FINANCIAL SERVICES ADVISORY AND COMPLIANCE

FINANCIAL SERVICES ENFORCEMENT ACTIONS TRACKER — Q2 2018

HIGHLIGHTS FROM Q2 2018

Actions by Regulators

- **Actions by all regulators continue to fall, with only 39 actions this period.** This is the first quarter since Navigant Consulting, Inc. began publishing the tracker where the number of actions fell below 40. The current quarter is a **15% decrease from Q2 2017, and a 19% decrease since last quarter.** Recall that in Q1 2017 (which saw the transition from the Obama administration to the Trump administration), there were 65 total actions, so this quarter's activity reflects a 40% reduction from that experienced during the final partial Obama quarter.
- Unlike Q1 2018, **the Consumer Financial Protection Bureau (CFPB) was active again in Q2 2018, with three actions and a total of $1.34 billion in fines enforced.** One of these items was a highly publicized Unfair, Deceptive, or Abusive Acts or Practices (UDAAP) action against a top-three bank, which resulted in a $1 billion civil money penalty.
- The decrease in number of total actions was primarily caused by a lower number of Federal Deposit Insurance Corporation (FDIC) and Federal Reserve Bank (Fed) enforcement actions, both of which had their least active enforcement periods in the past five quarters. In Q2 2018, **there were 22 actions levied by the five main federal regulators** (CFPB, Office of the Comptroller of the Currency, FDIC, Fed, and Department of Justice), which is **a 27% decrease compared to Q2 2017, and a 31% decrease since last quarter.**
- The **Office of the Comptroller of Currency (OCC) had six actions in the quarter.** This is the most actions from the OCC in a single period observed over the past five quarters and up 50% from the previous quarter. Two of its Q2 actions were involved with the UDAAP violations, and a total amount of $515 million civil monetary penalty was enforced in these two actions.
- The main driver of actions was again **state and local regulators, which were involved with 11 actions, or 28% of all actions.**

Actions by Action Types

- Regulators most frequently used **Civil Money Penalty** to enforce regulatory requirements, with a total of **16 actions composing 41% of the 39 total Q2 2018 actions.** The next most frequently used method of enforcement was Settlement, with 11 instances accounting for 28% of the quarter's 39 actions.

Actions by Cited Regulations

- UDAAP-related violations were the area of law that was cited the most during the quarter, **with a total of 10 actions, or 26% of total Q2 actions.** It is also the law that was cited the most during the past five quarters, with a total of 51 actions accounting for 22% of the total 232 observed actions.
- Also noteworthy is that State Foreclosure Law was cited in two actions during Q2 2018. **This is the first time this area of law was cited over the past five observed quarters.**

Actions by Business Area

- **Seven actions in the quarter were related to servicing or origination of closed-end mortgage loans**, six actions were related to unsecured lending, and four actions were related to auto loans.

Monetary Penalty by Violation Types

- In the past five consecutive quarters, improper mortgage loan practice has been the source of the highest amount of associated monetary penalty, **with over $11.1 billion in fines or penalties.** The second-most frequent source was unfair or deceptive acts or practices, with over $2.7 billion in fines or penalties in the past five quarters.
- Unfair or deceptive acts or practices accounted for **11 actions this quarter** and had the highest fines in Q2 2018, with **$1.93 billion, or 58% of the $3.34 billion total fines.** Even with the one $1 billion fine removed, this is a marked increase in penalties. Other violations that stand out this quarter include improper mortgage loan practices, improper auto lending practices, and improper foreign transactions.
- Another area to generate increased focus was governance deficiencies, **involved with 12 actions and a total of $600 million civil money penalty in Q2 2018.**

Q2 2018 SUMMARY

A total of 39 actions were levied in Q2 2018. The number of regulatory enforcement actions decreased 19% from Q1 2018 and was driven primarily by a decrease in activity from the FDIC and Fed, as seen in Table 1.

Number of Actions by Regulators (Table 1)

	Q2 2017	Q3 2017	Q4 2017	Q1 2018	Q2 2018
CFPB	7	11	6	0	3
OCC	4	5	5	4	6
FDIC	10	9	8	10	5
FED	5	8	6	11	3
DOJ	4	8	6	7	5
Total Actions by Five Major Regulators	30	41	31	32	22
State / Local	11	12	11	13	11
Other[1]	8	6	5	6	6
Total Actions	**46**	**54**	**45**	**48**	**39**

The five major federal regulators issued 56% of total enforcement actions this quarter, with six from the OCC, five from the DOJ, five from the FDIC, three from the CFPB, and three from the Fed. CFPB was active again after zero actions had been enforced in last quarter, and FDIC and Fed both had a big drop in number of actions in Q2 2018. **State and local regulators were involved in a total of 11 actions and maintained the top spot for the fifth straight quarter.**

REGULATORY ACTIONS HIGHLIGHTS

Noteworthy Actions from the Quarter are Detailed Below:

Unfair, Deceptive, or Abusive Acts or Practices

Wells Fargo Bank was disciplined by the OCC in April 2018 after deficiencies in the bank's **enterprise-wide compliance risk management program** were identified. The deficiencies constituted "reckless, unsafe, or unsound practices" and resulted in violations of the unfair acts or practices provision of the Federal Trade Commission Act. An order for a civil money penalty of **$500 million** was issued and required to be paid upon the execution of the consent order.[2]

Wells Fargo was further disciplined by the CFPB in the same month after pleading guilty to the following violations of Mortgage-Interest-Rate-Lock Policies and Practices and Force-Placed Automobile Insurance Practices: (1) failure to follow the **mortgage-interest-rate-lock process** it explained to some prospective borrowers; and (2) **unfair operation of its Force-Placed Insurance program.** The consent order issued by CFPB ordered Wells Fargo to pay a civil money penalty of **$1 billion** to the bureau within 10 days of the effective date, and the amount can be credited by the $500 million penalty paid to the OCC upon the bank's satisfaction of its fine.[3]

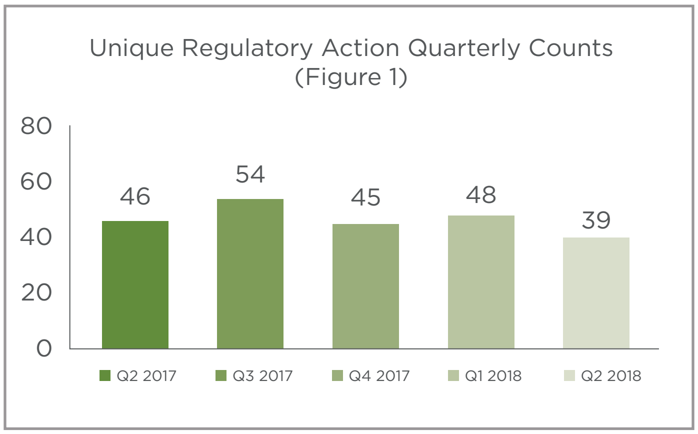
1. Federal Other consists of certain relevant enforcement actions by Commodity Futures Trading Commission, DOJ, Federal Housing Finance Agency, FinCEN, FINRA, Federal Trade Commission, Housing and Urban Development, SEC, National Credit Union Administration, and OFAC at banks and subsidiaries of bank holding companies.
2. Bryan Hubbard, "OCC Assesses $500 Million Penalty Against Wells Fargo, Orders Restitution for Unsafe or Unsound Practices," OCC, April 20, 2018, retrieved on August 16, 2018, from: https://www.occ.gov/news-issuances/news-releases/2018/nr-occ-2018-41.html.
3. CFPB, "Bureau of Consumer Financial Protection Announces Settlement with Wells Fargo For Auto-Loan Administration and Mortgage Practices," April 20, 2018, retrieved on August 16, 2018, from: https://www.consumerfinance.gov/about-us/newsroom/bureau-consumer-financial-protection-announces-settlement-wells-fargo-auto-loan-administration-and-mortgage-practices/.

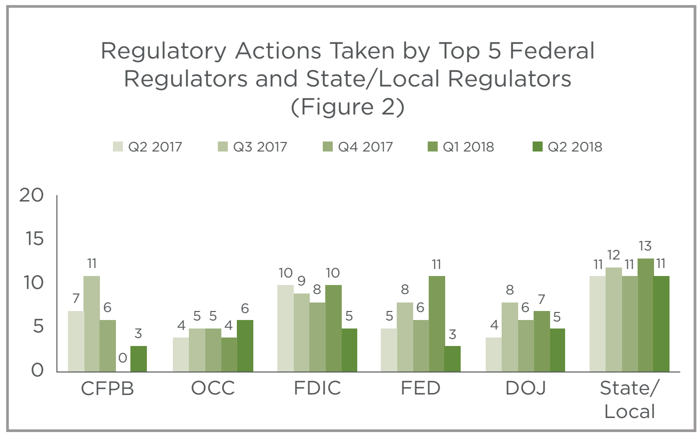
In May 2018, PNC Bank was disciplined by the OCC after deficiencies in the bank's practices that resulted in violation of UDAAP were identified. The bank was found to have failed to (1) **waive certain fees as represented in disclosures**; and (2) **provide overdraft protection transfers from a linked account within the time period represented in online disclosures**. The bank is ordered to pay a civil money penalty of $15 million upon execution of the consent order.[4]

In June 2018, Security Group, Inc. was disciplined by the CFPB after its **unfair practices in debt collecting processes** were identified. From 2011 to 2016, Security Group conducted in-person collection visits to consumers' homes and places of employment to collect debts and made collection calls to consumers' work places and third parties on shared phone lines, which risked disclosing the existence of consumer's delinquent debts. It was also found that Security Group has **failed to update and correct inaccurate credit reporting and furnish the date of first delinquency.** The consent order issued by CFPB ordered Security Group to pay a civil money penalty of $5 million to the bureau.[5]

Additional commentary on Q2 2018 financial enforcement actions, and related charts and graphs, can be found below:

Actions by Regulators (Figure 1-2)



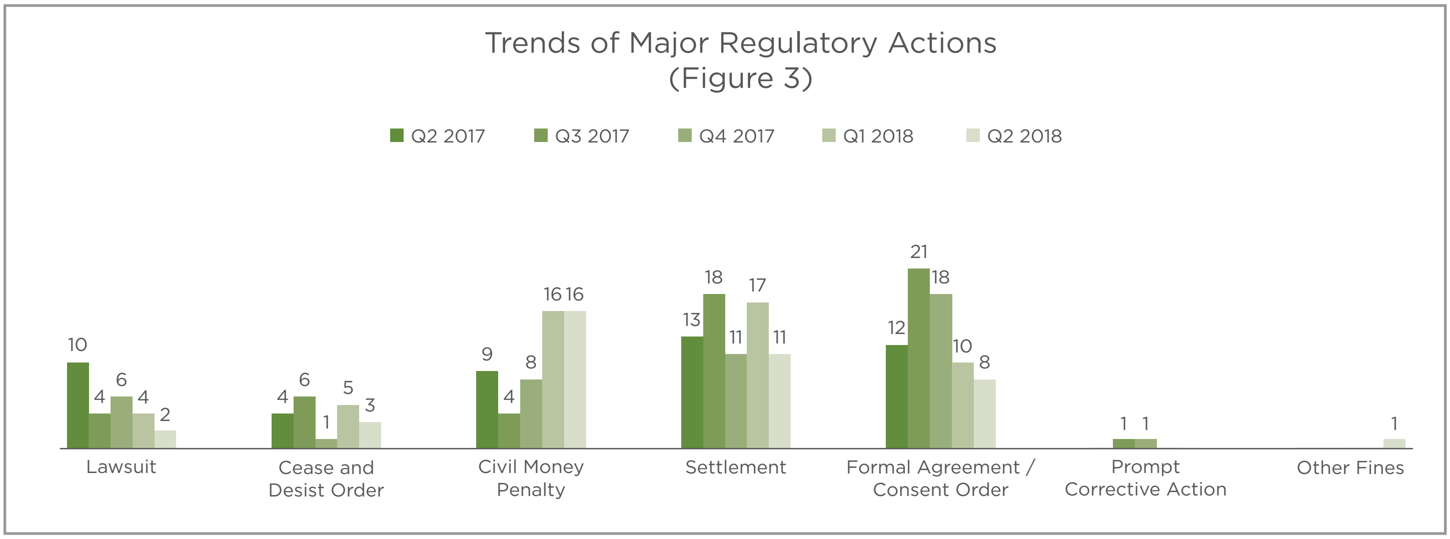


Highlights:

- A total of 39 actions were levied in Q2 2018, which is a 15% decrease compared to Q2 2017, and a 19% decrease compared to Q1 2018.
- Enforcement actions by major actors decreased in Q2 2018. The FDIC and the Fed had their fewest number of actions in the past five quarters.
- Eleven enforcement actions were levied by state and local regulators, making state regulators the most active in the quarter for the fifth consecutive quarter.

4. Glia Group, "PNC Bank, NA Pays $15M in UDAP Penalties," May 1, 2018, retrieved on August 16, 2018, from: https://www.bankersonline.com/penalty/158238.
5. CFPB, "Bureau of Consumer Financial Protection Settles with Security Group, Inc.," June 13, 2018, retrieved on August 16, 2018, from: https://www.consumerfinance.gov/about-us/newsroom/bureau-consumer-financial-protection-settles-security-group-inc/.

Regulatory Trends by Action/Violation and Enforcement Occurrences (Figure 3-5)



Note: One regulatory action may be categorized as multiple action types. Actions from previous quarters issued after the previous publication's cutoff date may be included in the above figures.

Highlights:

- While the distribution of regulatory actions varies across each quarter, civil money penalty accounted for the greatest number of actions in Q2 2018, with 16 total actions.
- Formal agreements/consent orders continued to decline in frequency and reached their lowest total count in Q2 2018.

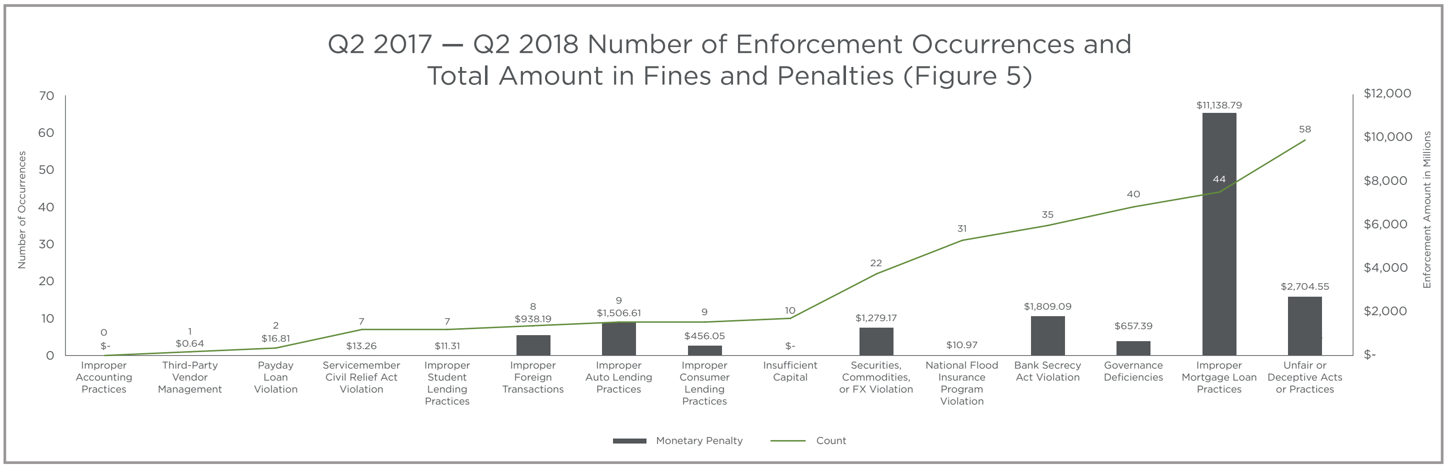
Q2 2017 to Q2 2018 Regulation/Regulation Agency Types of Violations (Figure 4)

REGULATORY VIOLATION TYPE	Q2 2017	Q3 2017	Q4 2017	Q1 2018	Q2 2018	GRAND TOTAL	% OF TOTAL
Allowance for Loan and Lease Losses	1	5	4	0	0	10	3.6%
Bank Secrecy Act/Anti-Money Laundering Act	4	8	6	13	5	36	13.1%
Basel — Capital Requirements	1	6	2	1	0	10	3.6%
Commodities or Securities Exchange Act	0	1	2	3	6	12	4.4%
Fair Housing Act	2	0	0	1	1	4	1.5%
Financial Industry Regulatory Authority	0	1	1	1	0	3	1.1%
National Flood Insurance Program	6	4	9	6	4	29	10.5%
Office of Foreign Assets Control	2	0	1	1	2	6	2.2%
Regulation AB: Asset-backed Securities & RMBS Violations	2	2	2	2	1	9	3.3%
Regulation B: Equal Credit Opportunity Act	0	1	0	0	1	2	0.7%
Regulation C: Home Mortgage Disclosure Act	0	0	0	0	0	0	0.0%
Regulation E: Electronic Fund Transfer Act	0	0	0	3	0	3	1.1%
Regulation H: Membership of State Banking Institutions in The Federal Reserve System	0	1	0	0	1	2	0.7%
Regulation V: Fair Credit Reporting Act	0	1	2	0	1	4	1.5%
Regulation X: Real Estate Settlement Procedures Act	5	4	0	2	0	11	4.0%
Regulation Y: Bank Holding Companies and Change in Bank Control	1	0	0	0	0	1	0.4%
Regulation Z: Truth in Lending Act	2	0	1	2	1	6	2.2%
Servicemember Civil Relief Act	0	3	2	2	0	7	2.5%
State Foreclosure Laws	0	0	0	0	2	2	0.7%
State Payday Lending Statutes	0	1	0	0	0	1	0.4%
Unfair, Deceptive, or Abusive Acts or Practices	12	12	12	5	10	51	18.5%
Other	14	16	8	13	15	66	24.0%
Total	**52**	**66**	**52**	**55**	**50**	**275**	**100%**

Note: Multiple violation types may be counted as part of one consent order or action taken by federal and state regulators. Actions from previous quarters issued after the previous publication's cutoff date may be included in the above figures.

Highlights:

- Frequency of violations related to UDAAP increased from five actions in Q1 2018 to 10 actions in Q2 2018, making it the most frequent regulatory violation type of the quarter.
- The top areas of violations over the past five quarters were issues around UDAAP (19%); Bank Secrecy Act/Anti-Money Laundering (BSA/AML) (13%); National Flood Insurance Program (11%); Commodities or Securities Exchange Act (4%); and Regulation X: Real Estate Settlement and Procedures Act (4%).



Q2 2017 — Q2 2018 Number of Enforcement Occurrences and Total Amount in Fines and Penalties (Figure 5)

Note: Multiple violation types may be counted as part of one consent order or action taken by federal and state regulators. Actions from previous quarters issued after the previous publication's cutoff date may be included in the above figures.

Highlights:

- Improper mortgage loan practices accounted for the highest total related fines over the past five quarters; UDAAP accounted for the second-highest total dollars in fines and penalties.
- UDAAP violations (25%), improper mortgage loan practices (19%), governance deficiencies (17%), BSA/AML violations (15%), national flood insurance program violations (13%), and Securities, Commodities, or FX Violation (9%) were the most frequent enforcement occurrences over the past five quarters.

METHODOLOGY

Navigant Consulting Inc.'s dedicated internal research team leverages regulatory agency publications, Factiva, SNL Financial, and LSM to monitor regulatory action in the financial services space by key federal, state, and local regulators.

Our internal research team collected information about actions taken over the past five quarters by the following U.S. regulators:

- Office of the Comptroller of the Currency (OCC)
- Federal Deposit Insurance Corporation (FDIC)
- Federal Reserve (Fed)
- Consumer Financial Protection Bureau (CFPB)
- Department of Justice (DOJ)
- State and local regulators, and others

The team focused on regulatory issues related to violations of:

- Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)
- Real Estate Settlement Procedures Act (RESPA)
- Bank Secrecy Act/Anti-Money Laundering laws (BSA/AML)
- Servicemembers Civil Relief Act (SCRA)
- Equal Credit Opportunity Act (ECOA)
- Truth in Lending Act (TILA)
- Fair Credit Reporting Act (FCRA)
- Various state laws, and others

Actions against individuals, removal or prohibition orders, termination of insurance, Section 19 letters, 1829 letters, and securities enforcement actions are not captured in this tracker. Actions published after July 30, 2018, are not included in this report.

APPENDIX

Enforcement Tracker Violation Type Definitions

Bank Secrecy Act violation: Failure of the financial institution to meet internal controls and monitoring requirements set forth by the Bank Secrecy Act or anti-money laundering regulations.

Fraudulent lending to insiders: Extension of credit to an insider, as defined by Regulation O and Regulation W, that exceeds limits set by Regulation O or Regulation W or provides the insider with any preferential treatment.

Governance deficiencies: Failure of a financial institution and/or its board to fulfill its fiduciary responsibilities in various areas of bank management, such as compliance risk management, operational efficiency, or interest rate risk management. (This category includes directors and officers actions; compliance risk management; management replacement and operations; credit risk and interest risk management).

Improper accounting practices: Failure to follow generally accepted accounting principles through means such as fraudulent reporting, omission of assets or liabilities, etc.

Improper auto lending practices: Violation of laws or regulations in the origination or servicing of an auto loan.

Improper foreign transactions: Violation of any law or regulation governing interactions with foreign entities; commonly an OFAC violation.

Improper mortgage loan practices: Violation of a law or regulation in the origination or servicing of a mortgage loan or mortgage-backed securities.

Improper student lending practices: Violation of law or regulation in the origination or servicing of an education loan.

Improper consumer lending practices: Violation of law or regulation in the origination or servicing of a consumer loan, other than mortgage, auto, or student loans.

Insufficient capital: Failure of a financial institution to meet minimum capital requirements set forth by Basel.

National Flood Insurance Program violation: Violation of the National Flood Insurance Program requirements or related acts and regulations, such as the National Flood Insurance Act or Flood Disaster Protection Act.

Payday loans violation: Violation of any law or regulations in the issuance or servicing of payday loans.

Securities, commodities or forex violation: Violation of any law or regulation in the distribution, monitoring, or trading of securities, commodities, or forex.

Servicemembers Civil Relief Act violation: Violation of any law or regulation in the origination of servicing of a line of credit to an active-duty member of the U.S. armed forces.

Third-party vendor management: Failure by an institution to ensure that third-party vendors are operating in compliance with pertinent laws and regulations.

Unfair, Deceptive, or Abusive Acts or Practices: Any unfair or deceptive statement, disclosure, or action that causes material harm to the consumer.

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About Navigant

Navigant Consulting, Inc. (NYSE: NCI) is a specialized, global professional services firm that helps clients take control of their future. Navigant's professionals apply deep industry knowledge, substantive technical expertise, and an enterprising approach to help clients build, manage, and/or protect their business interests. With a focus on markets and clients facing transformational change and significant regulatory or legal pressures, the firm primarily serves clients in the healthcare, energy, and financial services industries. Across a range of advisory, consulting, outsourcing, and technology/analytics services, Navigant's practitioners bring sharp insight that pinpoints opportunities and delivers powerful results. More information about Navigant can be found at navigant.com.

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