

Financial Services Enforcement Actions Tracker

August 2022



Regulatory Outlook

As anticipated, the first quarter of the year has seen enhanced supervisory oversight, with modifications of existing and proposal of new laws and regulations. The Consumer Financial Protection Bureau (CFPB) is leading the initiative with a significant number of policy changes and enforcement actions that are aggressively being pushed back by the financial services industry—from disputing the regulators' allegations to refusing to pay large fines or admit wrongdoing.

- **February 25, 2022:** After opening a broad inquiry in October 2021, and subsequently fining J.P. Morgan Securities in December 2021, the US Securities and Exchange Commission (SEC) continues to investigate how Wall Street banks keep track of employees' digital communications by probing Goldman Sachs, in addition to others³ (e.g., Citigroup, HSBC).
- **March 22, 2022:** The CFPB issued policy on contractual “gag” clauses and fake review fraud aimed to prevent manipulating or suppressing consumer reviews, which follows the Federal Trade Commission's (FTC) efforts to deter fake reviews and related fraud across the digital economy.⁴
- **March 23, 2022:** With focus on consumer protection, federal agencies, including the Federal Reserve Board (FRB), the Office of the Comptroller of the Currency (OCC), and the CFPB, joined forces to support the Property Appraisal and Valuation Equity task force's plan, aiming to identify and prevent algorithmic bias in home valuation.⁵
- **March 28, 2022:**
 - The CFPB Director Rohit Chopra shared a plan for reining in repeat offenders with a robust enforcement regime and tools against large banks and other financial firms described as corporate recidivists, which continue breaking the law, with only a few additional sanctions.⁶
 - The SEC increased its budget request in its annually published Congressional Budget Justification. The expansion of almost \$240 million is driven largely by increase in enforcement activities.⁷

Guidehouse anticipates more policy changes outside the normal “notice-and-comment” process, which will lead to an increase in compliance costs, as well as targeting repeated industry offenders. With continued emphasis on consumer protection, regulators are expected to expand focus and include nonbank financial companies, which are considered to pose risk to consumers.

1. <https://www.reuters.com/legal/litigation/exclusive-us-sec-opens-inquiry-into-wall-street-banks-staff-communications-2021-10-12/>
2. <https://www.reuters.com/business/jpmorgan-securities-pay-125-mln-settle-sec-charges-record-keeping-lapses-2021-12-17/>
3. <https://www.reuters.com/legal/litigation/us-sec-investigating-goldman-sachs-over-employee-communications-2022-02-25/>
4. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-policy-on-contractual-gag-clauses-and-fake-review-fraud/>;
<https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-puts-hundreds-businesses-notice-about-fake-reviews-other-misleading-endorsements>
5. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/23/fact-sheet-biden-harris-administration-releases-action-plan-to-address-racial-and-ethnic-bias-in-home-valuations/>
6. <https://www.consumerfinance.gov/about-us/newsroom/reining-in-repeat-offenders-2022-distinguished-lecture-on-regulation-university-of-pennsylvania-law-school/>
7. https://www.sec.gov/files/FY%202023%20Congressional%20Budget%20Justification%20Annual%20Performance%20Plan_FINAL.pdf



Federal-Level Enforcement Actions

Top Q1 2022 Federal Enforcement Actions

The following enforcement actions are examples of some of the top **federal enforcement actions** for Q1 2022.

Bank Secrecy Act

There were four actions cited as pertaining to the Bank Secrecy Act, totaling \$160.4 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.

Governance Deficiencies

There were four actions related to Governance Deficiencies, one of which totaled \$9 million in monetary penalties and restitution. This action was related to a bank's failure to comply with rules requiring firms to disclose potential conflicts of interest when issuing research reports.

Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)

There were four actions related to UDAAP, totaling nearly \$1.9 million in monetary penalties and restitution. Two of these actions specifically cited violations to the Fair Housing Act, which included the refusal to support an affordable housing development and denying housing based on race.

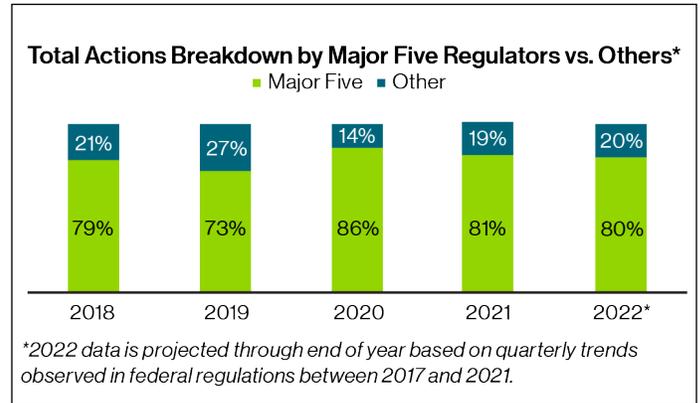
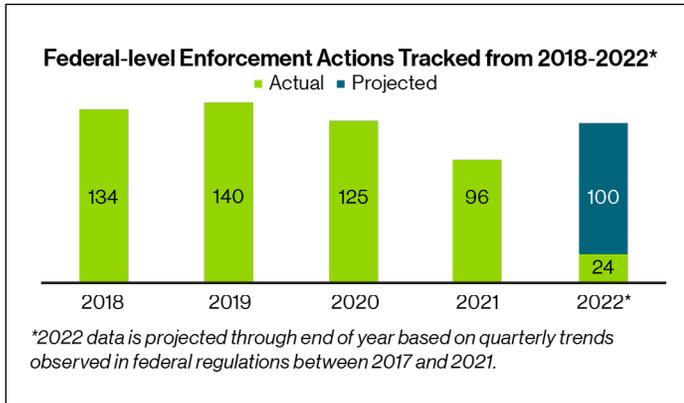
National Flood Insurance Program

There were eight actions cited as pertaining to the National Flood Insurance Program, totaling nearly \$300,000 in monetary penalties and restitution. One of the actions was in connection with a bank's pattern or practice of violations of Regulation H: Membership of State Banking Institutions in the Federal Reserve System.

Federal-Level Enforcement Actions

Prior Five Years (2018 – 2022)

The charts below describe **federal-level enforcement actions from 2017 to 2022***. There has been a **consistent decline in enforcement actions over this time**.



An overall downward trend in volume of federal-level enforcement actions was observed between 2018 – 2022:

- In 2018, federal-level regulators enforced 134 actions.
- In 2022, Guidehouse projects this number to decrease to 124, representing a 7% decrease compared to 2018.

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

- In 2018, 79% of federal actions were enforced by the major five regulators (CFPB, Department of Justice (DOJ), Federal Deposit Insurance Corporation (FDIC), FRB, and OCC), **only 21% of federal-level enforcement actions were enforced by non-major five federal regulators.**
- In 2022, Guidehouse projects 80% of federal actions to be enforced by the major five regulators, and the **other federal regulators to enforce 20% of total federal-level actions.**

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.

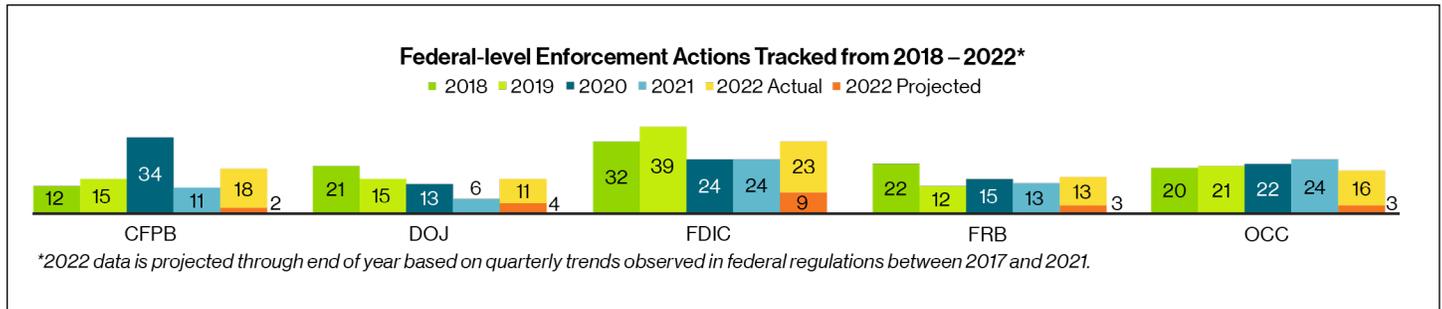


Federal-Level Enforcement Actions

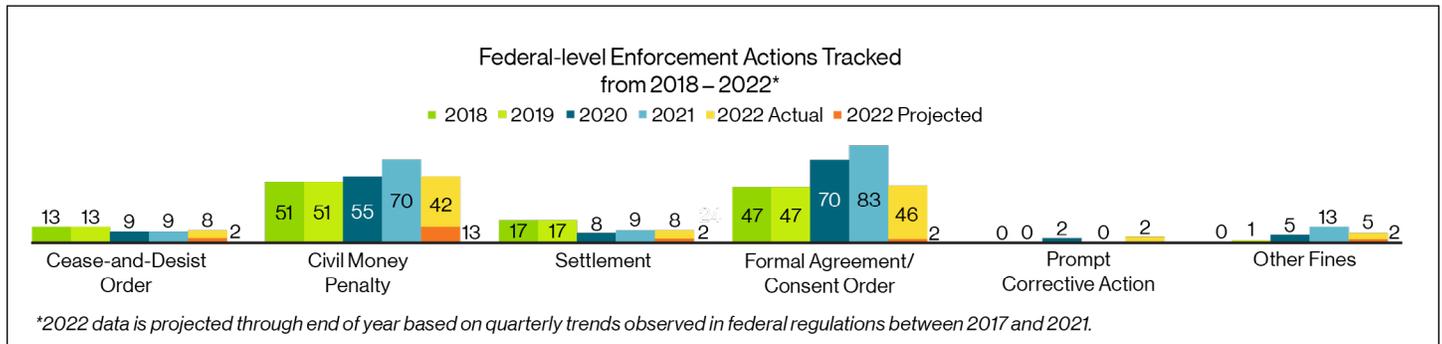
Prior Five Years (2018 – 2022)

The charts below describe **federal-level enforcement actions from 2018 to 2022*** broken down by the five major regulators and their corresponding action types. There has 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 2018 – 2022.



Civil Money Penalty and **Formal Agreement/Consent Order** 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.

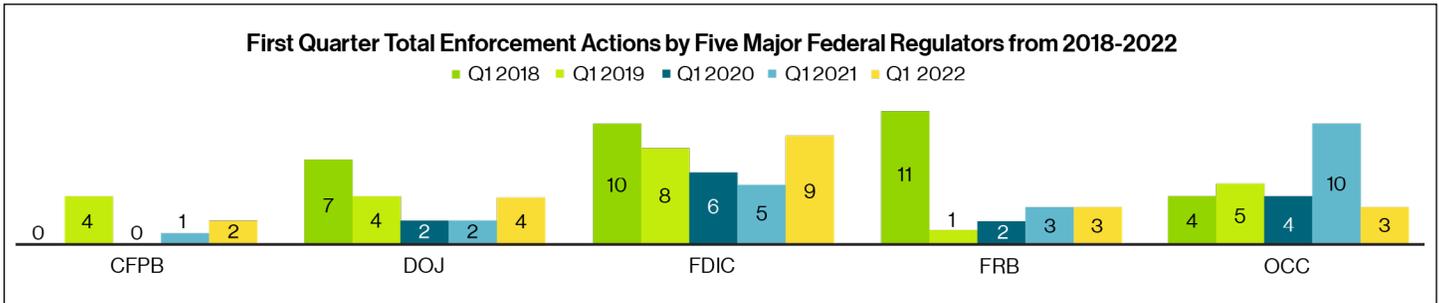


Federal-Level Enforcement Actions

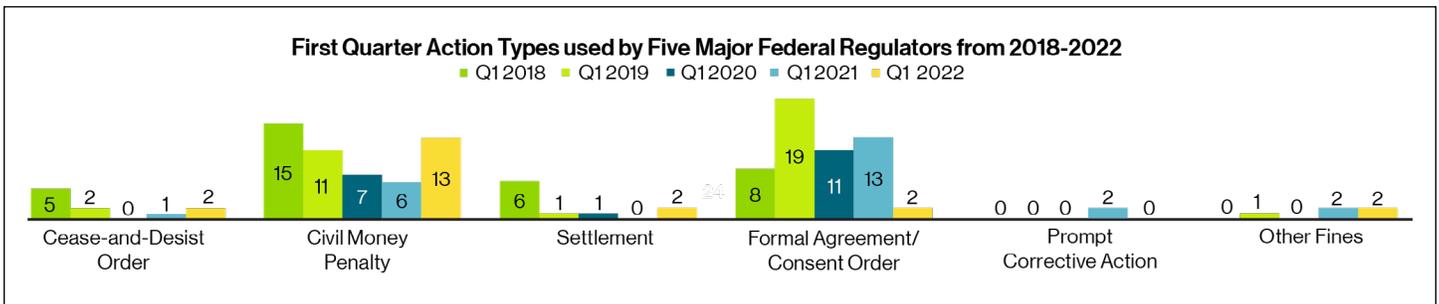
Fourth Quarter Actions of Prior Five Years (Q1 2018 – Q1 2022)

The charts below describe **federal-level enforcement actions for the fourth quarter of each year from 2018 to 2022** 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 2018 – 2022.



Civil Money Penalty was the most frequently used action type for five major federal regulators to enforce regulatory requirements in Q1 2022.



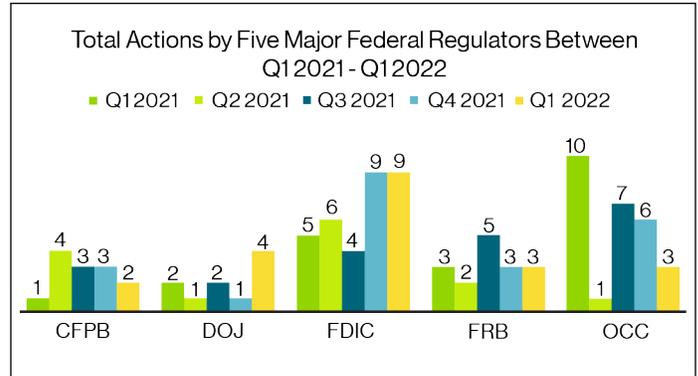
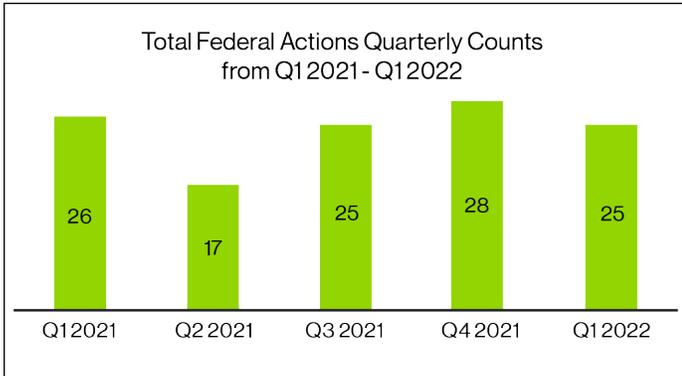
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Federal-Level Enforcement Actions

Prior Five Quarters (Q1 2021 – Q1 2022)

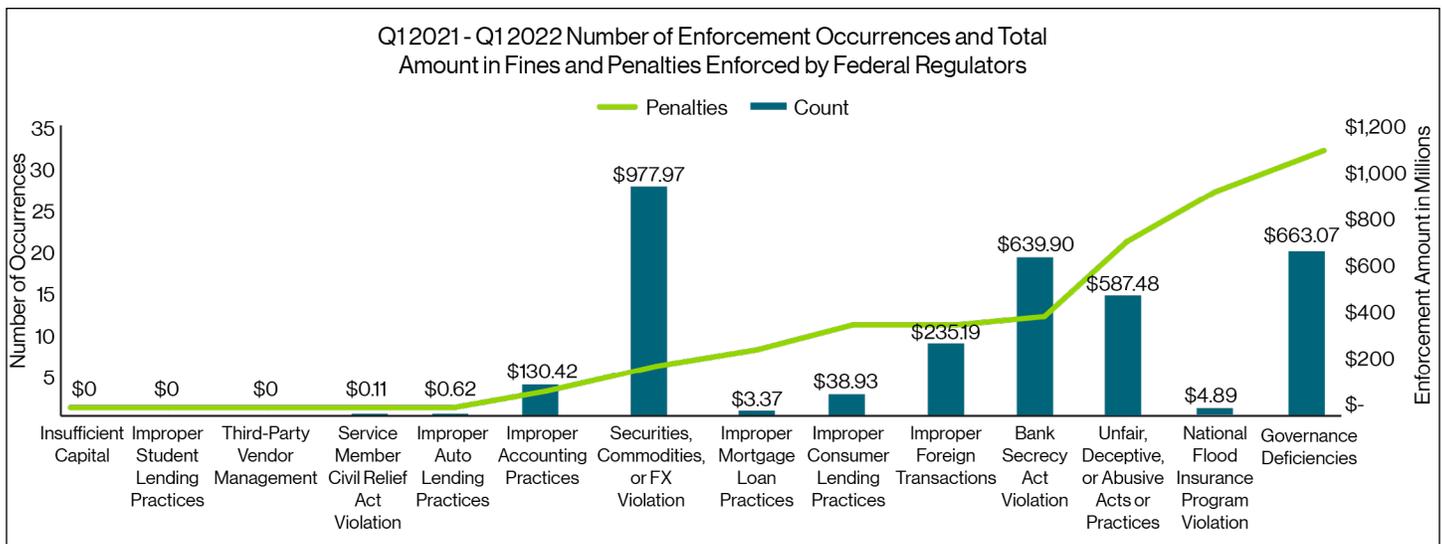
The charts below describe **federal-level enforcement actions for the past five quarters (Q1 2021 – Q1 2022)**. There was a decrease in enforcement actions from Q2 2021 to Q4 2021 and an increase in enforcement actions from Q4 2021 to Q1 2022.



- A total of **25 federal level regulatory actions** were observed in Q1 2022.
 - With 25 federal actions in Q1 2022, compared to 28 federal actions in Q4 2021, there was an **11% decrease** quarter over quarter.
 - With 25 federal actions in Q1 2022, compared to 26 federal actions in Q1 2021, there was a **4% decrease** year over year.

Prior Five Quarters (Q1 2021 – Q1 2022)

The chart below depicts federal-level enforcement actions for the last five quarters (Q1 2021 – Q1 2022). **A total of 32 actions over the past five quarters involved Governance Deficiencies**, making it the most frequently occurring violation – accumulating over \$663 million 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.

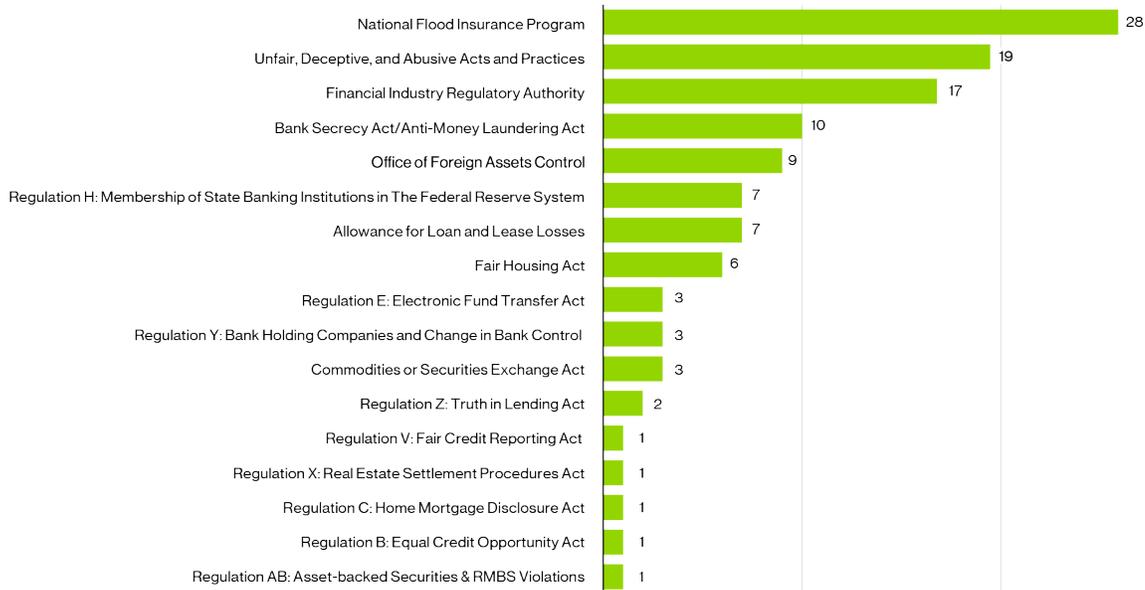
Federal-Level Enforcement Actions

Prior Five Quarters (Q1 2021 – Q1 2022)

The chart below provides a breakdown of the regulations cited in federal-level enforcement actions for Q1 2021 – Q1 2022.

National Flood Insurance Program and UDAAP were the most frequently cited area of law in federal actions during the past five quarters, with a total of 28 actions. Other top areas of cited regulations were **UDAAP, Financial Industry Regulatory Authority, BSA/AML, and Office of Foreign Assets Control**.

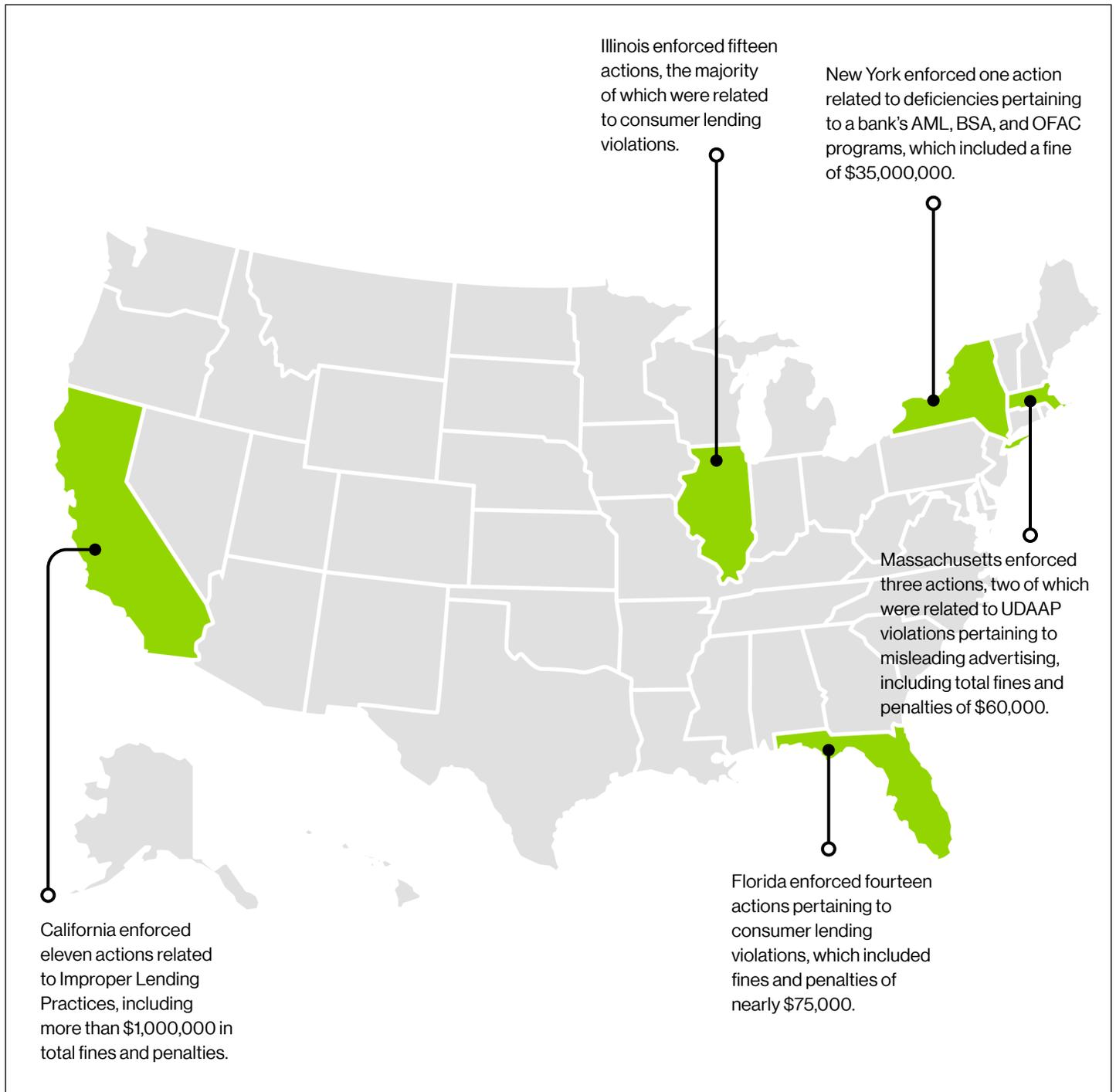
Q4 2020 to Q4 2021 Number of Regulations Cited by Federal Regulators



State-Level Enforcement Actions

Q1 2022 State Enforcement Actions

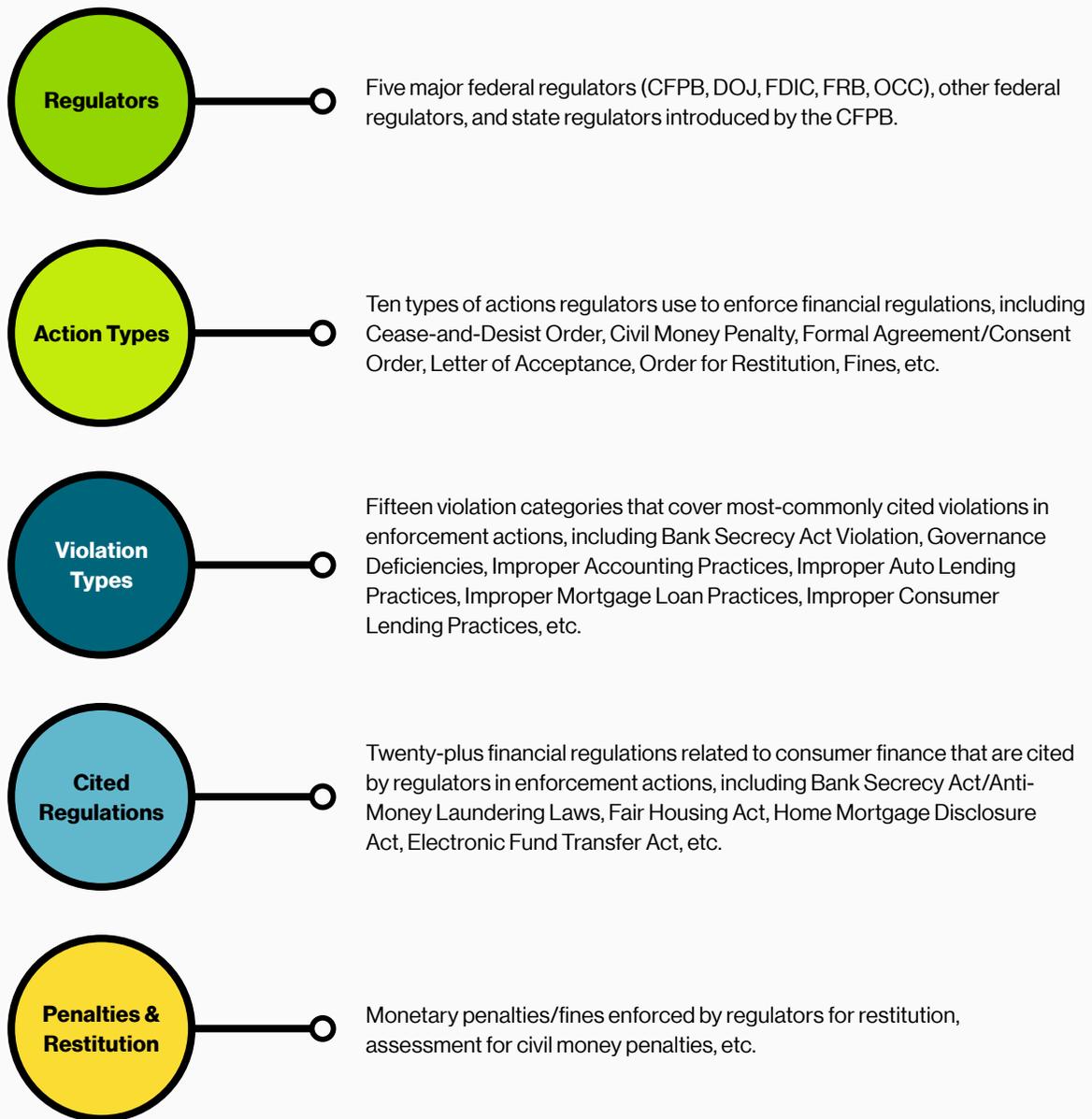
The map below shows state-level enforcement actions in Q1 2022.*



*Based on experience and historic data, judgmentally selected and reviewed five 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.



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