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Buckle Up: Everything That Happened in Auto Finance So Far in 2026

SPEAKERS

Brooke K. Conkle | Christopher J. Capurso

In this mid-year roundup episode of *Moving the Metal: The Auto Finance Podcast*, hosts [Brooke Conkle](#) and [Chris Capurso](#) recap the biggest developments shaping the auto finance industry in the first half of 2026, including the FTC's widely unexpected "Notorious 97" warning letters to nearly 100 dealers, a wave of state-level UDAP enforcement actions, Senator Elizabeth Warren's data requests targeting repossession and service member lending practices, Kentucky's new legislative framework for GAP and vehicle financial protection products, a significant New Jersey dealer enforcement action under the state's Consumer Fraud Act, and the growing compliance risks around fraud detection and AI use in the sales and financing process — wrapping up with a look ahead at what the second half of the year may bring.

Transcript

Podcast: [Moving the Metal: The Auto Finance Podcast](#)

Episode: Buckle Up: Everything That Happened in Auto Finance So Far in 2026

Hosts: Brooke Conkle and Chris Capurso

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Brooke Conkle (00:10):

Welcome to [Moving the Metal](#), the premier legally focused podcast for the auto finance industry. I'm Brooke Conkle, a partner in Troutman Pepper Locke's Consumer Financial Services Practice Group.

Chris Capurso (00:20):

And I'm Chris Capurso, of counsel in Troutman Pepper Locke's Consumer Financial Services Practice Group.

Brooke Conkle (00:25):

Today, with a high five to our summer associate, Mia Miller, we'll be reviewing 2026, already with a lot of action. But before we jump in, let me remind you to please visit and subscribe to our blogs. We have two great ones that may be of interest to you: troutmanfinancialservices.com and consumerfinancialserviceslawmonitor.com. And also, we have a bevy of other podcasts that you might find interesting. [The Consumer Finance Podcast](#), which as you might guess, is all things consumer finance related. [The Crypto Exchange](#), devoted to trends, challenges, and legal issues in Bitcoin, blockchain, fintech, and regtech. [FCRA Focus](#), a podcast dedicated to all things credit reporting. And finally, [Payments Pros](#), a great podcast focused exclusively on the payments industry. All of these

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For today, as I mentioned, we'll be discussing halfway day, 2026 so far. So Chris, tell us, what's going on at the state level? What are those regulators up to?

Chris Capurso (02:05):

Yeah. Aside from the fact that I'm very disturbed that it's over halfway through 2026, obviously, when the Trump administration 2.0, I should say, began, the conventional talking points were always, "Okay. The federal government's going to dial back, the states are going to increase. This is the way it goes." And to an extent, that's been true. To an extent, it hasn't been true. And we want to try to frame this, obviously, the Notorious 97, are going to come up, but we wanted to talk about everything else that's happened this year, because the Notorious 97 seem to just cover everything. And obviously, we've talked about it quite a bit. But a lot has happened at the state level. We obviously have seen, now, multiple states pick up the price advertising mantle from the FTC; states like Louisiana... I should say, the Commonwealth of Massachusetts. As residents of a commonwealth ourselves, I have been yelled at before calling it the state of Virginia when I first moved here, and I will never make that mistake again. Those states and commonwealths, have implemented their own price advertising guidance. And it goes to something that we've constantly said: Beware of state UDAP. And we had Massachusetts discussing UDAP, we had Louisiana discussing price advertising regulations implemented under their UDAP authority. So it's obviously something that the states are taking from the FTC in terms of price advertising.

But there are also other state things that are coming up, some of which we'll discuss a little bit later, like legislation, like Kentucky with GAP products and vehicle service contracts, things like that. But also, if you'll remember, we talked a couple months ago, about the New York FAIR Act with our friends and colleagues in New York, who I consistently bash the city of New York to, and say that upstate is better. That would be Bill Foley and Joe DeFazio. If you guys are listening, upstate still rules. But the New York FAIR Act, essentially capitalized on one of the Chopra CFPB state playbook items, which was, "Let's beef up state UDAP, and add Abusive Practices." As we've discussed, the CFPB has the double-A, UDAAP... The UDAAP, however you want to say it, it's the extra A. The FTC has the single A: Unfair, Deceptive; CFPB has Unfair, Deceptive, and Abusive. And in the playbook that Director Chopra left before he left the bureau, he said states should be really implementing their own Abusive standard, so that they could also go after abusive practices, pick up our mantle, and pursue these types of actions.

The New York FAIR Act did that. It added an Abusive Practices language. So we have one of the key states in the union, as far as where people want to do business in terms of population, all those types of things, now having a double-A, UDAAP standard. And that's very important. It's something that, obviously, early part of the year, may

have gotten glossed over by the Notorious 97, but we now have a state with a double-A, UDAAP authority. Could this expand? Remains to be seen. But we do have a state with it. So that's an important thing to consider. Obviously, in terms of what we've discussed about states taking up the FTC's mantle, that single-A, UDAP, all the states are going to have something like that, so that risk is present. But as far as the idea of Abusive Acts or Practices, New York has implemented their own.

And it's just an example with... We discuss the federal government again, maybe backing off in certain ways, not in others; see CFPB and FTC. But we've also got the states doing what they always do, which is respond to what they're seeing from consumer complaints, and all those types of things, and try to pursue the actions that they think their constituents want to see pursued. So it's still early going, we're only halfway through the year, there's still another half. But we are seeing the states actually come out, try to pursue some of these actions, in what was perceived to be a vacuum of the federal government. But Brooke, there still is pressure at the federal level, right? Just not what we're used to.

Brooke Conkle (06:34):

That's right. And Chris, before we even started talking about the Notorious 97, the letters that we were talking about, were ones from Senator Warren. And in February, Senator Warren sent a data request to the five largest auto finance companies, and a group of, Buy-Here, Pay-Here servicers, as well as a key industry trade group, and really asking for data about repossessions. The categories were extremely broad: repossession activity and errors, consumer complaints and disputes, policies and training, vendor contracts, and handling of personal property. And the response deadline, Chris, as we talked about, was extremely tight, 11 days. And also, there was not really a clear statutory hook for the request. Those were the letters that went out in February. And then later, Senator Warren sent out a second round of letters that gave recipients a full 72 hours more. We had 14 days to respond. But again, covered an enormous range of data, including APRs by credit score bucket, dealer markups versus buy rates, loan-to-value ratios, all broken down by service member versus civilian status. So the second letters, really going to service member issues; the first, more broadly about repossessions.

The message though, from Senator Warren, was clear; in that, congressional scrutiny does not go away just because agency enforcement is quieter. But was it quieter, Chris? I think it's a good question. In March, we had the Notorious 97, the warning letters sent to nearly a 100 dealers, focused on UDAP risks in pricing and advertising, hidden fees, conditional pricing, mandatory add-ons, and advertised vehicles that were not actually available. And Chris, this is one of those things that it wouldn't be an episode of *Moving the Metal*, if we didn't talk about the Notorious 97. But that's in part for two reasons. First, I think this was widely unexpected in the industry. A lot of folks did not anticipate that a Trump-led agency would be taking a look at price advertising that was, frankly, so very similar to the Biden regime's views on price transparency. But also, because these were extremely targeted letters. The warning letters were a signal and a real... We don't want to say, a shot across the bow... But I think that's probably what it was. It was a shot across the bow from the new FTC, letting dealers know that they need to review their advertising, their price disclosures, and add-on presentations, now, before a warning becomes a complaint, or a consent order.

So Chris, tell us a little bit about pricing and add-ons, and state enforcement actions. What are we looking at there so far, in 2026?

Chris Capurso (09:29):

On the add-on front, I alluded to it earlier, but we had our episode a couple months ago, kicking the tires on Kentucky with our good friend and colleague Brian Casey, the service contract guy. And we discussed this new bill in Kentucky, SB 158, which created a comprehensive framework for... Remember, we had the definitional tree lesson to discuss what all these different things meant? Vehicle financial protection products, debt waivers, GAP agreements, excess wear and tear waivers, vehicle value protection agreements. If you remember the discussion of the VVPAs and the VFPPs, who could forget? We discussed all those different definitions, we discussed the different types of requirements related to disclosure, related to contractual liability coverage, all these types of things. And yet, with the disclosure requirements, with all these other things, Brian referred to it as very progressive and very pro-business. And that's because it deregulated the product from being otherwise treated as insurance, which is something we see in GAP acts, and something we see in a lot of ancillary product type laws. Because there is a desire to not have those things be insurance. Obviously, the insurance laws are their own can of wax. You got a lot of different things to deal with. Getting those out of the insurance laws, is very helpful to business. And to have clearly defined rules of the road for how to sell these things, how to disclose these things, and how to operationally implement these things, is just helpful for everybody. It helps business understand what to do. It gives the state the opportunity to tell business, "Hey, this is what we want our consumers to understand about these products. This is how we want them to agree to these products." It just benefits everyone. It's the legislative process working very well. It helps everybody. Everybody had input, and it's just a good example of the legislative process working. So we have Kentucky doing that.

On the enforcement side, we discussed New Jersey in our aptly named, "The \$10 Million Oops," episode, where we discussed a dealer group in New Jersey facing a laundry list of allegations under the New Jersey Consumer Fraud Act. Again, tying in this idea of a state's UDAP authority, the deceptive trade practices acts, consumer fraud acts like this, just reemphasizing the idea that there are a lot of these laws at the state level, that you have to be considerate of. But there's a laundry list of allegations: duplicative add-on products; itemization failures; remember, gray market vehicle disclosure failures; warranty packages, that would not actually cover the vehicles; odometer disclosure violations; certain disclosures on website not being the right size... Which is, again, kind of goes to my favorite topic of the low-hanging fruit. You got to make sure all that stuff's in order. But we discussed the fact that this was a very large action, and the trial court, originally, imposed over \$10 million in penalties, plus over \$100,000 in attorney's fees. Do that math. It's a lot of money. As you would say, Brooke, those are the dollars. But on reconsideration, that penalty was first lowered to just under \$800,000. So not much less, but it was lowered to \$800,000, which is significantly less than \$10 million, right? And it eventually got reduced all the way down to \$155,000, just based on certain ability to pay factors, and things of that nature related to how penalties are imposed in New Jersey.

And the \$10 million to \$155,000 discussion, is one of procedure and one of how the courts operate. But just the fact that the original penalty was \$10 million, is something to keep in mind for a laundry list of violations of a state's consumer fraud act. Not all of them are going to get lowered. The possibility is always there for something like that. That's not to be the doomsayer, and to say that penalty is right around the corner, always watching over your shoulder, but you still got to be aware of these types of things. That these types of penalty mechanisms do exist, and that states can pursue theories under those laws, which are very broad, to potentially seek penalties of this nature. So those are some basic talking points that we've discussed over the last six months related to pricing, add-ons, and just state enforcement in general.

But next, we're going to talk about, what seems to be, on top of a lot of folks' minds along with the Notorious 97,

and that is fraud. Auto fraud, which is a big one. But also repossession, and just general operational risk. Brooke, what have we said about that in the last six months?

Brooke Conkle (14:13):

These are topics that haven't necessarily been in the headlines. But Chris, just as you mentioned, they still are on the minds of dealers. Fraud, in particular; we can't get away from fraud. So these are not issues that, necessarily, have featured in a state attorney's general enforcement action, but still carry real compliance and litigation consequences. And to talk about fraud, wow, there's a lot going on. Income and identity fraud, forged VINs, deceptive trade-ins, how are these schemes translating directly into chargebacks, consumer lawsuits, and regulatory exposure. And the data behind dealer sentiment on fraud is really striking. Nearly 9 in 10 dealers are concerned about fraud. Over 40% are very concerned. 70% think fraud is on the rise, and 64% of dealers say they are more likely to direct deals to lenders who are more tolerant of fraud risk.

And Chris, we talked a little bit about the tension that's here. On the one hand, if you tighten fraud controls too much, that creates sales friction. That's tough at the point of sale. But then again, if you loosen those fraud controls, you absorb chargeback and litigation risk. It's very difficult to find a happy medium. But we think that the practical answer involves clear policies, consistent verification, strong dealer-lender agreements, and meticulous documentation, to prevent fraud, and also to defend disputes when something does get through. So one forward-looking topic that we discussed, was consortium fraud data sharing. An overwhelming 91% of dealers said consortium data would be valuable to fight fraud, and 92% said that they would participate in securely sharing verified fraud cases. Again, Chris, one of the things we talked about, consortium data carries its own legal risks with data accuracy, the risk of mislabeling someone as a fraudster, there's privacy concerns, and then the need to make those systems defensible in litigation. The appetite is there, but the legal infrastructure still has to be built very, very carefully.

So moving on from fraud onto repossession, we talked a little bit about Senator Warren's repossession data requests. Those were signals that repossession practices are on the legislative radar. Error rates, consumer complaints, handling of personal property, vendor management. And even if those specific inquiries do not lead to legislation, it still raises the profile of repossession compliance and servicer oversight. The kinds of details that the request asked about, are the exact same details, Chris, that state attorneys general and others are going to look at.

So, Chris, one thing that has been in the news absolutely everywhere, cannot get away from it: AI. Talk to me about AI and what's going on there.

Chris Capurso (17:18):

We opened the season, as it were... We opened 2026, talking about AI, and what we thought was going to happen. And I believe we acknowledged at the time, it's so hard to know what's going to happen with AI because it's evolving so fast. Between us, I mean, our uses of AI have evolved in the last six months. Things have changed dramatically on this front. And we noted some of the risks that dealers, finance companies, basically anybody operating in the auto finance space, can face when using AI. It's a consideration of opportunity versus risk, right? There is a lot to be gained from using AI in terms of efficiency, in terms of being able to, for example, help consumers immediately. But you also have to gauge what's the oversight on that. Is it telling the consumer the wrong thing? All those types of things. And we had noted, there is broad UDAP exposure for these types of things.

The laws for AI... There are, obviously, laws coming out that are already in place related to, say, automated decision-making. There are general AI laws. There are things like that. But even beyond that, there's just the idea of UDAP, and could it be unfair if somebody is talking to an AI chatbot that they don't know is an AI chatbot? Could there be some deception if the AI chatbot is, for example, pulling from part of the website that's been taken down, and it's telling the consumer the wrong facts about a car, or about a question about an add-on product, or things like that? These are things that need to be considered, from a UDAP perspective, that may not be outlined specifically in a law, saying, "Thou shalt not do this with respect to AI," but it all fits within the broader UDAP spectrum. So these are the kinds of things that we had highlighted, and they continue to be things that need to be examined.

I would say, one of the bigger changes, again, is just AI is evolving rapidly. We're going to cut out that audio clip when they take over the world. They're going to hear me talking about how great they are. But that is for my future robot overlords. But I think the idea of AI is one that is obviously not going to go away, but also the compliance concerns. There is never going to be a, one-size-fits-all solution, to any kind of risk of using AI in any kind of part of the sales or financing process, whether it's consumer relations, underwriting for financing, whether it's just trying to automate some backroom functions. Any of those types of things, there's always going to be risk, and it's always going to be the same laundry list, as it were, of recommendations where there needs to be some kind of human oversight. There needs to be some kind of review of what the outputs are to make sure that there's not some kind of system issue, where all of a sudden, one little mistake in the AI is permeating across hundreds or thousands of customers. Then all of a sudden, you've got risk of a massive regulatory action, or a private action in states where you can pursue those types of things. This is more of a reiteration than to discuss what has happened, but it's very important to reiterate that AI is something that can be very helpful, but it could also be very risky. And everybody in the auto finance area, and honestly in every walk of life, needs to just understand what its capabilities are, what its limitations are, and how to mitigate the risks from using it, and potential unforeseen outcomes from the AI, I should say.

So with that, we've discussed the last six months. What about the next six months? What are we thinking about the next half of 2026?

Brooke Conkle (20:59):

Yeah, Chris. We all anticipated that state enforcement actions would ramp up, and we're seeing that. The state compliance picture is becoming increasingly complex. We now have former CFPB staff who are in state offices, cross-state working groups coordinating enforcement, and 50 different UDAP standards that companies have to navigate. But what we did not anticipate was the activity at the FTC level and the Notorious 97. That letter campaign, really may generate follow-up enforcement activity, and keep your eyes peeled for complaints against dealers who received letters and did not change course. Chris, what do you see coming down the pike, from the perspective of add-on products or repossessions?

Chris Capurso (21:48):

Yeah. I think on the add-on product front... I guess it could all go together, but I'm thinking specifically on the add-on product front. Obviously, we've seen some legislation, legislative season has happened. I think we're going to continue to see the push at the origination process, to make sure that there is consent, informed consent, where it needs to be there for those products. You're still going to see a push against valueless add-ons, all these types of things that the FTC highlighted in the Lindsay enforcement action, and maybe we'll see them at the state level.

Again, anything that the FTC does now, in this administration, should be seen as a baseline. Like, if this is the lax regulatory state that we were expecting from Trump 2.0, this has to be considered the baseline. And if the administration changes, if anything else, macroeconomically or elsewhere in the world, changes, then they could rise. But this should be seen as the baseline. So the fact that this FTC went after add-ons, in addition to the Notorious 97 price advertising practices, I think, is something that we need to keep an eye on going forward, especially since the FTC has concentrated so hard on price advertising, and the add-ons were in that Lindsay action, but have kind of... I don't want to say fallen to the wayside... But they're not as covered as... I mean, they don't have a name like the Notorious 97, right? It hasn't been covered as much, and I think it could be something that we see going forward, maybe from the FTC; but I think, certainly at the state level.

Repossession, I think one thing that's interesting... And we're going to talk about this in a later episode... Is just the idea of how much financing is costing nowadays, how much everything is costing. With a higher vehicle price, with higher financing costs, with longer terms of financing contracts, that is just more runway for there to be potential defaults, potential nonpayments, things like that, and more potential for there to be repossession on these types of things. And again, it's just the constant reminder that servicing practices, collections practices, repossession practices, all need to be in order. Because, again, systemic problem there is huge. If you're repossessing a bunch of cars that shouldn't be repossessed, I mean, that is automatic for a regulator to go after. And if it's service members, it's even more so. So you just have to make sure all that stuff is buttoned up. And I think, going forward, if we see the same macroeconomic trends with higher financing costs, higher vehicle costs, longer terms, this could be just one of those things that continues to bubble up as time goes on.

But with that, we're going to wrap it up for the first half of 2026 for, [Moving the Metal](#), and today's podcast. Thank you to our audience for tuning in. Don't forget to check out our blogs where you could subscribe to the entire blog or just the specific content you find most helpful. That's the [consumerfinancialserviceslawmonitor.com](#), and the [troutmanfinancialservices.com](#) blogs. And while you're at it, why don't you head on over to [troutman.com](#) and sign up for our Consumer Financial Services mailing list so you can stay abreast of current issues with our insightful alerts and advisories, receive invitations to our, Industry Insider webinars. And of course, please mark your calendars for this podcast, [Moving the Metal](#), which we will be releasing every two weeks in 2026. That will be generally on the second and fourth Tuesdays of each month. And as always, if you have any questions or if we can help in any way, please reach out to us. Until next time.

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