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Developments at the CFPB, FTC, FCC, DOJ, FRB, FDIC and OCC

Pennsylvania Bar Institute

Consumer Financial Services & Banking Law Update
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James Kim
Partner
Fintech / Consumer Financial Services
646.346.8089
kimj@ballardspahr.com



New Equilibrium?

- Nearly three years into the current administration
- Took a while, but leaders are confirmed and have been making their imprints
 - Biggest impact on rulemaking
 - Little change to supervisory activity
 - Resumption of enforcement activity, after lull or freeze
 - Trying to collaborate with industry to promote responsible innovation

FDIC

- Opening for Chief Innovation Officer
 - “If our regulatory framework is unable to evolve with technological advances, the United States may cease to be a place where ideas and concepts become the products and services that improve people’s lives.”
 - *Jelena McWilliams, 10/4/19, Op-Ed in American Banker*
- Foster innovation in three ways:
 - Industrial loan company (ILC) charters
 - Oversight over banks’ third-party vendors
 - Banks get better processing, service, and efficiency by working with technology companies

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OCC

- Fintech charter?
 - Will appeal adverse ruling in NYDFS case in SDNY
- Small-dollar lending
 - Oct 2017, rescinded prior restrictive guidance
 - May 2018, issued bulletin encouraging small-dollar lending
 - Feb 2019, issued statement supporting CFPB proposal to rescind ATR provisions of Bureau payday rule
 - Guidance about small-dollar lending?
- Address *Madden v. Midland* via rulemaking?
 - 9/19/19 letter to Otting from Republicans in HFSC
 - Joint amicus brief with FDIC in CO bankruptcy case

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FTC

- Primary regulator for privacy and data security
- Fintechs and online lending
 - Marketing & UDAPs
 - Lead generation
 - Red Flags rule
- FTC v. Shire Viropharma, 917 F.3d 147 (3d. Cir. 2019)
- FTC v. Credit Bureau Center, No. 18-3310 (7th Cir. 2019)

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CFPB

- Seila Law v. CFPB
- Final Innovation Policies
- Increased enforcement activity
- New SEFL Director: Bryan Schneider
 - Formerly Secretary of the Illinois Department of Financial and Professional Regulation

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James Kim

- James is co-leader of the firm's Fintech industry group and a member of the Consumer Financial Services, Mortgage Banking, Privacy and Data Security, and Banking and Financial Services groups
- Advises banks, Fintechs, investors, and other clients regarding federal and state consumer financial laws and regulations, including Title X of the Dodd-Frank Act (UDAAP), TILA, RESPA, EFTA, and the FCRA
- Helps clients navigate examinations and investigations with the Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board, Federal Trade Commission (FTC), and various state agencies
- Assists clients with product development, regulatory due diligence, and matters involving cutting-edge issues, such as financial technology, data aggregation, mobile financial services, credit and prepaid cards, and marketplace lending
- *The Legal 500 US, Finance - Financial Services: Regulatory, 2016*

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