
DWT'S STATE OF REGULATION

FOCUS ON FINTECH

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New York



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Federal Regulatory Rollback



- Congressional Review Act – This Congress overruled a total of 16 rulemakings, some 5 in financial services
 - Arbitration Rule
 - CFPB “Indirect Auto” Bulletin
 - Two DOL rules relating to state and local retirement programs
 - Securities disclosures by mining firms

Federal Regulatory Rollback



- CFPB → BCFP leadership changes
 - Dilution of consumer protection mission
 - “Indeed, I think it is fair to say that the previous governing philosophy here was to aggressively ‘push the envelope’ in pursuit of the ‘mission’; that we were the ‘good guys’ and the ‘new sheriff in town,’ out to fight the ‘bad guys.’ Simply put: that is what is going to be different.”
 - Acting Director Mick Mulvaney, January 2018
 - Downgrade of Fair Lending enforcement function
 - Downgrade in Military Lending Act supervision
 - Downgrade/disarray in enforcement generally
 - Focus on quantitative analysis and intent

Federal Regulatory Rollback




■ Rulemaking relief

- Postponement(s) of effective date of Prepaid Account Rule
- Changes to Payday rule, specifically the ability-to-pay provisions
- Slow rolling of HMDA-like data collection for small business lending
- Reconsideration of ECOA disparate impact theory
- Defining “abusiveness”
- FDIC considering withdrawal of “deposit advance” loan guidance
- BUT: March 2019 Debt Collection proposed rule expected

Federal [Enforcement] Roll Forward(?)



- CFPB— highly selective but still potent
 - Debt collection
 - Still using UDAAP
 - Federal Trade Commission
 - Payment processors
 - Privacy and data security
 - Securities and Exchange Commission – more than a dozen initial coin offering enforcement actions, a top priority
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State Regulatory Environment



Rolling Forward:

- California Consumer Privacy Act
- California small business loan disclosures
- New York licensing proposal for bank lending partnerships
- New York Cybersecurity Regulation
- New York DFS registration of consumer reporting agencies

Rolling Back:

- Arizona Sandbox law

State Regulatory Environment (cont'd)



Harmonizing:

- CSBS – multi-state licensing agreement
- MTRA – multi-state examination protocol
- Multi-state Attorney General actions – continued bipartisanship?

Clashing:

- Illinois rejected sandbox law
- Multi-state agreements remain limited
- Uniform state laws for money services businesses and virtual currency businesses not widely adopted

Noteworthy Federal FinTech Innovation Initiatives



Office of Comptroller of the Currency – FinTech Charter

- Hotly opposed by states – see renewed CSBS lawsuit



BCFP Office of Innovation

Disclosure Sandbox [includes state coordination!]

Noteworthy Federal FinTech Innovation Initiatives



FDIC Office of Innovation [brand new!]



SEC FinHub



U.S. Department of the
Treasury: Report on Non-Bank
Financials, FinTech, and Innovation

Thank You!



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