Financial Services Enforcement Actions Tracker

March 2020

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Regulatory Outlook

As the COVID-19 pandemic unfolds across the U.S. and around the world, it has created unprecedented challenges for financial institutions globally. These challenges have forced us to find new ways to execute our jobs and interact with our customers. The environment continues to quickly evolve — new issues, and ultimately opportunities, will arise over the coming weeks and months. We expect the regulatory climate will also change to address these new challenges as the federal and state governments provide stimulus packages and roll out new programs.

Our future outlook would suggest increased challenges/focus on areas such as:

- Mortgage originations refinance process to ensure compliance with Regulation B.
- The appraisal review process based on exterior-only, remote inspection, or accepting appraisal waivers.
- Accuracy in the calculation of loss mitigation activities (fees, interest, etc.).
- Ensuring fair debt collection practices that are not interpreted as taking advantage of the public panic situation.
- Submission of accurate credit reporting activities to reflect regulatory guidelines.
- Ensuring information privacy and protection while the majority of the workforce shifts to a remote model.
- Ensuring existing business processes do not contain any Unfair, Deceptive, or Abusive Acts or Practices (UDAAP), especially in areas of marketing presentation, interest rate adjustment, etc.
- Managing conflicting federal, state, and investor regulatory guidance.

Although these are only some examples of increased challenges in the consumer financial markets, we do estimate a reduction in volume of financial industry enforcement activities in the foreseeable future. Identifying new areas of increased risk and shifting focus to those areas will be a critical activity for financial institutions to maintain a fully compliant operation while facing the new challenges of 2020.

Tracking Methodology

Guidehouse's Financial Services Enforcement Actions Tracker compiles publicly available data from both federal and state regulators regarding quarterly enforcement actions against financial institutions. First published in 2016, the Tracker showcases the types of activities that consumer finance-focused regulators are currently monitoring and helps the audience better address the trends and challenges in today's regulatory environment.

Regulators

Five major federal regulators (CFPB, DOJ, FDIC, FRB, OCC), other federal regulators, and state regulators introduced by CFPB.

Action Types

10 types of actions regulators use to enforce financial regulations, including Cease-and-Desist Order, Civil Money Penalty, Formal Agreement/Consent Order, Letter of Acceptance, Order for Restitution, Fines, etc.

Violation Types

15 violation categories that cover most commonly cited violations in enforcement actions, including Bank Secrecy Act Violation, Governance Deficiencies, Improper Accounting Practices, Improper Auto Lending Practices, Improper Mortgage Loan Practices, Improper Consumer Lending Practices, etc.

Cited Regulations

20-plus financial regulations related to consumer finance that are cited by regulators in enforcement actions, including Bank Secrecy Act/Anti-Money Laundering Laws, Fair Housing Act, Home Mortgage Disclosure Act, Electronic Fund Transfer Act, etc.

Penalties & Restitution

Monetary penalties/fines enforced by regulators for restitution, assessment for civil money penalties, etc.

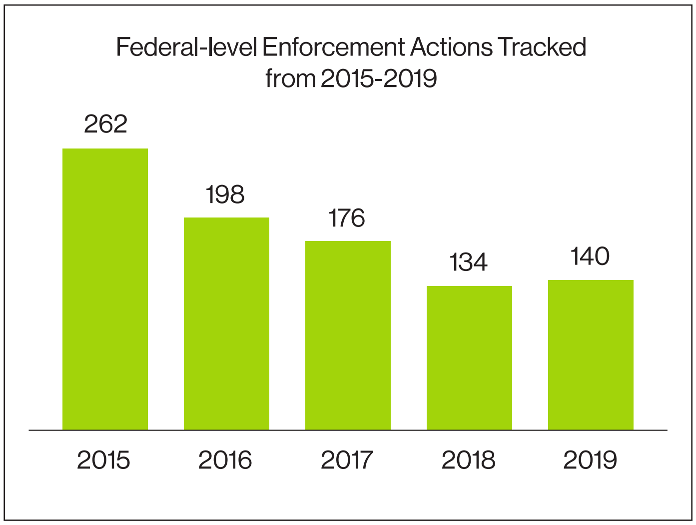
Note: Actions against individuals, removal or prohibition orders, termination of insurance, Section 19 letters, 1829 letters, certain securities enforcement actions, and actions related to improper report filing or licensing, unlawful debt collection, and complaints are not captured.

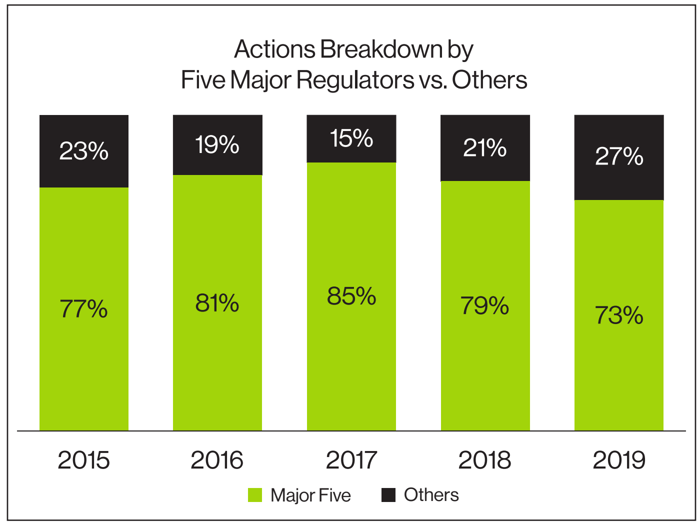
Trends Over Past Five Years

1. Volume of Federal Enforcement Actions in Past Five Years

An overall downward trend in volume of federal-level enforcement actions was observed between 2015-2019:

- In 2015, federal-level regulators enforced 262 actions.
- In 2019, this number decreased to 140, representing a 47% decrease compared to five years ago.



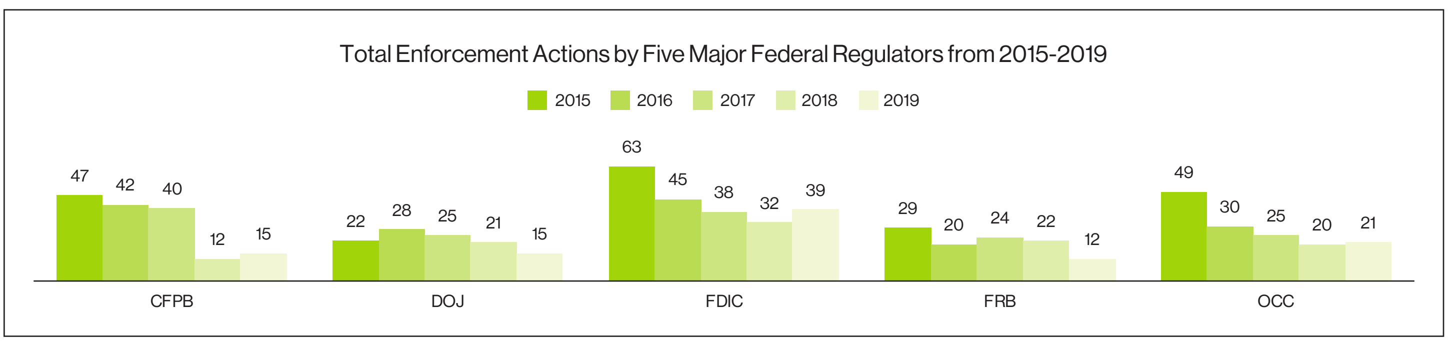


In the past three years, actions enforced by other federal-level regulators have accounted for a higher proportion in total federal-level enforcement actions:

- In 2017, 85% of federal actions were enforced by the five major regulators (CFPB, FRB, FDIC, OCC, and DOJ). **Only 15% of federal-level enforcement actions were enforced by non-major five federal regulators.**
- In 2019, 73% of federal actions were enforced by the five major regulators, and the **other federal regulators collectively enforced 27% of total federal-level actions.**

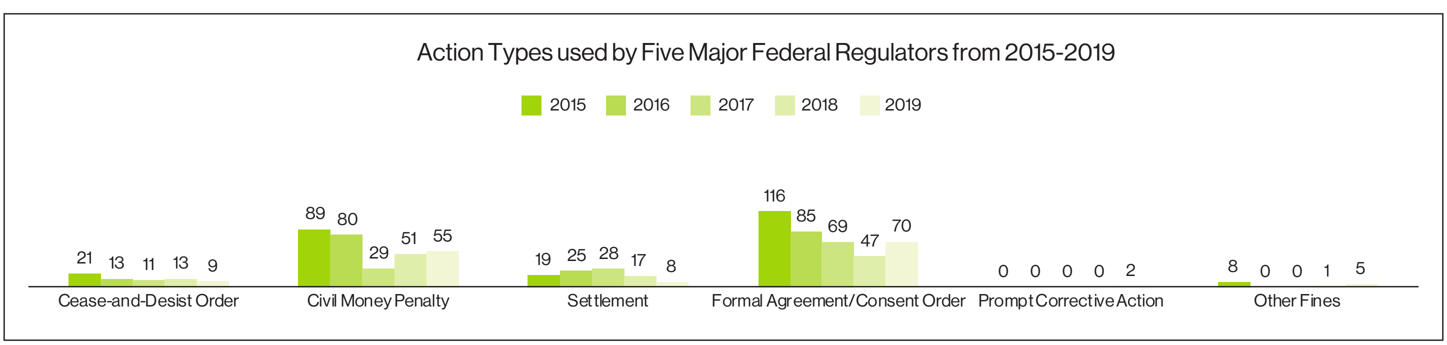
2. Number of Actions Enforced by Five Major Federal Regulators in Past Five Years

An **overall downward trend** in volume of actions enforced by **five major federal regulators** was observed between 2015-2019.



3. Action Types Used by Five Major Federal Regulators in Past Five Years

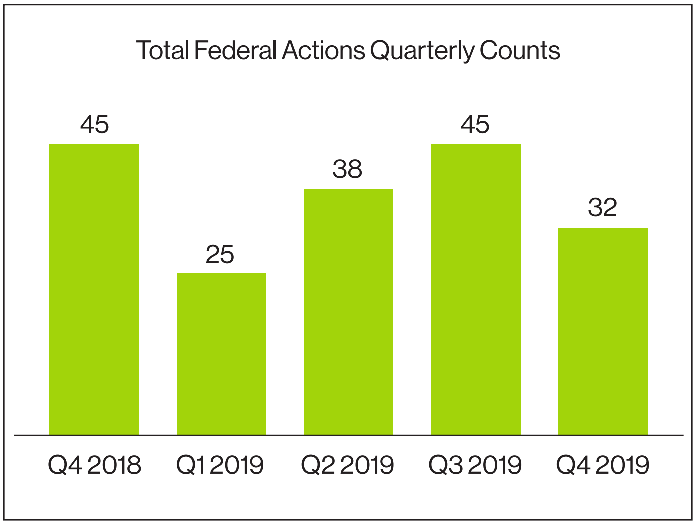
Formal Agreement/Consent Order and **Civil Money Penalty** were the most frequently used action types for five major federal regulators to enforce regulatory requirements.

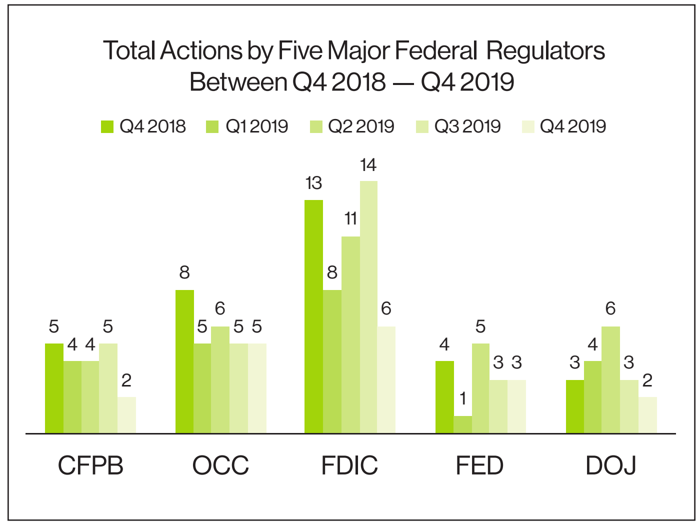


Guidehouse tracks federal-level enforcement actions related to consumer finance from certain regulators. Specifically, Five Major federal regulators consist of the CFPB, DOJ, FDIC, FRB, and OCC. "Others" consist of certain relevant enforcement actions levied by the CFTC, FHFA, FinCEN, FINRA, FTC, HUD, SEC, NCUA, and OFAC at banks and subsidiaries of bank holding companies.

Trends Over Past Five Quarters

4. Volume of Federal Enforcement Actions in Past Five Quarters





- A total of **32 federal level regulatory actions** were observed in Q4 2019.
  - With 45 federal actions in Q3 2019, Q4 2019 saw a **29% decrease** quarter over quarter.
  - With 45 federal actions in Q4 2018, Q4 2019 saw a **29% decrease** year over year.
- In this quarter, the CFPB, the FDIC, and the DOJ all had their lowest number of actions in a single period observed over the past five quarters.
- The decrease in total actions was primarily driven by **lower activities from both the CFPB and the FDIC**: a total of two actions were levied by the CFPB, which was a 60% decrease compared with Q3 2019; a total of six actions were levied by the FDIC, representing a 57% decrease compared with Q3 2019.

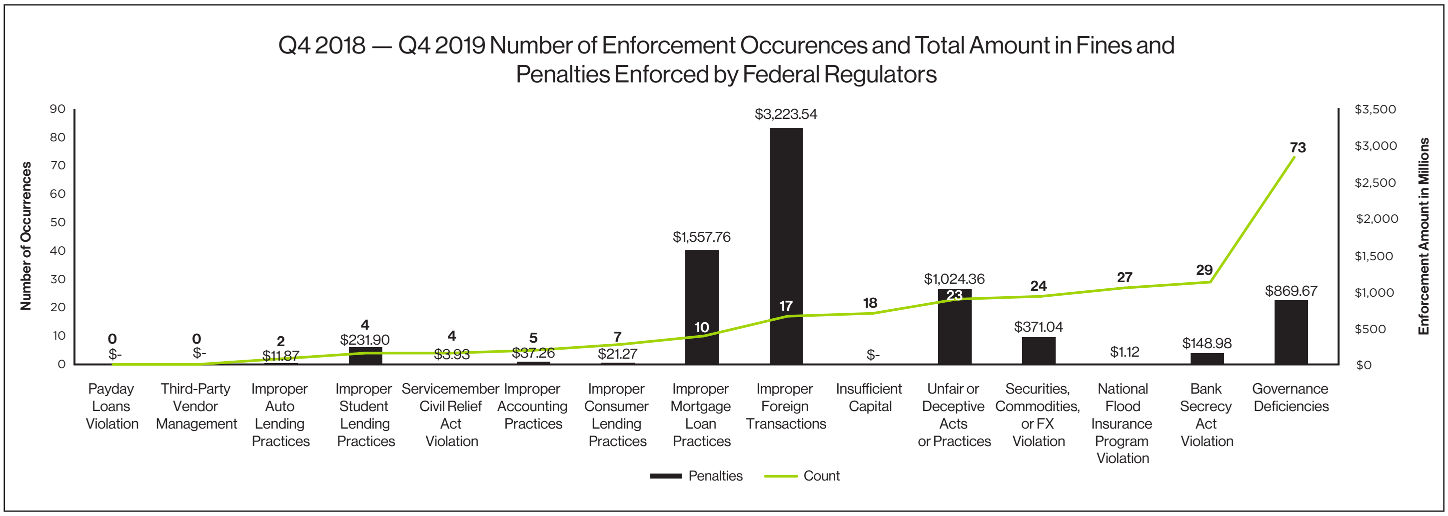
5. Example Actions of Violation Types

The following enforcement actions are examples of some of the most frequently involved violation types:

Governance Deficiencies	In Q4 2019, FINRA issued a Letter of Acceptance, Waiver and Consent to a bank for its supervisory violations and violations of various provisions of the Securities Exchange Act. The bank did not have a supervisory system reasonably designed to monitor potential spoofing, wash sales, and prearranged trading by its direct-market access clients.
UDAAP	In Q4 2019, the CFPB announced a settlement with a company after it found that the company and its principal misrepresented the true cost of credit in violation of the Consumer Financial Protection Act of 2010.
National Flood Insurance Program Violations	In Q4 2019, the Office of the Comptroller of the Currency found a California-based company, which is an operating subsidiary of a bank, had engaged in a pattern of practice that violated the Flood Disaster Protection Act and its implementing regulations. The bank was ordered to pay a civil money penalty of nearly $100,000.
Bank Secrecy Act Violations	In Q4 2019, the FDIC filed a Consent Order against a bank for its unsafe or unsound banking practices and Bank Secrecy Act-related violations. The bank is required to take corrective actions in the following areas: written BSA compliance program, due diligence program, account transaction monitoring, retention of qualified BSA management, BSA training program, automated clearing house activity, and restrictions on new lines of business.

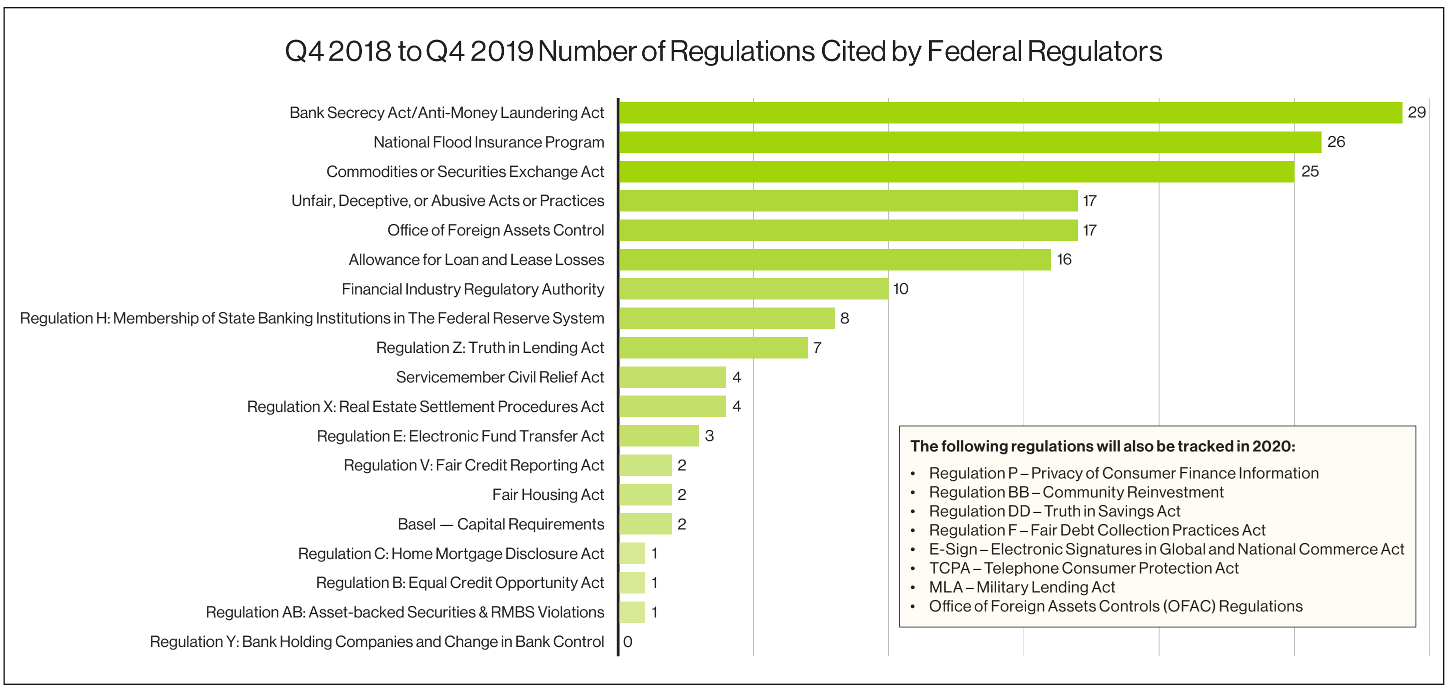
6. Violation Types and Associated Monetary Penalties

A total of 73 actions over the past five quarters involved Governance Deficiencies, making it the most frequently occurring violation and accumulating nearly $870 million in fines and penalties enforced. **Improper Foreign Transactions** has been the source of the highest amount of associated monetary penalties enforced by federal regulators, with more than $3 billion enforced.



7. Regulations Cited by Federal Regulators

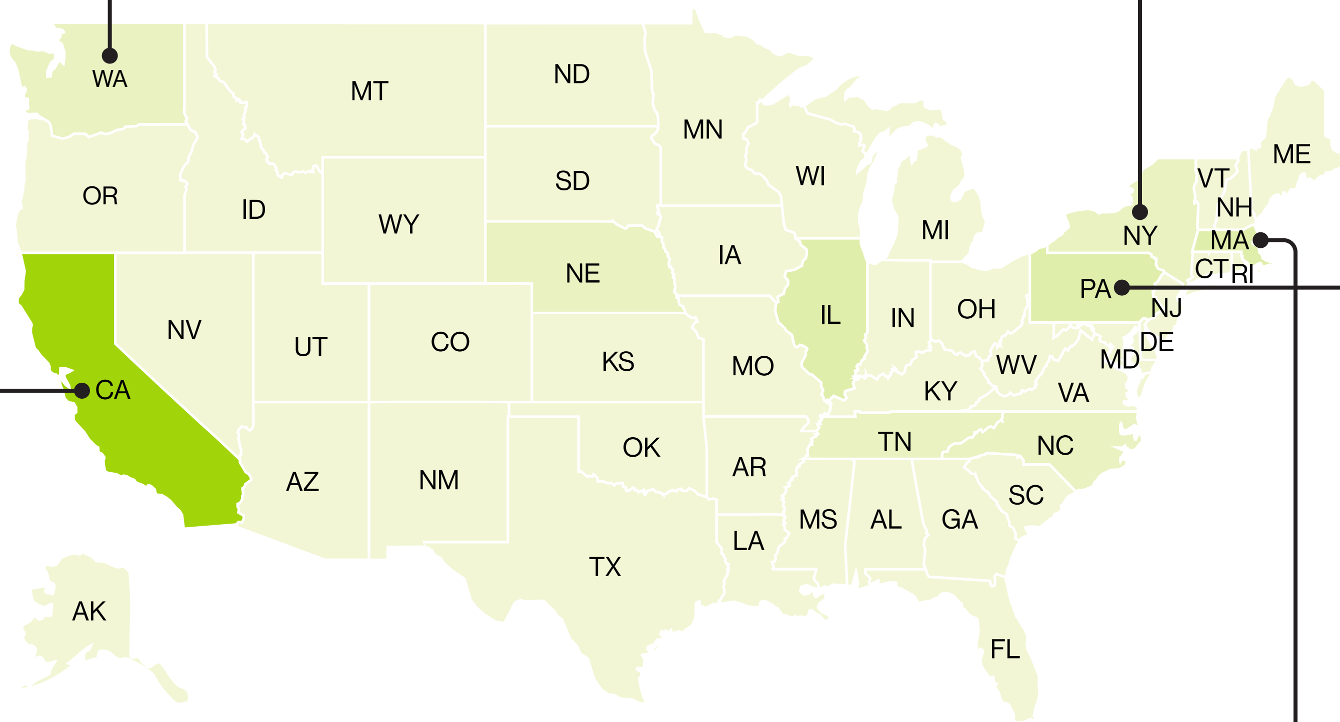
Bank Secrecy Act/Anti-Money Laundering laws was the most frequently cited area of law in federal actions during the past five quarters, with a total of 29 citations. Other top areas of cited regulations were **National Flood Insurance Program, Commodities or Securities Exchange Act, UDAAP, Office of Foreign Assets Control, and Allowance for Loan and Lease Losses.**



State Actions

One action was levied by Washington state regulators, with $17,400 penalties enforced for Improper Mortgage Loan Practices.

New York regulators enforced one action in Q4 2019, **involving $5,000 in fines and penalties related to Improper Mortgage Loan Practices.**



20 mortgage loan-related actions were enforced by California state regulators in Q4 2019, representing 59% of total state actions observed, making California the most active state regulator in this quarter.

Massachusetts regulators levied two actions in this quarter, with **$350,000** penalties enforced. One of the actions involved violations related to **Regulation X: Real Estate Settlement Procedures Act**.

Pennsylvania regulators enforced three actions in Q4 2019, **involving $15,000 in fines and penalties**. Two of these actions were related to Securities, Commodities or FX violation, and one of them was related to Improper Mortgage Loan Practices.

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