

Consumer Financial Enforcement Under Trump 47 — The U.S. Federal Trade Commission in Focus

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With the Consumer Financial Protection Bureau (CFPB) largely on pause while it awaits a permanent Director, there is an existing gap in consumer financial enforcement, supervision, and regulation that has gone unfilled for months. While there has been considerable media focus on the important role that the CFPB plays in federal consumer financial enforcement, along with observations about how state attorneys general and state financial regulators may step in to fill any gap left by the CFPB, less noticed is the extent to which other federal agencies share consumer financial enforcement authority with the CFPB. The CFPB may be the nation's primary consumer financial protection agency, but it is not the only federal agency responsible for protecting the American consumer.

Instead, the CFPB shares much of its consumer financial enforcement authority with the Federal Trade Commission (FTC). Unlike the CFPB, the FTC has had its key political personnel in place for months and has already given signs of how it intends to police the consumer financial market. Indications are that under FTC Chair Andrew Ferguson and FTC Director of the Bureau of Consumer Protection Chris Mufarrige — a prominent CFPB alumnus who served in the first Trump administration — federal enforcement of the consumer financial protection laws will be vigorous. Enforcement will be a priority for Chair Ferguson, who has made clear that he “wants to be judged by the cases he brings” rather than “bog down the agency in writing regulations.”¹

The FTC and CFPB — Consumer Financial Products and Services — Overlaps and Gaps

The CFPB is a fairly recent creation by federal agency standards. Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, also known as the Consumer Financial Protection Act of 2010 (CFPA), created the CFPB.² The CFPB is the principal federal regulator responsible for administering, interpreting, and enforcing the federal consumer financial laws, which include the CFPA and its prohibition on “unfair, deceptive, or abusive acts or practices” (UDAAP) as well as 18 preexisting consumer financial laws that the CFPA placed within the CFPB's authority.³ Those 18 consumer financial laws include the Electronic Fund Transfer Act, Fair Credit Reporting Act, and Truth In Lending Act. The CFPB has enforcement, supervision, and rule-making authority, including with respect to those enumerated consumer financial laws and the CFPA's UDAAP prohibition.

The FTC is one of the oldest federal agencies. It was established by the Federal Trade Commission Act

of 1914 (FTC Act)⁴ as a competition agency. In 1938, Congress granted it authority to police “unfair or deceptive acts or practices” for the protection of consumers.⁵ As with the CFPB, the FTC’s jurisdiction covers consumer financial products and services, which are primarily the responsibility of the FTC’s Bureau of Consumer Protection and its Division of Financial Practices and Division of Enforcement. Notably, unlike the CFPB, the FTC does not have jurisdiction over national banks, member banks of the Federal Reserve System, Federal Deposit Insurance Corporation–insured banks, federal credit unions, and federal and state savings and loan associations.⁶ Putting aside that significant carveout, the FTC does have overlapping jurisdiction with the CFPB over many other consumer finance service providers, including money transmitters, loan servicers, fintechs, and the major technology companies that offer financial products (more colloquially referred to as Big Tech). The FTC has rulemaking authority under 15 U.S.C. § 57a to regulate unfair or deceptive trade practices, although, as noted above, Chairman Ferguson has indicated that enforcement — not rulemaking — will be a priority of his tenure. Unlike the CFPB, the FTC has no supervision function and therefore lacks what is historically an important source of enforcement referrals.

Before the CFPB was established, the 18 enumerated consumer financial laws were enforced by a variety of federal agencies, including — for some of the laws — the FTC. While the CFPB gave the CFPB enforcement authority over those 18 laws, the FTC retains meaningful overlapping enforcement authority with respect to eight of them: the Electronic Fund Transfer Act, Consumer Leasing Act, Truth in Lending Act, Fair Credit Billing Act, Fair Credit Reporting Act, Home Ownership and Equity Protection Act, Equal Credit Opportunity Act, and certain violations of the Gramm-Leach-Bliley Act.⁸ For large depository institutions (over \$10B in assets), the CFPB has primary enforcement authority, but other agencies (not including the FTC) may initiate enforcement proceedings after 120 days pass after a request that the CFPB take action.⁹ For smaller depository institutions (less than \$10B in assets), the independent federal banking regulators have exclusive enforcement power.¹⁰ For nondepository institutions, the CFPB and the FTC have concurrent enforcement authority as long as the rule covers a person subject to FTC jurisdiction under the FTC Act.¹¹ In addition, the CFPB provides the FTC with authority to enforce CFPB rules that are applicable to entities within the FTC’s jurisdiction¹² (noting again the carveout for banks, savings associations, and credit unions).¹³

Because of their partially overlapping jurisdiction, Section 1024(c)(3) of the CFPB requires the CFPB and the FTC to coordinate law enforcement activities, including providing notice to one another, where feasible, prior to initiating a civil action. The goal of that coordination is to promote consistency in law enforcement and prevent duplicative or conflicting actions. The CFPB and FTC do this by maintaining a formal deconfliction system and through regular communication among agency leaders, including the heads of enforcement.

The FTC Consumer Financial Record Under Trump 45 — and Trump 47 so Far

While an imperfect proxy, one guide to how the FTC may pursue consumer financial enforcement in Trump 47 is to examine its record during President Donald Trump’s first term. In 2017, the FTC filed 74 consumer protection cases;¹⁴ in 2018, it filed 66;¹⁵ in 2019, it filed 76;¹⁶ and in 2020, it filed 82.¹⁷ While most of these did not involve consumer financial products or services, there were some significant enforcement actions in the consumer finance space.

For example, following the 2017 Equifax data breach, the FTC filed claims under the FTC Act and the Gramm-Leach-Bliley Act to compensate consumers for harm caused by Equifax’s alleged failure to

safeguard critical personal information. On July 22, 2019, the FTC announced a global settlement resolving all federal and state consumer protection lawsuits. The settlement included up to \$700 million in monetary relief as well as equitable relief requiring Equifax to establish safe data security practices.¹⁸ Notably, the FTC and the CFPB worked together on the Equifax matter, benefiting from the expertise and penalty authorities available to each agency.¹⁹ The CFPB's involvement helped the government obtain a \$100 million civil money penalty.²⁰

In another matter, on November 13, 2017, the FTC announced a settlement with Western Union. According to the FTC, because of joint investigations by the FTC, the Department of Justice, and the U.S. Postal Inspection Service, Western Union admitted to aiding and abetting wire fraud²¹ involving alleged scams involving fraudulent lotteries, family emergency calls, online dating schemes, and advance-fee loans.²² In resolving the FTC charges, "Western Union agreed to a monetary judgment of \$586 million and to implement and maintain a comprehensive anti-fraud program with training for its agents and their front line associates, monitoring to detect and prevent fraud-induced money transfers, due diligence on all new and renewing company agents, and suspension or termination of noncompliant agents."²³

In 2018, the FTC took action against Social Finance, Inc., a subsidiary of SoFi Lending Corp., for making allegedly false statements about loan refinancing savings in advertisements. This resulted in a consent decree that "does not require SoFi to pay any money whatsoever for this misconduct."²⁴ Then-FTC Commissioner (and future CFPB Director) Rohit Chopra noted in his statement on the settlement that the FTC was not able to seek civil penalties in this kind of action, so he called on the CFPB and state attorneys general to seek penalties from SoFi under federal law.²⁵

In 2019, the FTC filed a complaint against 10 companies engaging in allegedly fraudulent phantom debt collection practices.²⁶ At the FTC's request, the court enjoined operations and froze the assets of these companies. Combating so-called phantom debt collection practices, which involve deceptive and threatening tactics to coerce consumers into paying debt they do not owe, was a priority for both the FTC and the CFPB during the first Trump administration.²⁷

In addition to these cases, the FTC under Trump 45 took actions against payment processors,²⁸ credit repair practices,²⁹ alleged cryptocurrency schemes,³⁰ ratings companies,³¹ and operators of mobile banking apps.³²

With respect to the FTC under Trump 47, enforcement in the consumer finance space has picked up largely where Trump 45 left off. For example, on March 27, 2025, the FTC, the CFPB, and Cleo AI, a cash advance company, agreed to a \$17 million settlement.³³ According to FTC and CFPB allegations, Cleo AI failed to provide consumers the money promised in the time advertised. This is an early demonstration that FTC Chairman Ferguson will not back away from aggressive consumer financial enforcement. Indeed, he has emphasized that enforcement is at the center of his agenda, telling a recent interviewer, "I don't see it as the FTC's job to be a regulator. I'm a cop on the beat."³⁴

How Does FTC Consumer Financial Enforcement Differ From the CFPB?

While the FTC is a powerful consumer financial enforcer, it cannot completely replicate or replace the CFPB. First, as noted above, the FTC lacks the authority to enforce the full range of consumer financial protection laws entrusted to the CFPB, with the FTC having meaningful enforcement authority over eight

of the 18. In addition, while both the CFPB and the FTC have the right to enforce unfair and defective acts or practices,³⁵ only the CFPB has the authority to enforce abusive acts or practices.³⁶ Under the Biden administration, the CFPB issued detailed guidance on the import of the abusiveness prong³⁷ and used frequently used abusiveness as a cause of action.³⁸ Next, the FTC cannot enforce any federal consumer financial laws against depository institutions. The FTC is also limited in its ability seek monetary relief, including equitable monetary relief, in most antitrust and consumer protection cases.³⁹ With the exception of a few statutes not relevant here,⁴⁰ the FTC can seek monetary relief only under Section 19 of the FTC Act, which requires it to first enter a cease-and-desist order that the recipient subsequently violates. Before 2021, the FTC typically sought disgorgement or restitution under Section 13(b) of the FTC Act. But the Supreme Court foreclosed that avenue in *AMG Capital Management, LLC v. FTC* when it ruled that Section 13(b) authorizes the FTC to seek only federal court injunctions, not the full spectrum of equitable remedies.⁴¹ The CFPB has no such limitations. It may seek civil money penalties, consumer redress, disgorgement, restitution, damages, contract rescission or reformation, and injunctive relief, limited only by its creativity — and by what a court will allow, of course.⁴²

The FTC also lacks the full rulemaking and supervisory powers possessed by the CFPB. While CFPB rules go through the ordinary notice and comment process, the FTC is required to go through special extra-formal processes to promulgate its consumer protection regulations. Those procedures include an additional advance notice of proposed rulemaking and cross-examination of fact witnesses.⁴³ FTC rulemaking thus typically takes longer. Finally, as also noted above, the FTC lacks supervisory authority altogether.

There are structural differences as well. The CFPB is headed by a single Director vested with substantial control over its operations.⁴⁴ The FTC Chair cannot act unilaterally but must instead get a majority of the Senate-confirmed commissioners to agree to bring a case, conclude a case, or initiate or finalize a rulemaking.⁴⁵ In addition, it is an open question whether *Humphrey's Executor v. U.S.*,⁴⁶ which held that the President cannot fire FTC commissioners without cause, is still good law. This question will be tested in the coming months, as Democratic Commissioners Rebecca Kelly Slaughter and Alvaro Bedoya have sued President Trump over his March 18 removal of them from their offices.⁴⁷ If *Humphrey's Executor* is affirmed, the FTC would remain somewhat insulated from political control in a way the CFPB is not.

The FTC is also historically smaller than the CFPB. Putting to one side the Trump administration's ongoing effort to downsize all federal agencies (including the CFPB), in fiscal year 2024, the CFPB had over 1,700 employees, while the FTC had around 1,200. This is despite the FTC's wider purview, which stretches to many more industries and products than are overseen by CFPB and also includes a far more robust competition mandate.

Finally, the FTC budget is part of the annual congressional appropriations process, while the CFPB is funded through the Federal Reserve. In fiscal year 2024, the FTC's entire budget was \$425.7M while the CFPB spent \$923M — well more than twice as much (although that is very likely to decline significantly during Trump 47).

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The state of consumer financial enforcement and regulation over the next four years remains in flux. Changes in presidential administrations always bring a change in regulatory priorities, but what is unclear is how far the proverbial pendulum will ultimately swing. The CFPB may ultimately resume its

statutory remit of protecting consumers and the market at large against bad actors engaged in unfair, deceptive, or abusive acts or practices or violations of the 18 consumer financial laws entrusted to the CFPB. But even if the CFPB does pull back, there are other agencies — both federal and state — that can be expected to step up. While the FTC has some limitations on its authority with respect to consumer financial matters compared with the CFPB, it has never been subject to the same political scrutiny as the CFPB, nor has it been on the receiving end of a long line of existential lawsuits and legislative proposals imperiling its existence. That has allowed the FTC to pursue its consumer financial agenda with a freedom the CFPB has never enjoyed. That freedom may see the FTC take a leading role policing consumer financial products and services in the coming four years.

¹ Dave Michaels, *How Trump's FTC Chairman is Bringing a MAGA Approach to Antitrust Enforcement*, WSJ, March 12, 2025, <https://tinyurl.com/4t9p27u4>.

² 12 U.S.C. § 5481 et seq.

³ The Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. § 3801 et seq.); the Consumer Leasing Act of 1976 (15 U.S.C. § 1667 et seq.); the Electronic Fund Transfer Act (15 U.S.C. § 1693 et seq.); the Equal Credit Opportunity Act (15 U.S.C. § 1691 et seq.); the Credit Billing Act (15 U.S.C. § 1666 et seq.); the Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.); the Home Owners Protection Act of 1998 (12 U.S.C. § 4901 et seq.); the Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.); subsections (b) through (f) of Section 43 of the Federal Deposit Insurance Act (12 U.S.C. § 1831t(c)(b)–(f)); subsections 502 through 509 of the Gramm-Leach-Bliley Act (15 U.S.C. §§ 6802–09); the Home Mortgage Disclosure Act of 1975 (12 U.S.C. § 2801 et seq.); the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. § 1601); the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. § 2601 et seq.); the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. § 5101 et seq.); the Truth in Lending Act (15 U.S.C. § 1601 et seq.); the Truth in Savings Act (12 U.S.C. § 4301 et seq.); Section 626 of the Omnibus Appropriations Act, 2009 (12 U.S.C. § 5538; and the Interstate Land Sales Full Disclosure Act (15 U.S.C. § 1701).

⁴ 15 U.S.C. § 41 et seq.

⁵ Wheeler-Lea Act, ch. 49, 52 Stat. 111 (1938).

⁶ 15 U.S.C. § 45(a)(2).

⁷ 15 U.S.C. § 57a (authorizing the FTC to prescribe “rules ... [identifying] acts or practices which are unfair or deceptive acts or practices in or affecting commerce”). Similarly, the CFPB has authority to prescribe rules “identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service.” 12 U.S.C. § 5531(b). In short, the key differences in rulemaking authority are that the CFPB has authority to regulate “abusive” acts in addition to the FTC’s “unlawful unfair, deceptive, or abusive acts,” and CFPB rulemaking is limited to “covered person[s] or service provider[s],” meaning any person who offers, designs, operates, or maintains a consumer financial product or service. 12 U.S.C. § 5481(6), (26)(A).

⁸ 15 U.S.C. §§ 1607(c), 1691c(c), 1693o(c), 1681s(a), 6805(a)(7).

⁹ 12 U.S.C. § 5515(b).

¹⁰ 12 U.S.C. § 5516(d).

¹¹ 12 U.S.C. § 5514(c).

¹² 12 U.S.C. § 5581(b)(5)(C)(ii).

¹³ 15 U.S.C. §§ 1607(c), 1691c(c), 1693o(c), 1681s(a), 6805(a)(7).

¹⁴ <https://www.ftc.gov/reports/annual-highlights-2017/stats-and-data>.

¹⁵ https://www.ftc.gov/system/files/documents/reports/annual-highlights-2018/2018_annual_highlights_report.pdf.

¹⁶ https://www.ftc.gov/system/files/documents/reports/annual-highlights-2019/2019_annual_highlights_report.pdf.

¹⁷ <https://www.ftc.gov/reports/annual-highlights-2020/stats-data-2020>.

¹⁸ <https://www.ftc.gov/business-guidance/blog/2019/07/575-million-equifax-settlement-illustrates-security-basics-your-business>.

¹⁹ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-ftc-states-announce-settlement-with-equifax-over-2017-data-breach/>.

²⁰ *Id.*

²¹ <https://www.ftc.gov/news-events/news/press-releases/2017/01/western-union-admits-anti-money-laundering-violations-settles-consumer-fraud-charges-forfeits-586>.

²² <https://www.ftc.gov/news-events/news/press-releases/2017/11/ftc-alerts-consumers-if-scammers-had-you-pay-them-western-union-you-can-now-file-claim-get-money>.

²³ <https://www.ftc.gov/news-events/news/press-releases/2017/01/western-union-admits-anti-money-laundering-violations-settles-consumer-fraud-charges-forfeits-586>.

²⁴ https://www.ftc.gov/system/files/documents/public_statements/1418711/162_3197_statement_of_commissioner_chopra_on_sofi_10-29-18.pdf.

²⁵ https://www.ftc.gov/system/files/documents/public_statements/1418711/162_3197_statement_of_commissioner_chopra_on_sofi_10-29-18.pdf.

²⁶ <https://consumer.ftc.gov/consumer-alerts/2019/02/ftc-halts-another-phantom-debt-collection-scheme>.

²⁷ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-ftc-state-and-federal-law-enforcement-partners-announce-nationwide-crackdown-phantom-and-abusive-debt-collection/>.

²⁸ <https://www.ftc.gov/legal-library/browse/cases-proceedings/192-3020-madera-merchant-services-llc>; <https://www.ftc.gov/legal-library/browse/cases-proceedings/162-3180-first-data-merchant-services-llc>.

²⁹ <https://www.ftc.gov/legal-library/browse/cases-proceedings/182-3168-x190030-grand-teton-professionals-llc>.

³⁰ <https://www.ftc.gov/legal-library/browse/cases-proceedings/172-3107-x180024-thomas-dluca-et-al-bitcoin-funding-team>.

³¹ <https://www.ftc.gov/legal-library/browse/cases-proceedings/182-3180-lendedu-et-al-matter>.

³² <https://www.ftc.gov/legal-library/browse/cases-proceedings/182-3177-beam-financial-inc>.

³³ https://www.ftc.gov/system/files/ftc_gov/pdf/cleo_order_-_executed_-_for_press_release.pdf; <https://www.ftc.gov/news-events/news/press-releases/2025/03/cash-advance-company-cleo-ai-agrees-pay-17-million-result-ftc-lawsuit-charging-it-deceives-consumers>.

³⁴ <https://www.cnn.com/2025/03/13/cnn-exclusive-transcript-ftc-chair-andrew-ferguson-speaks-with-cnbc-squawk-box-today.html>.

³⁵ 15 U.S.C. § 57a (FTC); 12 U.S.C. § 5531(b) (CFPB).

³⁶ *Id.*

³⁷ CFPB, Policy Statement on Abusive Acts or Practices, April 3, 2023, https://files.consumerfinance.gov/f/documents/cfpb_policy-statement-of-abusiveness_2023-03.pdf.

³⁸ CFPB, *Preferencing and Steering Practices by Digital Intermediaries for Consumer Financial Products or Services*, Circular 2024-01, February 29, 2024, https://files.consumerfinance.gov/f/documents/cfpb_digital-intermediaries_circular_2024-02.pdf; *In re Toyota Motor Credit Corp.*, No. 2023-CFPB-0015, Consent Order (Nov. 20, 2023) (identifying unfair and abusive practices).

³⁹ See *AMG Capital Mgmt. v. FTC*, 593 U.S. 67, 75 (2021).

⁴⁰ 15 U.S.C. § 45(l), (m) (authorizing district courts the authority to impose limited monetary penalties in cases where the FTC has issued cease-and-desist orders or where a defendant violates an FTC cease-and-desist adjudicative order); 15 U.S.C. § 57b (authorizing monetary relief if (1) the FTC begins a Section 5 action within three years of a violation, (2) seeks monetary relief within one year of any final cease-and-desist order, and (3) finds that the violator acted with “actual knowledge that such act or practice is unfair or deceptive”).

⁴¹ *Id.*

⁴² 12 U.S.C. § 5565(a)(2).

⁴³ 15 U.S.C. § 57a(b)–(c).

⁴⁴ *Seila Law LLC v. CFPB*, 591 U.S. 197 (2020).

⁴⁵ See 16 C.F.R. § 4.14.

⁴⁶ 295 U.S. 602 (1935).

⁴⁷ See Complaint, *Slaughter v. Trump*, No. 25-cv-00909, ECF 1 (D.D.C. Mar. 27, 2025).

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