

Financial Services Enforcement Actions Tracker

December 2021

Regulatory Outlook

Over the course of almost two years, the economy has faced unprecedented challenges. The COVID-19 pandemic, followed by changes in the presidential administration, has created a new environment with increased regulatory oversight. In comparison to the previous administration, the Biden administration has embraced the more active role of financial regulatory agencies and has taken concrete steps by appointing key leadership roles in financial regulatory agencies:

- **March 11, 2021:** Attorney General Merrick B. Garland was sworn in as the 86th Attorney General of the United States.¹
- **April 14, 2021:** Gary Gensler was confirmed by the US Senate after being nominated by to chair the SEC by President Biden on February 3, 2021.²
- **September 23, 2021:** Saule Omarova was nominated by President Biden for the role of Comptroller of the Currency, Department of Treasury. If approved by the Senate, she will become the first woman and person of color to serve as the comptroller of the currency.³ Due to the lack of Democratic support, Omarova is not expected to be confirmed by the Senate.⁴
- **September 30, 2021:** Rohit Chopra was confirmed by the US Senate to lead the CFPB. He assumed office on October 12, 2021.⁵

Based on market trends, insights and experience, Guidehouse expects financial institutions will be facing more aggressive regulatory enforcement in the following years. Additionally, Guidehouse anticipates more cross-agency collaboration to combat regulatory misconduct, as seen recently by the cooperation of the OCC, CFPB, and DOJ on enforcing actions related to Fair Housing Act (FHA) and the Equal Credit Opportunity Act (ECOA)⁶. Moving forward, the primary focus will be addressing COVID relief, protecting minorities, and equitability, unfair, and deceptive practices, fair lending, and other borrower-centered regulations.

1. <https://www.justice.gov/ag/staff-profile/meet-attorney-general>

2. <https://www.sec.gov/news/press-release/2021-65>

3. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/23/president-biden-announces-key-nominations-for-financial-regulation-and-investor-protection/>

4. <https://www.axios.com/democrats-omarova-occ-5755a0e4-c6a5-4ca7-b6c7-87d18d5491f9.html>

5. <https://www.americanbanker.com/news/senate-confirms-chopra-as-cfpb-chief-in-party-line-vote> <https://www.consumerfinancemonitor.com/2021/01/18/president-elect-biden-nominates-rohit-chopra-to-serve-as-cfpb-director/>

6. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-doj-and-occ-take-action-against-truist-national-bank-for-deliberate-discrimination-against-black-and-hispanic-families/>



Regulatory Insights

Guidehouse continues to monitor ongoing industry and political changes to support clients in addressing and managing compliance and regulatory risks while focusing on market opportunities. Prior to providing a more in-depth analysis for the next quarter, Guidehouse would like to share market insights from regulators that could potentially impact current and future trends.

- **October 20, 2021:** Federal regulatory agencies, including CFPB, FDIC, and OCC, jointly issued a statement supporting preparedness of financial institutions regarding LIBOR's discontinuation.⁷
- **October 21, 2021:** The CFPB targeted tech giants Amazon, Apple, Facebook, Google, PayPal, and Square by ordering the firms to provide information on how they're collecting and using customers' financial data.⁸
- **October 29, 2021:** The CFPB announced leadership changes within the bureau. Lorelei Salas will be joining the CFPB as Assistant Director for Supervision Policy, whereas Eric Halperin will be joining as Assistant Director for the Office of Enforcement.⁹
- **November 17, 2021:** Federal Reserve, OCC, and FDIC approved cyberattack rules for the US banking system, effective April 1, 2022.¹⁰
- **November 22, 2021:** President Biden nominated Jerome Powell as Chair of the Board of Governors of the Federal Reserve System. An announcement on three vacant seats on the Federal Reserve Board of Governors is expected early December.¹¹
- **November 30, 2021:** The previously announced CFPB final rules under Fair Debt Collection Practices Act (FDCPA) go into effect.¹²

Along with continued cross-agency collaboration and a focus on fair lending, Guidehouse has observed increased attention on FinTechs and their consumer data practices.

7. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-joins-other-financial-regulatory-agencies-in-issuing-statement-on-discontinuation-of-libor/>

8. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-tech-giants-to-turn-over-information-on-their-payment-system-plans/>

9. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-names-new-chiefs-for-supervision-and-enforcement-positions/>

10. <https://occ.gov/news-issuances/news-releases/2021/2021-119a.pdf>

11. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/22/president-biden-nominates-jerome-powell-to-serve-as-chair-of-the-federal-reserve-dr-lael-brainard-to-serve-as-vice-chair/>

12. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-confirms-effective-date-for-debt-collection-final-rules/>



Federal-Level Enforcement Actions

Top Q3 2021 Federal Enforcement Actions

As UDAAP and Governance Deficiencies continue to be leading action areas, the following enforcement actions are examples of additional areas of federal **enforcement actions** for Q3 2021*

Bank Secrecy Act

In Q3, 2021 there were two actions cited as pertaining to the Bank Secrecy Act, totaling \$102.5 million in monetary penalties and restitution. These actions were related to the banks' failure to adopt and implement a Bank Secrecy Act/Anti-Money Laundering compliance program. Additionally, the banks failed to file necessary Suspicious Activity Reports (SARs) and Currency Transaction Reports (CTRs).

Fair Housing Act

In Q3, 2021 there were two actions cited as pertaining to the Fair Housing Act, totaling \$8.5 million in monetary penalties and restitution. These actions were related to disparate treatment of customers, which included not providing equal credit access to residents seeking first-lien mortgage loans.

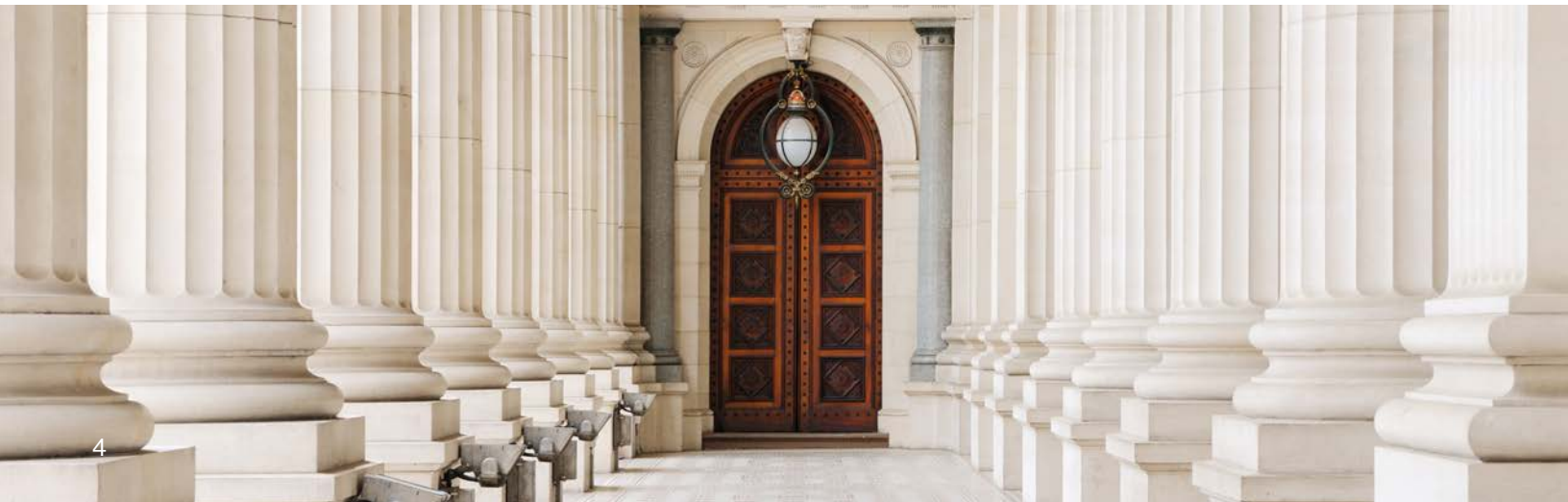
Regulation B: Equal Credit Opportunity Act

In Q3, 2021 there were two actions cited as pertaining to Regulation B, totaling \$7.4 million in monetary penalties and restitution. These actions were related to "redlining," deceptive marketing, and failure to provide timely and accurate notices to consumers whose loan applications were denied.

National Flood Insurance Program

In Q3, 2021 there were eight actions cited as pertaining to the National Flood Insurance Program, totaling \$157,000 in monetary penalties and restitution. Four of the actions were in connection with banks' pattern or practice of violations of Regulation H: Membership of State Banking Institutions in The Federal Reserve System.

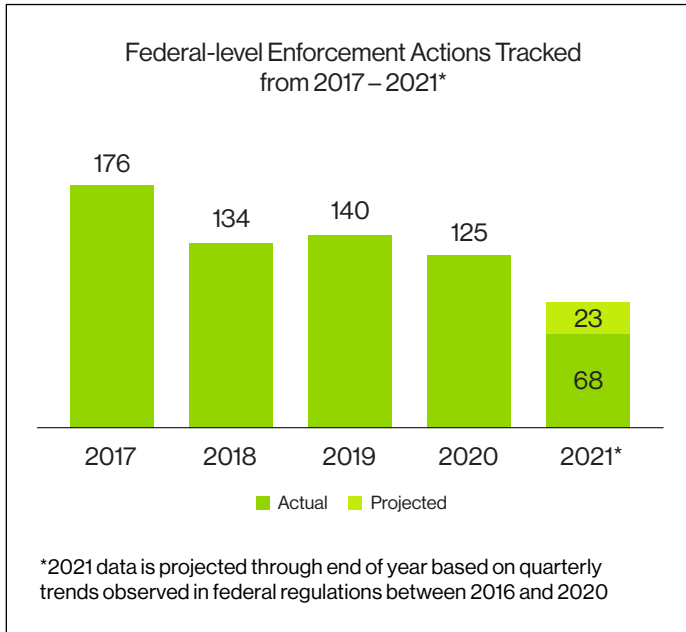
*The listed actions are likely holdovers from the Trump administration that started under the previous CFPB regime.



Federal-Level Enforcement Actions

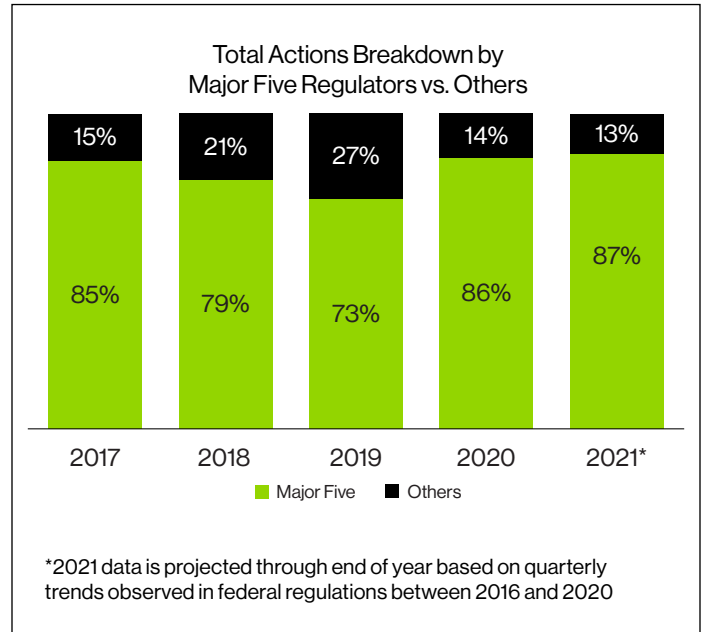
Prior Five Years (2017 – 2021*)

Below please find charts that describe the **federal-level enforcement actions from 2017 to 2021**.* As seen in these charts, there's been a **consistent decline in enforcement actions over this time**.



An overall downward trend in volume of federal-level enforcement actions was observed between 2017 – 2021*:

- In 2017, federal-level regulators enforced 176 actions.
- In 2021, Guidehouse projects this number decreased to 91, representing a 48% decrease compared to 2017.
- Although 2021 has proven to have had less enforcement actions than years past, Guidehouse projects the number of actions to accelerate in 2022, as the Biden administration continues to ramp up.



In the past four 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 major five regulators (CFPB, DOJ, FDIC, FRB, and OCC), **only 15% of federal-level enforcement actions were enforced by non-major five federal regulators**.
- In 2021, Guidehouse projects 87% of federal actions to be enforced by the major five regulators, and the **other federal regulators to enforce 13% of total federal-level actions**.

*2021 data is projected through end of year based on quarterly trends observed in federal regulations between 2016 and 2020

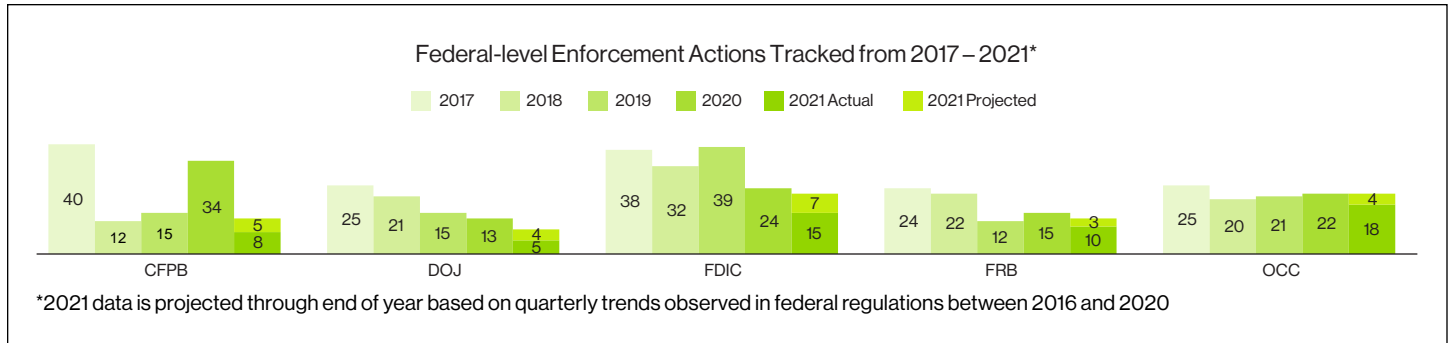
Guidehouse tracks federal-level enforcement actions related to consumer finance from certain regulators. Specifically, Major Five federal regulators consist of the CFPB, DOJ, FDIC, FRB, and OCC. "Others" consist of certain relevant enforcement actions levied by the CFTC, FHFA, FinCEN, FINRA, FTC, HUD,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

Federal-Level Enforcement Actions

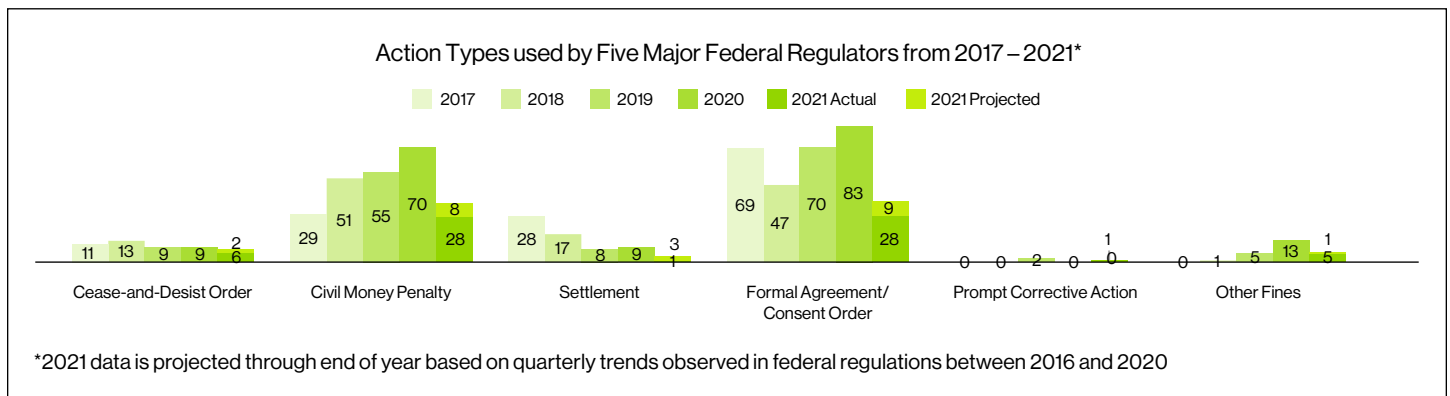
Prior Five Years (2017 – 2021*)

Below please find charts that describe the **federal-level enforcement actions from 2017 to 2021*** broken down by the **five major regulators** and their corresponding action types. As seen in these charts, there's been a consistent decline in enforcement actions over this time.

An **overall downward trend** in volume of actions enforced by **five major federal regulators** was observed between 2017 – 2021*



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



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.

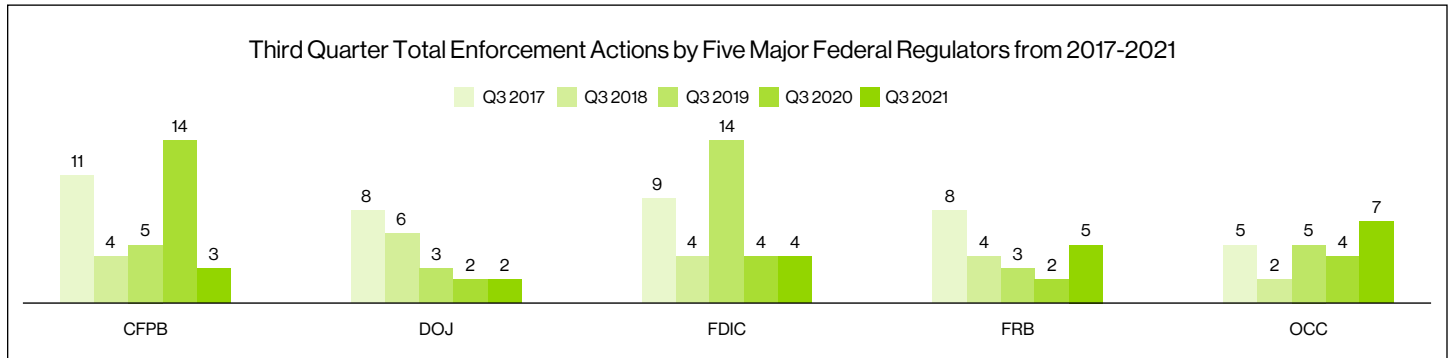


Federal-Level Enforcement Actions

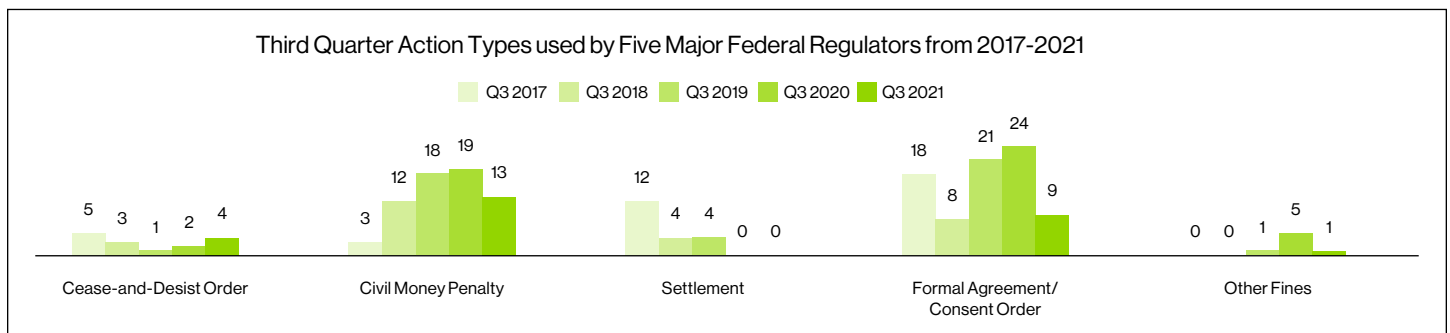
Third Quarter Actions of Prior Five Years (Q3 2017 – Q3 2021)

Below please find charts that describe the **federal-level enforcement actions for the third quarter of each year from 2017 to 2021** broken down by the five major regulators and their corresponding action types.

An **overall downward trend** in volume of actions enforced by **five major federal regulators** was observed between 2017-2021, with an increase in OCC and FRB enforcements in Q3 2021.



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



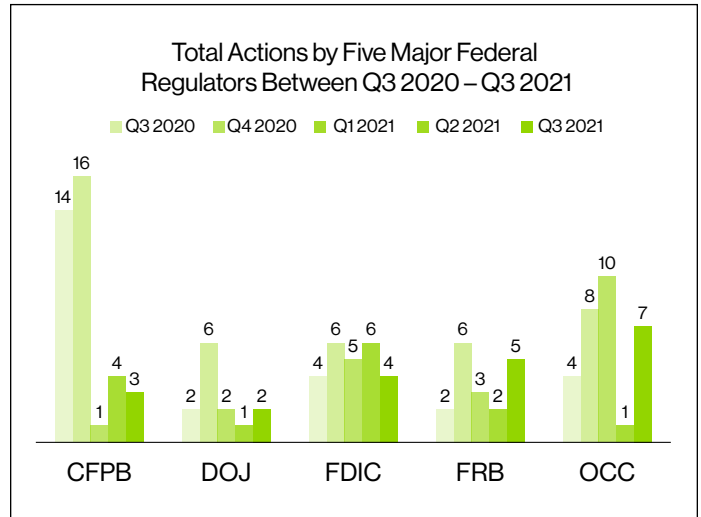
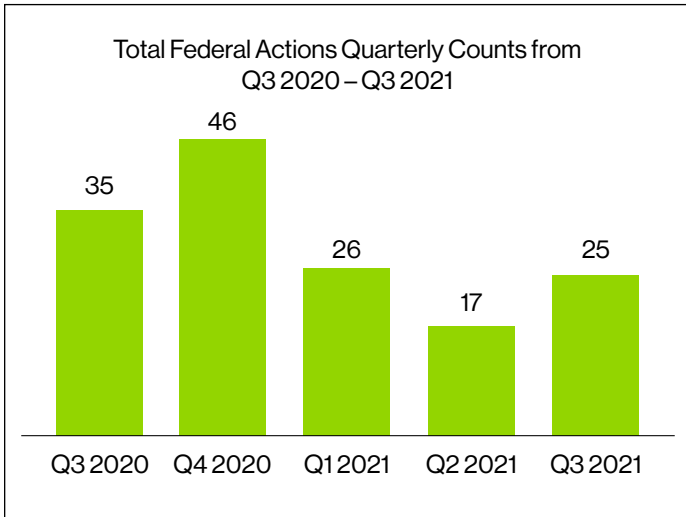
Note: One regulatory action may be categorized as multiple action types. Actions from previous quarters issued after the previous publication's cutoff date may be included in the above figures.



Federal-Level Enforcement Actions

Prior Five Quarters (Q3 2020 – Q3 2021)

Below please find charts that describe the **federal-level enforcement actions for the past five quarters (Q3 2020 – Q3 2021)**. As seen in the charts, there was a decrease in enforcement actions from Q4 2020 to Q2 2021 and an increase in enforcement actions from Q2 2021 to Q3 2021.

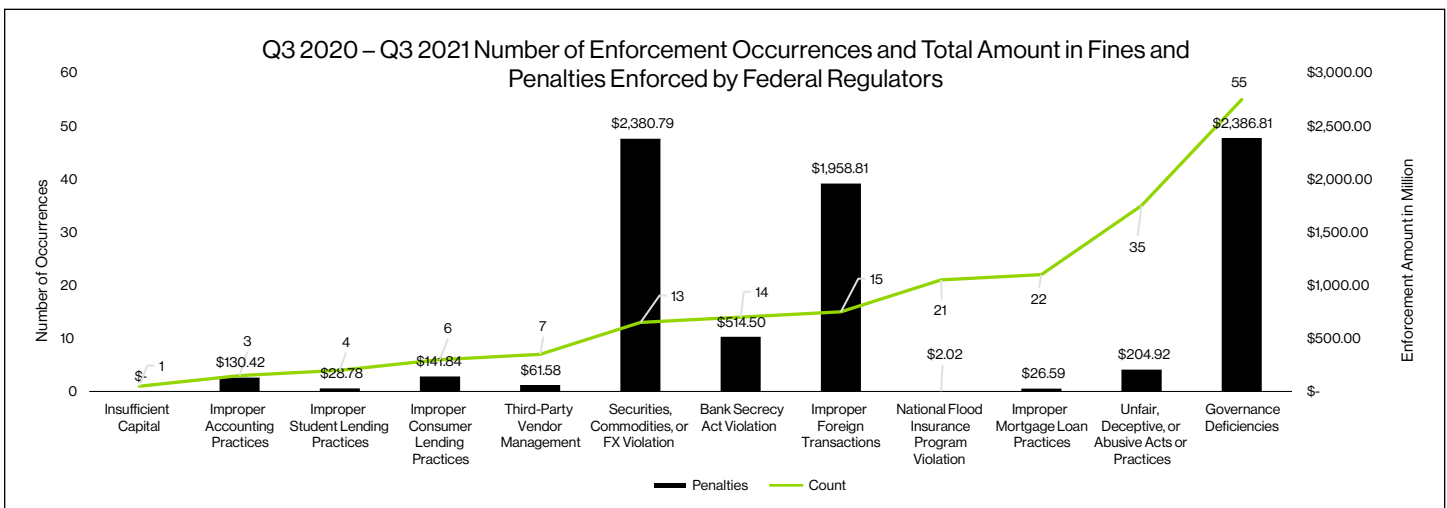


- A total of **25 federal level regulatory actions** were observed in Q3 2021.
 - With 25 federal actions in Q3 2021, compared to 17 federal actions in Q2 2021, there was a **47% increase** quarter over quarter.
 - With 25 federal actions in Q3 2021, compared to 35 federal actions in Q3 2020, there was a **29% decrease** year over year.
- Please note the high volume of enforcement actions issued by the CFPB in the Q3 and Q4 of 2020 were primarily related to deceptive advertisements for VA mortgage loans.*

*<https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-settles-ninth-mortgage-company-address-deceptive-loan-advertisements-sent-servicemembers-and-veterans/>

Prior Five Quarters (Q3 2020 – Q3 2021)

Below please find a chart that depicts the Federal-level enforcement actions for the last five quarters (Q3 2020 – Q3 2021). **A total of 55 actions over the past five quarters involved Governance Deficiencies**, making it the most frequently occurring violation - accumulating over \$2.3 billion in fines and penalties enforced.



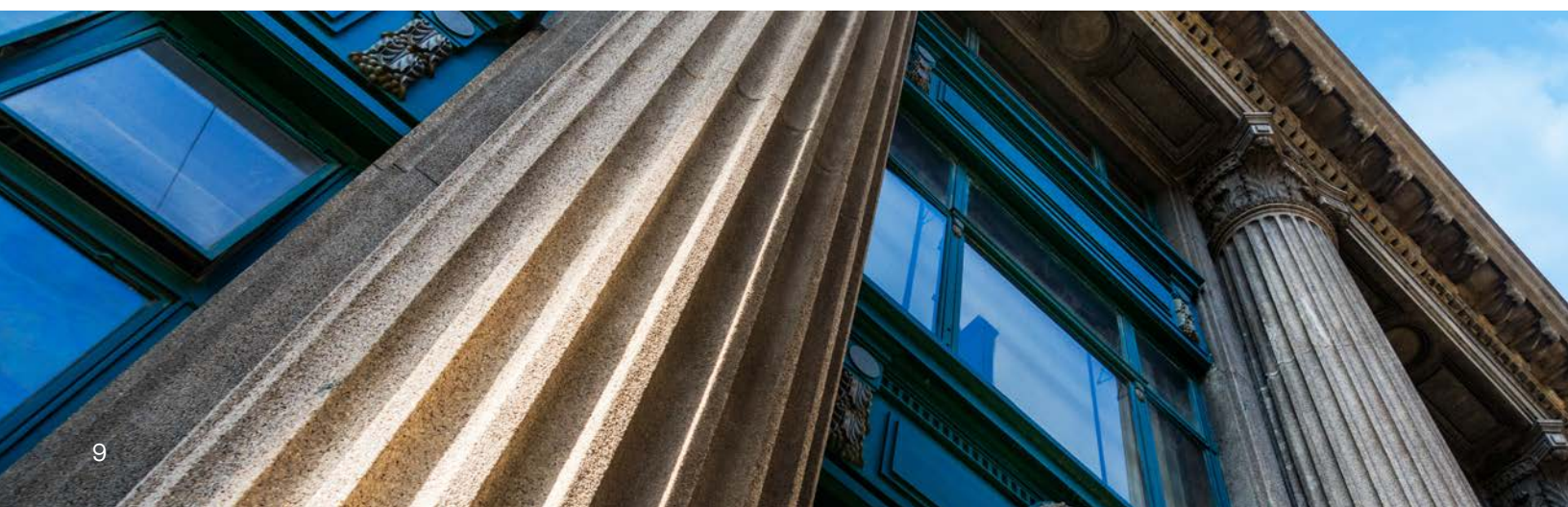
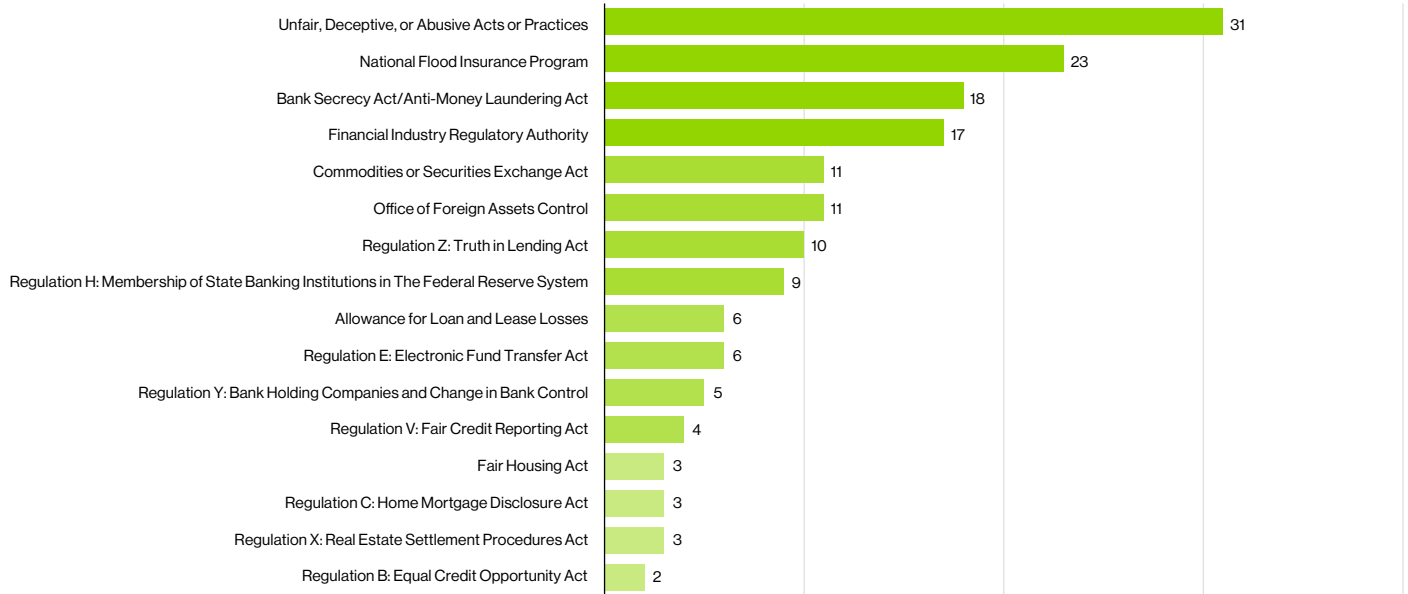
Note: One regulatory action may be categorized as multiple action types. Actions from previous quarters issued after the previous publication's cutoff date may be included in the above figures

Federal-Level Enforcement Actions

Prior Five Quarters (Q3 2020 – Q3 2021)

Below please find a chart that breaks down the regulations cited in federal-level enforcement actions for Q3 2020 – Q3 2021. **UDAAP** was the most frequently cited area of law in federal actions during the past five quarters, with a total of 31 actions. Other top areas of cited regulations were **National Flood Insurance Program, BSA/AML, Financial Industry Regulatory Authority, and Office of Foreign Assets Control.**

Q3 2020 to Q3 2021 Number of Regulations Cited by Federal Regulators

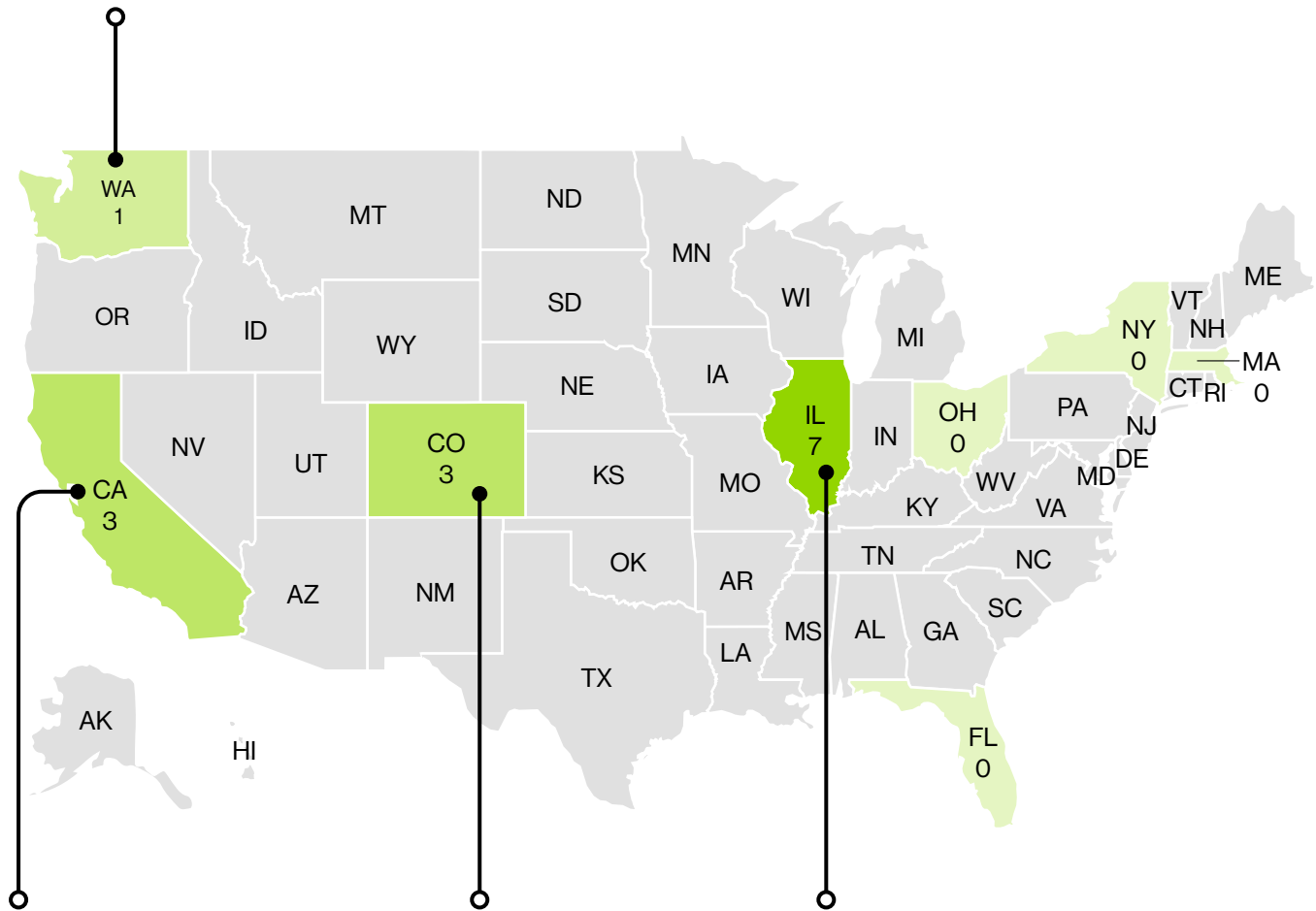


State-Level Enforcement Actions

Q3 2021 State Enforcement Actions

Below please find a map of state-level enforcement actions in Q3 2021*

Washington enforced one action related to **Regulation Z**, including **\$550,000 in total fines and penalties.**



California enforced three actions related to **Improper Lending Practices**, including nearly **\$100,000 in total fines and penalties.**

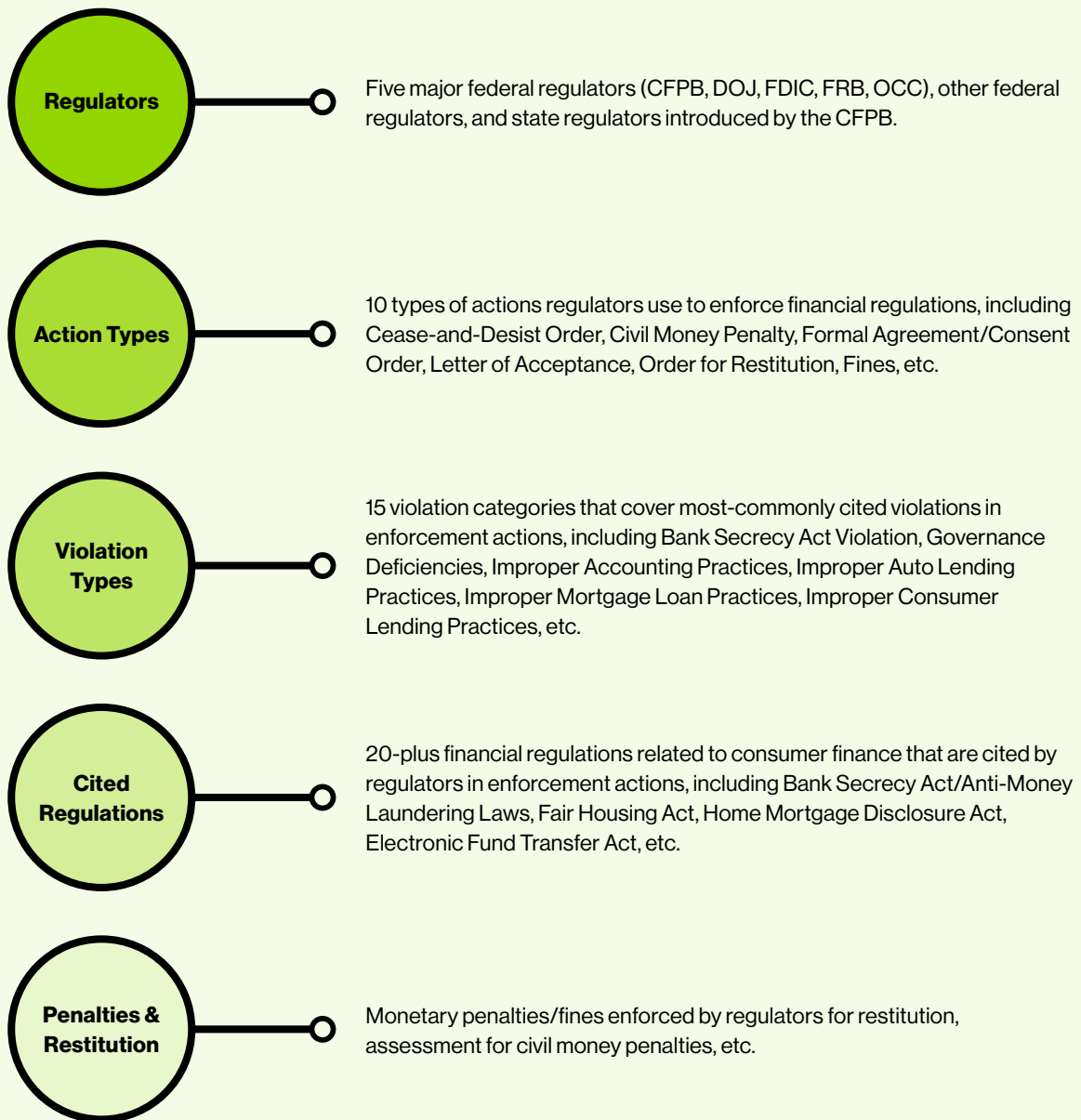
Colorado enforced three actions related to **UDAAP violations** pertaining to Student Lending, including **total fines and penalties of \$4,050,000.**

Illinois enforced seven actions in Q3 2021 as they conducted annual reviews.

*Based on experience and historic data, judgmentally selected and reviewed eight states, as included in the above figures.

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.



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.

Contacts



Christopher Sicuranza
Partner / Practice Area Leader
Banking, Insurance & Capital Markets
(202) 973-6545
csicuranza@guidehouse.com



Alexandra Sawyer
Director
Banking, Insurance & Capital Markets
(202) 481-8491
alexandra.sawyer@guidehouse.com

 guidehouse.com/financialservices

 linkedin.com/showcase/guidehouse-financial-services

 twitter.com/GuidehouseFSAC

guidehouse.com

About Guidehouse

Guidehouse is a leading global provider of consulting services to the public sector and commercial markets, with broad capabilities in management, technology, and risk consulting. By combining our public and private sector expertise, we help clients address their most complex challenges and navigate significant regulatory pressures focusing on transformational change, business resiliency, and technology-driven innovation. Across a range of advisory, consulting, outsourcing, and digital services, we create scalable, innovative solutions that help our clients outwit complexity and position them for future growth and success. The company has more than 12,000 professionals in over 50 locations globally. Guidehouse is a Veritas Capital portfolio company, led by seasoned professionals with proven and diverse expertise in traditional and emerging technologies, markets, and agenda-setting issues driving national and global economies. For more information, please visit: www.guidehouse.com.

©2021 Guidehouse Inc. All rights reserved. W346585

This content is for general informational purposes only, and should not be used as a substitute for consultation with professional advisors. This publication may be used only as expressly permitted by license from Guidehouse and may not be otherwise reproduced, modified, distributed, or used without the express written permission of Guidehouse.