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CFPB Memo Details Less Oversight on Fintechs, Shift to State-Led Enforcement

Go-To Guide

- On April 16, 2025, the Consumer Financial Protection Bureau (CFPB)'s chief legal officer issued a memorandum to CFPB staff that set out the agency's 2025 supervision and enforcement priorities.
- Per the memorandum, the CFPB is likely to only exercise authority it has expressly been granted via statute and then only for "actual" and "tangible" consumer harms to "identifiable victims with material and measurable consumer damages."
- Where permissible, the agency appears poised to defer to states and other federal agencies' supervisory and enforcement activities.
- The CFPB will shift focus away from fintechs and in favor of the largest banks and depository institutions.

On April 16, 2025, the CFPB's Chief Legal Officer, Mark R. Paoletta, issued a memorandum to CFPB staff that sets out the agency's 2025 supervision and enforcement priorities.

The memorandum, which the CFPB has not publicly released, provides that the CFPB "will focus its enforcement and supervision resources on pressing threats to consumers" and that, in order to focus on “tangible harms to consumers,” the CFPB will “shift resources away from enforcement and supervision that can be done by the States.”

The memorandum also rescinds all prior enforcement and supervision priority documents and explains the CFPB’s focus in 2025 will be on the following:

- **The CFPB will engage in fewer supervisory exams and focus on “collaborative efforts.”** The memorandum states the number of supervisory exams is “ever-increasing” and directs the CFPB’s supervision staff to decrease the overall number of “events” by 50%. Going forward, supervision staff are also directed to focus on “conciliation, correction, and remediation of harms” identified in consumer complaints and “collaborative efforts” with supervised entities to resolve problems that will lead to measurable benefits to consumers.
- **The CFPB will focus <u>more</u> on the largest depository institutions, <u>less</u> on fintechs.** The memorandum notes that, in 2012, the CFPB focused 70% of its supervision on banks and depository institutions and only 30% on nonbanks. It further notes that the proportion has “completely flipped,” such that 60% of the agency’s focus is directed at nonbanks. Going forward, the memorandum provides that the CFPB must “seek to return to the 2012 proportion” and “focus on the largest banks and depository institutions.”
- **The CFPB will focus <u>less</u> on key topics from the Biden administration.** In a move away from some of the hot topics under the Biden administration and former Director Chopra’s leadership, the CFPB will “deprioritize” the following:
  - loans or other initiatives for “justice involved” individuals, which the memorandum clarifies to mean “criminals”
  - medical debt
  - peer-to-peer platforms and lending
  - student loans
  - remittances
  - consumer data
  - digital payments
- **The CFPB will focus on “actual fraud” and “tangible harms” to consumers.** Rather than focus on the CFPB’s “perception that consumers made ‘wrong’ choices,’” the CFPB will instead focus on “actual fraud” involving “identifiable victims with material and measurable consumer damages.” Moreover, instead of “imposing penalties on companies in order to simply fill the Bureau’s penalty fund,” the CFPB will focus on returning money directly back to consumers by redressing “tangible harms.” In doing so, the CFPB’s areas of priority will be:
  - mortgages, as the highest priority
  - the Fair Credit Reporting Act and Regulation V data furnishing violations
  - the Fair Debt Collection Act and Regulation F violations relating to consumer contracts and debts
  - fraudulent overcharges, fees, etc.
  - inadequate controls to protect consumer information resulting in “actual loss” to consumers
- **The CFPB will focus on service members and veterans.** Going forward, the CFPB will prioritize providing redress to service members and their families and veterans.

- **The CFPB will "respect Federalism" and defer to the states.** The CFPB will, where permissible, defer to the states to exercise regulatory and supervisory authority. It will do so by (a) deprioritizing participation in multi-state exams unless participation is required by statute, (b) deprioritizing supervision where states "have and exercise ample authority" unless such supervision is required by statute, and (c) minimizing enforcement where State regulators or law enforcement are engaged or have investigated.
- **The CFPB will "respect other federal agencies' regulatory ambit."** The CFPB will, where permissible, defer to other federal regulators. It will do so by (a) eliminating "duplicative supervision" and "supervision outside of the Bureau's authority" (e.g., supervision of mergers and acquisitions), (b) coordinating exam timing with "other/primary" federal regulators, and (c) "minimize duplicative enforcement" where another federal agency is engaged or has investigated.
- **The CFPB will not rely on "novel" legal theories.** The memorandum provides that the CFPB will focus "on areas that are clearly within its statutory authority" and will not look to "novel" legal theories, including about its authority, to pursue supervision.
- **The CFPB will not engage in or facilitate "unconstitutional racial classification or discrimination."** With respect to its enforcement of fair lending law, the CFPB will pursue only matters with "proven actual intentional racial discrimination and actual identified victims," for which "maximum penalties" will be sought. Accordingly, the CFPB will not engage in redlining or bias assessment supervisions or enforcement "based solely on statistical evidence and/or stray remarks that may be susceptible to adverse inferences."
- **The CFPB will not attempt to "create price controls."** The memorandum provides that the CFPB's "primary enforcement tools are its disclosure statutes" and that it will not engage in attempts "to create price controls."

Key Takeaways

The memorandum represents what is likely to be a drastic reduction in CFPB supervision and enforcement activity and encouragement for some state agencies to increase their oversight.

Instead of an agency that utilizes an expansive view of its authority to redress what it perceives as consumer harms, the memorandum suggests that the CFPB under the Trump administration will instead only look to exercise powers that it is explicitly granted via statute and, even then, only to address "actual" and "tangible" consumer harms. And, where permissible, the CFPB appears poised to defer to other federal agencies and the state regulators.

The reduced focus on fintechs, P2P platforms, consumer data, and digital payments will likely be well received by nonbanks, but all in the industry should be vigilant for state regulators to step into the space vacated by the CFPB.

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