CFPB Management, FTC Update, and Banking Agencies
- Rulemaking Updates: Small Dollar Lending, Debt collection, and more.
- State Legislative and Regulatory Trends
- Forging Ahead with Compliance Initiatives
- Enforcement and Litigation Trends
- Future of Bank FinTech Partnerships and Chartering

# Welcome and today's panelists...



**R. Andrew Arculin**  
Partner



**Allyson B. Baker**  
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**Jonathan L. Pompan**  
Partner  
Moderator



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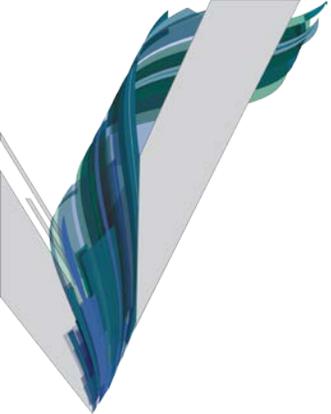
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Counsel



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Partner



# New Congress: Policymaking and Investigations



# Overview of the Political and Legislative Landscape



## Speaker of the House



Rep. Nancy Pelosi

Elected by the whole of the House of Representatives, the Speaker acts as leader of the House and combines several roles: the institutional role of presiding officer and administrative head of the House, the role of leader of the majority party in the House, and the representative role of an elected member of the House. The Speaker of the House is second in line to succeed the President, after the Vice President.

## Democratic Leadership



Majority Leader

Rep. Steny Hoyer

Represents Democrats on the House floor.



Majority Whip

Rep. James Clyburn

Assists leadership in managing party's legislative program.

## Republican Leadership



Republican Leader

Rep. Kevin McCarthy

Represents Republicans on the House floor.



Republican Whip

Rep. Steve Scalise

Assists leadership in managing party's legislative program.

# Overview of the Political and Legislative Landscape



## Political Party Leaders

### Republican Leadership



*Republican Leader*  
McConnell, Mitch  
(R-KY)



*Assistant Republican Leader*  
Thune, John  
(R-SD)



*Republican Conference Chairman*  
Barrasso, John  
(R-WY)



*Vice Chairman of the Senate Republican Conference*  
Ernst, Joni  
(R-IA)



*Republican Policy Committee Chairman*  
Blunt, Roy  
(R-MO)



*Republican Senatorial Committee Chairman*  
Young, Todd  
(R-IN)

### Democratic Leadership



*Democratic Leader Chairman of the Conference*  
Schumer, Charles E.  
(D-NY)



*Whip*  
Durbin, Richard J.  
(D-IL)



*Assistant Democratic Leader*  
Murray, Patty  
(D-WA)



*Chairwoman of Policy & Communications Committee*  
Stabenow, Debbie  
(D-MI)



*Vice Chair of Conference*  
Warren, Elizabeth  
(D-MA)



*Vice Chair of Conference*  
Warner, Mark R.  
(D-VA)

# Consumer Financial Services Policy in the 116<sup>th</sup> Congress

## New Congress:

- Pressure to pass legislation to “reign in Wall Street” and “protect consumers.”
- While not a focal point for Pelosi, she will accommodate Chairwoman Waters and a new crop of Freshman members and allow Waters’ to bring bills to the full House.

## Rep. Waters assuming Chair of Financial Services Committee:

- Pelosi ally in her 15<sup>th</sup> Congressional Term, has long focused on using her seat on the Committee to raise issues of consumer protection. She will have a new platform as Chair.
- “I will prioritize protecting consumers and investors from abusive financial practices.”
- Waters refers often to the “lessons of 2008” and the financial crisis. She will preside over the Committee through that lens.
- Waters will split her agenda and Committee time between a legislating and investigating.

**Ranking Member Patrick McHenry (R-NC):** skilled and aggressive debater, will be an effective counterweight to Waters.





# House Financial Services Committee Agenda

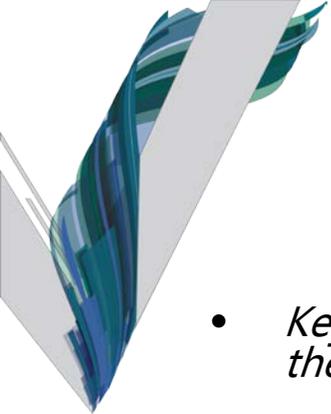
## *Legislative:*

- Bolstering the CFPB and undoing Mulvaney's organizational reforms.
- Consumer Privacy--National Standard for data protection, including legislation addressing credit bureaus
- Community Reinvestment Act (in response to OCC actions)
- Punishing large-bank "bad actors" (i.e., Megabank Accountability and Consequences Act).
- GSE Reform—possible, but will need some bi-partisan consensus

## *Investigative: "I'm not going to spend all of time investigating. Just SOME of my time investigating."*

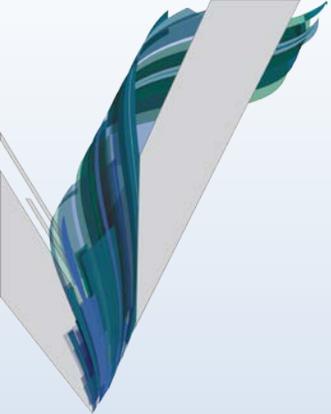
- Any financial institutions with Trump Organization affiliations
- Any financial institutions having made headlines for consumer fraud or misconduct
- Recent CFPB actions under Mulvaney including settlements of ongoing cases and rulemakings (i.e. Payday / Small Dollar Lending)
- Credit Bureaus and data breach
- HUD actions, including Fair Housing enforcement
- Diversity and inclusion in large financial institutions

*NOTE: Companies that have had dealings with the CFPB or other regulators may be called on to provide information, if not actually testify, as the Committee conducts oversight of the Federal financial regulators.*



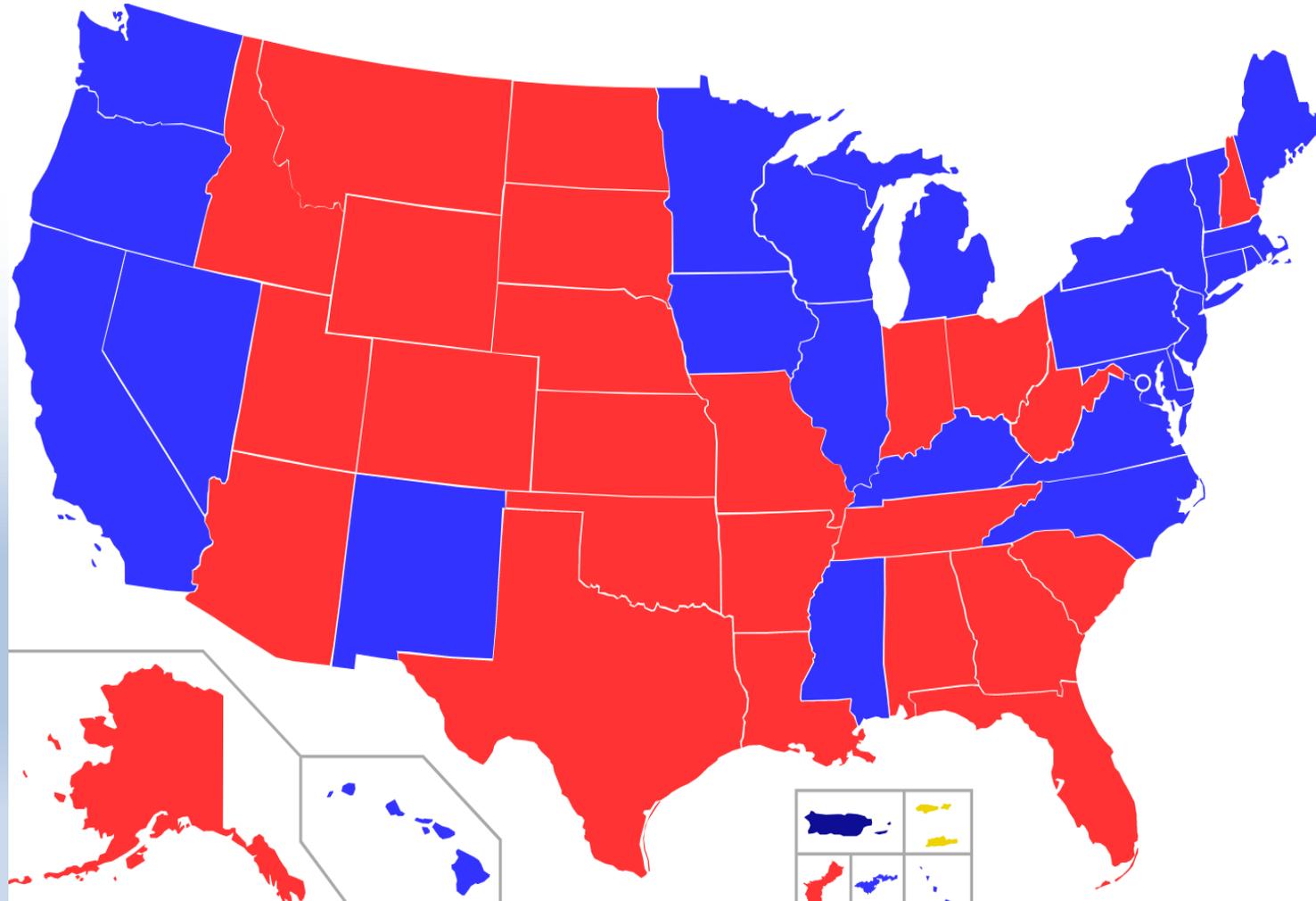
# House Committee Players

- *Key Members for consumer finance: Long time members, largely more moderate; newer members will pull the committee to the left.*
  - Rep. **Gregory Meeks** (D-NY) or Clay (MO) Consumer Protection, Financial Institutions
  - Rep. **Emanuel Cleaver** (D-MO) or **Rep. Lacy Clay** (D-MO) Housing and Insurance
  - Rep. **Al Green** (D-TX) Oversight and Investigations subcommittee (unchanged)
- **New Players:** Liberal Freshman members pushing to get on the Committee to help tilt the Committee leftward. Occasio-Cortez, etc.
- **New Subcommittee**--Diversity and Inclusion subcommittee
- **Senate Banking Committee**
  - Chairman **Crapo** and **Brown** to continue as Chair and Ranking member; *Sens. Brown and Warren will use this as a platform to raise issues around the CFPB and Consumer issues.*
  - Limited agenda—limited ability to work in a bi-partisan way
  - Less Senate Moderates
  - One or more Presidential Candidates

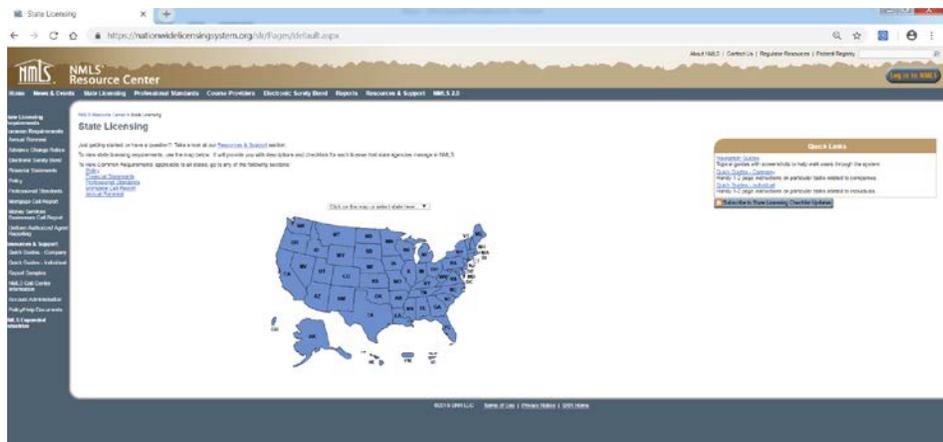


# State Attorneys General and Regulators

# State Attorneys General



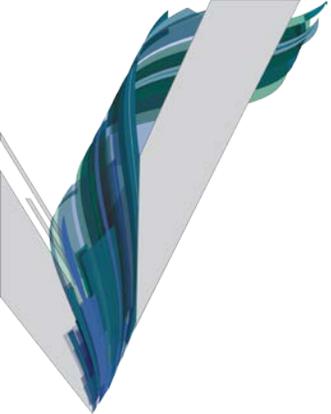
# State Regulatory Agencies on the Front Lines



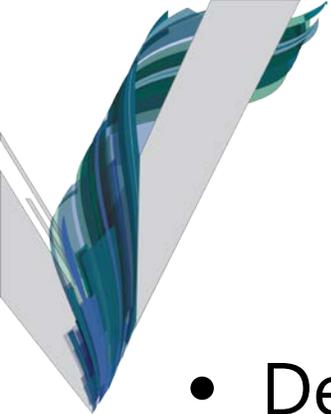


# Following the “Year of the Democratic Attorney General”

- Democratic Attorneys General Association announced that 2018 was the “Year of the Democratic Attorney General” (democraticags.org)
  - Post 2018 election: Democratic AGs hold 27 offices
  - 7 incumbent wins; 4 flipped seats (Colorado, Michigan, Nevada, and Wisconsin)
- “Democrats plan to build upon dozens of existing lawsuits fighting Mr. Trump’s attempt to undercut the Affordable Care Act, roll back environmental regulations and install hard-line immigration policies. They are also targeting Mr. Trump’s continued ties to his business empire, arguing he’s improperly profiting from his presidency.” Wall Street Journal (Dec. 10, 2018)
- Republican Attorneys General will continue to support deregulation, stating that the President has “unleash[ed] the American economy from \$33 billion in federal regulatory burdens since taking office. His executive order requiring federal agencies repeal two regulations for each enacted has saved billions in compliance and regulatory costs, freeing up money that businesses can now use to invest in new projects and employees.... Deregulatory success is good news, especially for small businesses that are not able to mitigate compliance costs as effectively as large conglomerates. President Trump’s deregulatory push not only removes back-breaking costs and barriers for small businesses and aspiring entrepreneurs; but it also increases competition, benefitting consumers.” Louisiana State Attorney General Jeff Landry, The Hayride (Jan. 2, 2019)

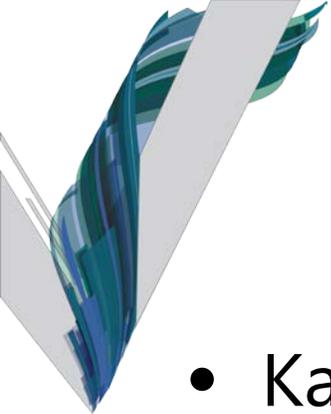


# **New CFPB Management, FTC Update, and Banking Agencies**



# Change in CFPB Management

- December 6, 2018: Kathy Kraninger named Director after a 50-49 vote in the Senate.
- What does this mean?
  - Kraninger “officially halted all ongoing efforts” to change the Bureau’s name to the BCFP. Sen. Elizabeth Warren has asked for an investigation into the cost of the prior name-change campaign
  - Kraninger will launch a three-month “listening tour” across offices
  - Data security is expected to be a Bureau priority
  - Planning to consider Payday Rule, ECOA/ Disparate Impact
  - Will likely field inquires from Democrat-led House Financial Services Committee



# CFPB Under New Management

- Kathy Kraninger: Director (Confirmed 12/18)
- Brian Johnson: Acting Deputy Director/Principal Policy Director
- **Policy Associate Directors** ("PAD"): New political positions instituted by former Acting Director Mulvaney
  - Eric Blankenstein (Supervision, Enforcement & Fair Lending)
  - Tom Pahl (Research, Markets & Regulations)
  - Anthony Welcher (External Affairs)
  - Sheila Greenwood (Consumer Education & Engagement)
- Other offices
  - Paul Watkins, Office of Innovation



# CFPB Under Director Kraninger

- No longer BCFP, but what else?
- Policy Focus:
  - PADs expected to be heavily involved in policy-making.
  - Philosophy will center more on disclosures and consumer choice, less on paternalistic rulemaking and product-based judgments (payday loans, riskier mortgages, etc.).
  - Rulemakings to focus more on safe harbors and disclosures.
  - Enforcement will be vigorous but without “presumptions of guilt” and will consider costs and benefits to consumers of action.



# Federal Trade Commission in 2019



Commissioner  
Noah Joshua  
Phillips (R)



Commissioner  
Christine S.  
Wilson (R)



Chairman  
Joseph J.  
Simons (R)



Commissioner  
Rohit Chopra  
(D)



Commissioner  
Rebecca Kelly  
Slaughter (D)

Bureau of  
Competition

Bureau of  
Consumer  
Protection

Bureau of  
Economics

## Bureau of Consumer Protection - Other Key Contacts:

- **Head of Bureau of Consumer Protection: Andrew Smith**
- **Associate Director, Division of Financial Practices: Malini Mithal**
- **Associate Director, Division of Marketing Practices: Lois Greisman**
- **Associate Director, Division of Advertising Practice: Mary Engle**
- **Associate Director, Privacy & Identity Protection: Maneesha Mithal**

# FTC in 2019 – Focus Areas

## Division of Financial Practices:

- Debt Collection
- Mortgage, Credit Card, and Debt Relief Services
- Lead Generation and Short-Term Lending
- Motor Vehicle Sales, Financing, Leasing
- Financial Technology



## Division of Marketing Practices:

- High-Tech Internet and Telephone Scams
- Deceptive Telemarketing and Direct Mail Schemes
- Fraudulent Business Opportunity Scams
- Do-Not-Call and CAN-SPAM privacy protections

# FTC in 2019 – Focus Areas

## Division of Advertising Practices:

- Deceptive and Misleading Advertising Claims
- New Media Advertising (e.g., social media)

## Division of Privacy & Identity Protection:

- Data Security
- Consumer Privacy
  - Data collection, sharing, aggregation, use
  - Self-regulatory frameworks



# FTC in 2019 – Focus Areas



## Payment Processing and Merchant Services

- Continuing scrutiny of non-bank payment processors, sales agents, payment facilitators, and others in the sales transaction
- Joint and several liability for assisting and facilitating illegal merchant conduct
- Ongoing debates regarding the recovery of reserve funds

# We hope to see you in 2019!



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# We hope to see you in 2019!

1/16 – 1/17 | Las Vegas  
Northeast Acquirers Association NEAA  
With Venable's **Ellen Berge**

1/27 – 1/29 | Phoenix, AZ  
"Bank Director: Acquire or Be Acquired"  
With Venable's **Laura Biddle**



2/5 – 2/7 | Las Vegas  
Receivables Management Association  
(RMA) Annual Conference: "Vendor  
Management and Integration," with  
Venable's **Alexandra Megaris**; and  
"Mergers & Acquisitions Compliance  
for Debt Buyers" With Venable's  
**Jonathan Pompan**



3/11 – 3/14 | Las Vegas  
Merchant Acquirers'  
Committee (MAC) Annual  
Conference  
With Venable's **Ellen Berge,**  
**Andrew Bigart, Gerry Sachs,**  
**Evan Minsberg**

3/4 – 3/6 | Las Vegas  
LeadsCon 2019: "Q&A w/FTC"  
With Venable's **Jonathan Pompan**

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# Regulatory Outlook


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**Agency Rule List - Fall 2018**

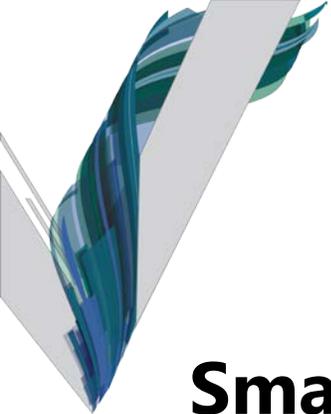
Consumer Financial Protection Bureau

Agency	Agenda Stage of Rulemaking	Title	RIN
CFPB	Prerule Stage	Threshold Adjustment to Escrow Provision for Higher Priced Mortgage Loans	<a href="#">3170-AA83</a>
CFPB	Prerule Stage	Property Assessed Clean Energy Loans	<a href="#">3170-AA84</a>
CFPB	Prerule Stage	Public Release of Home Mortgage Disclosure Act Data	<a href="#">3170-AA85</a>
CFPB	Proposed Rule Stage	The Expedited Funds Availability Act (Regulation CC)	<a href="#">3170-AA31</a>
CFPB	Proposed Rule Stage	Debt Collection Rule	<a href="#">3170-AA41</a>
CFPB	Proposed Rule Stage	Civil Penalty Inflation Adjustment Rule	<a href="#">3170-AA62</a>
CFPB	Proposed Rule Stage	Home Mortgage Disclosure Act (Regulation C)	<a href="#">3170-AA76</a>
CFPB	Proposed Rule Stage	Payday, Vehicle Title, and Certain High-Cost Installment Loans	<a href="#">3170-AA80</a>
CFPB	Proposed Rule Stage	Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C)	<a href="#">3170-AA81</a>
CFPB	Final Rule Stage	Disclosure of Records and Information	<a href="#">3170-AA63</a>
CFPB	Final Rule Stage	Summaries of Rights under the Fair Credit Reporting Act (Regulation V)	<a href="#">3170-AA82</a>
CFPB	Final Rule Stage	Technical Specifications for Submissions to the Prepaid Account Agreements Database	<a href="#">3170-AA87</a>



# CFPB Regulatory Agenda for 2019

- **Small Dollar Lending:** proposal to reconsider rule on its merits and address changes to 8/19 compliance date.
- **Debt Collection:** Proposal on communication practices and consumer disclosures
- **HMDA:** Reconsideration of various parts of 2015 HMDA rulemaking; also will address public disclosure of data.
- **Property Assessed Clean Energy (PACE):** CFPB to conduct rulemaking on Ability-to-Repay PACE assessments.



# Rulemaking - 2019

## Small-Dollar Lending:

- Federal Banking Agency Uncertainty
  - OCC has rescinded 2013 Guidance & Issued “Core Lending Principles”
  - FDIC has issued a “Request For Information on Small-Dollar Lending” but has not yet rescinded 2013 Guidance
  - Federal Reserve remains silent



# State Rulemakings and Developments - 2019

- **California**

- Installment Lending

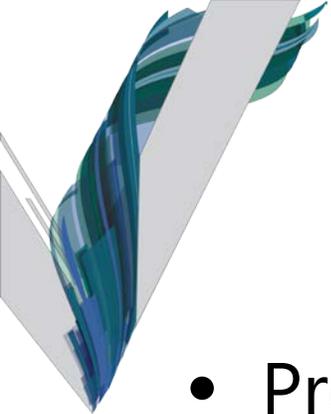
- The California DBO recently sent letters to 20 consumer installment lenders asking about annual percentage rates (APRs) and lead-generation activities. DBO is considering whether to adopt rules that govern how Consumer Finance Law (CFL) licensees consider borrowers' ability to repay when making loans.

- Commercial Lending

- Signed into law in the fall, SB 1235 requires consumer-like disclosures on certain commercial finance products, including small business loans and merchant cash advances.
- The California Department of Business Oversight ("DBO") is now required to adopt regulations addressing details such as calculation methods and the time, manner, and format of the new disclosures.

- California Consumer Privacy Act (CCPA)

- California has started the process for developing rules for the newly adopted CCPA. The California Department of Justice (DOJ) announced that it would hold "six statewide forums to collect feedback" in advance of the rulemaking process.



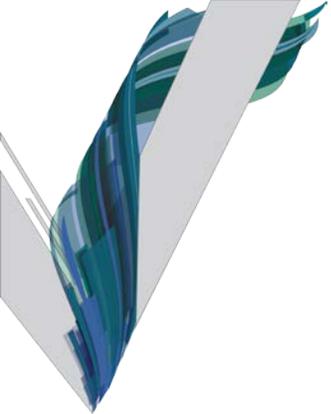
# CFPB No Action and Sandbox Proposals

- Project Catalyst now Office of Innovation
- No-Action policy
  - Old no-action policy gave little upside to participants; participation low.
  - Proposed to streamline application process that requires less information be shared with agency.
  - Proposal focuses on safe harbors and regulatory exemptions that may have force of law with CFPB and other regulators.
- Trial Disclosure and Product Sandboxes
  - Allows testing of new disclosures and products to foster fintech innovation.



# State Rulemakings and Developments - 2019

- Maryland
  - Expect follow up from passage of the Maryland Financial Consumer Protection Act of 2018 (HB 1634), which went into effect on October 1, 2018, and makes a number of changes to consumer protection law in Maryland.
    - The Act requires the Office of the Commissioner of Financial Regulation to study Fintech regulation and to prepare findings and recommendations to the General Assembly by December 31, 2019 on the industry.
    - The Maryland Financial Consumer Protection Commission is required to conduct various studies and include recommendations in its 2018 report to the Governor on topics cryptocurrencies and related matters.

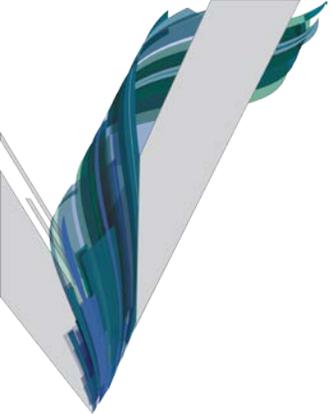


# Forging Ahead with Compliance Initiatives



# Illusion of “deregulatory environment”

- More risk-taking, but risks remain
  - Examples: LO Compensation and RESPA in mortgages
  - Regulators may be more lenient today, but typically have 3-5 year statutes of limitation
  - Private litigants may enforce many of the statutes
- Loan investor and counterparty due diligence
  - Sloppy compliance can still lead to unsaleable loans or loss of prospective strategic partnerships
- Mergers and Acquisitions
  - Regulatory due diligence



# **Recent Enforcement and Litigation Trends, and What's Next**



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Enforcement

Enforcement Actions

Petitions to Modify or Set Aside

Warning Letters

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The Bureau may enforce the law by filing an action in federal district court or by initiating an administrative adjudication proceeding. Administrative proceedings are conducted by an Administrative Law Judge, who holds hearings and issues a recommended decision. Proceedings are conducted in accordance with the [Rules of Practice for Adjudication Proceedings](#).

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Commission Decision Volumes

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Letters and Statements

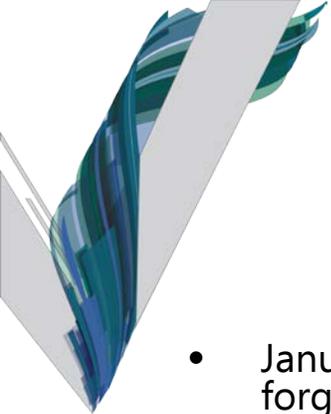
Petitions to Quash

Companies and People Banned  
From Debt Relief

Adjudicative Proceedings

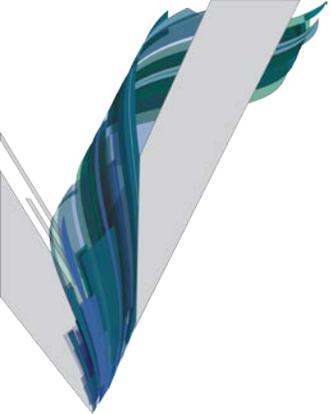
Banned Debt Collectors

UPDATED	TITLE	FTC MATTER / FILE NO.
December 28, 2018	<a href="#">American Financial Benefits Center, et al. (Federal)</a>	172 3027 X180020
December 28, 2018	<a href="#">Benco/Schein/Patterson, In the Matter of</a>	154 0400

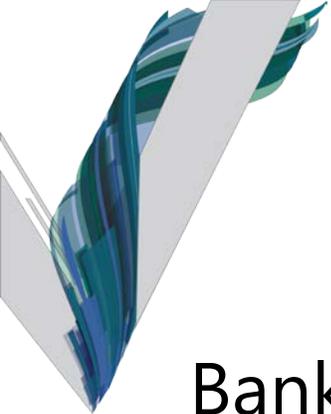


# State Enforcement Trends

- January 3, 2019 – 49 AGs settle with for-profit education company to “reform its recruiting and enrollment practices and forgo collecting about \$493.7 million in debts owed to the company by 179,529 students nationally.” Iowa AG Press Release
- December 29, 2018 – Wells Fargo agrees to \$575 million settlement with AGs of all 50 states and D.C. stemming from 2015 allegations about falsified consumer accounts
- December 28, 2018 – Florida AG announces multi-million dollar settlement with home builder that “allegedly failed to make certain disclosures to home buyers regarding the construction of some of its homes and improperly denied warranty coverage to certain homeowners that were otherwise covered.” Florida AG Press Release
- December 21, 2018 – 40 AGs announce \$68 Million settlement With UBS AG for manipulating LIBOR interest rates
- December 10, 2018 – New Jersey announces settlement with health insurance carrier to resolve allegations of data privacy breach
- December 7, 2018 – Reported (BostInno) that Mass. AG is investigating a Boston-based for-profit college (continuing that AG’s focus on for-profit education)
- December 6, 2018 – Reaffirmation of 40 AG coalition to stop or reduce “robocalls” including the practice of “neighbor spoofing” (using local area codes / exchanges to increase the likelihood that consumers will answer)
- November 1, 2018 – NY AG and FTC sue debt collection operation for allegedly demanding more debt that consumers owe
- October 11, 2018 – California AG and coalition of 12 state AGs announce: “State Attorneys General are the boots on the ground of antitrust enforcement, and we’re bringing California’s strong track record of innovative consumer protection to the table in these discussions.” California AG Press Release



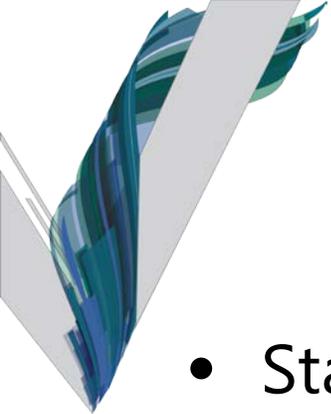
# Future of Bank Fintech Partnerships



# Future of Fintech Charters/Bank Partnerships

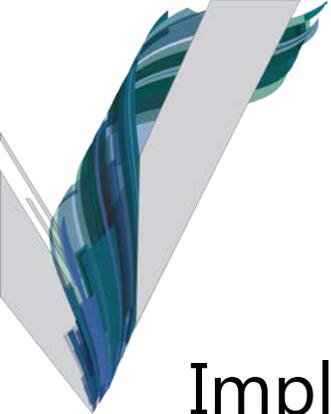
## Bank Charter Options:

- Full-Service Bank
  - State
  - Federal
- Industrial Loan Company
- OCC Fintech Charter



# Future of Fintech Charters/Bank Partnerships

- State Opposition to OCC Charter Developments
  - Following the OCC's announcement it will move forward with the Fintech Charter, both the CSBS and NYDFS renewed their challenges to the OCC's authority to issue fintech charters.
  - As before, the primary concern expressed by the CSBS and NYDFS appears to be that the OCC's proposal threatens to create an entirely new federal regulatory regime, threatens state sovereignty, community banking, state consumer protection laws, and state usury laws.
- While the states have expressed opposition to the Fintech Charter, they have also been taking steps to address some of the licensing challenges faced by fintech companies.
  - NMLS Vision 2020
  - Sandboxes



# Risk and Compliance Initiatives

## Implications of Bank Third-Party Relationship Requirements:

- Banks subject to significant supervision and regulation
- Banks may delegate activity but not compliance responsibility
- To manage risk, banks must perform initial due diligence and ongoing oversight of third parties
- Bank regulators can examine third-parties with respect to services provided to banks



# Risk and Compliance Initiatives (Non-Bank Fintechs)

Non-banks deciding whether to partner with a bank need to consider:

- State license requirements and available exemptions.
- True lender/Madden considerations.
- Ability to structure partnership in a manner that makes sense economically, but also complies with law.
- Ability of partnership (algorithm, compliance management system, etc.) to withstand scrutiny by a bank regulator.

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## FTC Requests Comment on Identity Theft Detection Rules

The FTC published a [Notice](#) in the *Federal Register* on December 4, 2018 seeking public comment on whether any changes should be made to the FTC's identity theft detection rules. According to the Notice, the FTC is soliciting commentary on the benefits and costs of the identity theft prevention rules implementing Section 615 of the FCRA, as well as their regulatory and economic impacts on consumers and the industry. The request for comment comes as part of the FTC's systematic review of all of its guides and regulations, and focuses on the Red Flags Rule and the Card Issuers Rule.

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## SEC's first crypto-exchange enforcement action dodges a key question

On November 8, 2018, the SEC entered into a [consent order](#) with Zachary Coburn, the founder of EtherDelta, in its first-ever enforcement action against a cryptocurrency platform for operating as an unregistered securities exchange ("Order"). EtherDelta is an online platform for secondary market trading of Ether and ERC20 tokens, which are cryptocurrencies based on the Ethereum blockchain protocol. Many of the tokens traded on EtherDelta were launched during the 2017 rush of ICOs, but the SEC avoided identifying which tokens on the exchange are securities.

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## Hanging Out to Dry: FTC's Ongoing Pursuit of Credit Card Laundering has Reached an Apex

The FTC [continues](#) to crack down on companies engaged in credit card laundering. Credit card laundering is the practice of processing credit card transactions for one company through the merchant processing account of another company. Credit card laundering can be used to bypass the monitoring practices and volume thresholds of credit card associations and payment processors. A new complaint and a settlement of a prior case highlight the effort that the FTC is devoting to this area.

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## By Any Other Name: Even if Legal, a Surcharge Is Still a Surcharge

If you're active in the payments space, whether as an acquiring bank, processor, ISO, or a merchant that accepts credit or debit cards, you've probably encountered the concept of "Discount Programs." Such programs purport to allow merchants to recoup the cost of accepting payment cards without violating state laws prohibiting surcharges. But look carefully: Is that Discount Program actually a surcharge that violates surcharge restrictions?

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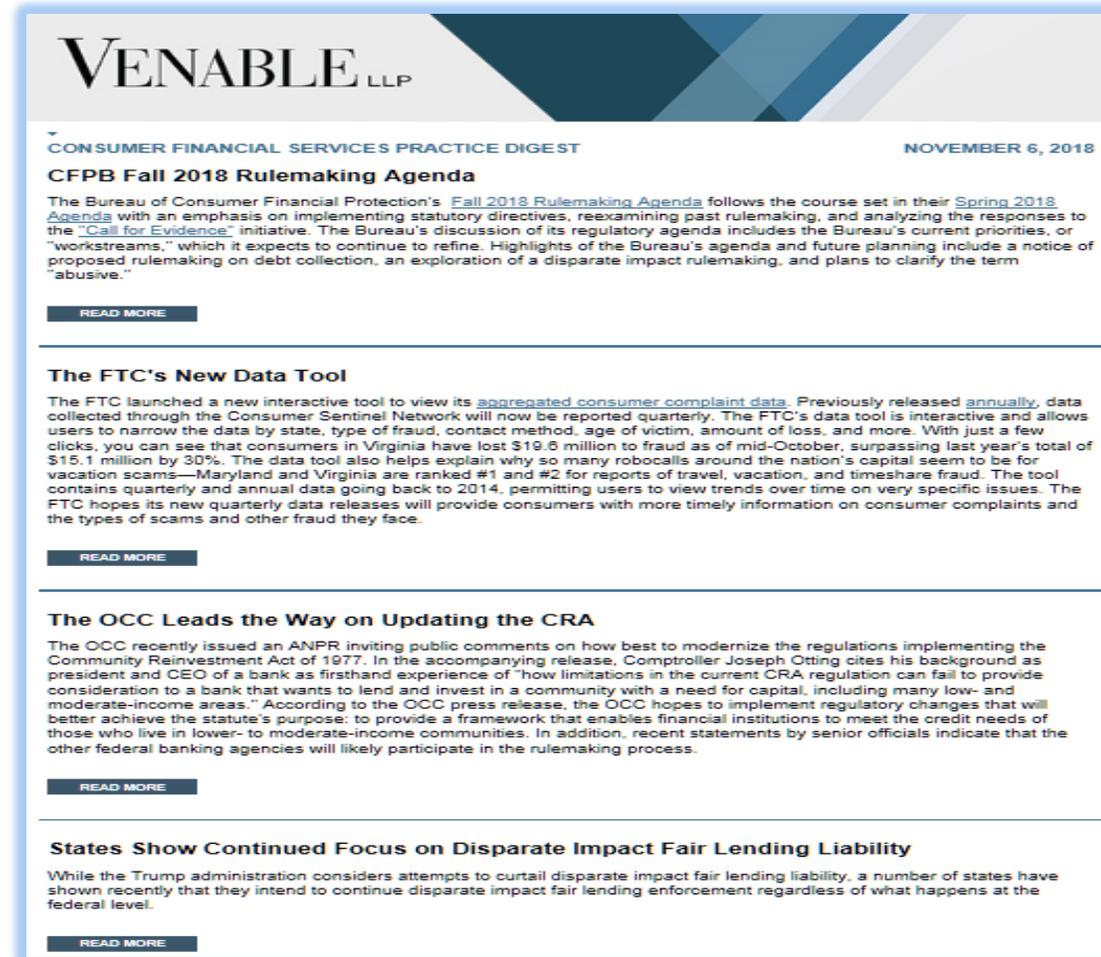
## Kathy Kraninger Takes Over Consumer Financial Protection Bureau

Kathy Kraninger has been sworn in as the new Director of the Consumer Financial Protection Bureau. Kraninger replaces Mick Mulvaney who has served as Acting Director since the end of 2017 when the last permanent Director, Richard Cordray resigned. Kraninger will serve a five-year term.

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CONSUMER FINANCIAL SERVICES PRACTICE DIGEST NOVEMBER 6, 2018

**CFPB Fall 2018 Rulemaking Agenda**

The Bureau of Consumer Financial Protection's [Fall 2018 Rulemaking Agenda](#) follows the course set in their [Spring 2018 Agenda](#) with an emphasis on implementing statutory directives, reexamining past rulemaking, and analyzing the responses to the "Call for Evidence" initiative. The Bureau's discussion of its regulatory agenda includes the Bureau's current priorities, or "workstreams," which it expects to continue to refine. Highlights of the Bureau's agenda and future planning include a notice of proposed rulemaking on debt collection, an exploration of a disparate impact rulemaking, and plans to clarify the term "abusive."

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**The FTC's New Data Tool**

The FTC launched a new interactive tool to view its [aggregated consumer complaint data](#). Previously released [annually](#), data collected through the Consumer Sentinel Network will now be reported quarterly. The FTC's data tool is interactive and allows users to narrow the data by state, type of fraud, contact method, age of victim, amount of loss, and more. With just a few clicks, you can see that consumers in Virginia have lost \$19.6 million to fraud as of mid-October, surpassing last year's total of \$15.1 million by 30%. The data tool also helps explain why so many robocalls around the nation's capital seem to be for vacation scams—Maryland and Virginia are ranked #1 and #2 for reports of travel, vacation, and timeshare fraud. The tool contains quarterly and annual data going back to 2014, permitting users to view trends over time on very specific issues. The FTC hopes its new quarterly data releases will provide consumers with more timely information on consumer complaints and the types of scams and other fraud they face.

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**The OCC Leads the Way on Updating the CRA**

The OCC recently issued an ANPR inviting public comments on how best to modernize the regulations implementing the Community Reinvestment Act of 1977. In the accompanying release, Comptroller Joseph Otting cites his background as president and CEO of a bank as firsthand experience of "how limitations in the current CRA regulation can fail to provide consideration to a bank that wants to lend and invest in a community with a need for capital, including many low- and moderate-income areas." According to the OCC press release, the OCC hopes to implement regulatory changes that will better achieve the statute's purpose: to provide a framework that enables financial institutions to meet the credit needs of those who live in lower- to moderate-income communities. In addition, recent statements by senior officials indicate that the other federal banking agencies will likely participate in the rulemaking process.

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**States Show Continued Focus on Disparate Impact Fair Lending Liability**

While the Trump administration considers attempts to curtail disparate impact fair lending liability, a number of states have shown recently that they intend to continue disparate impact fair lending enforcement regardless of what happens at the federal level.

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# Observations for the New Year....



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