

Regulatory Oversight Newsletter – June 2023

WRITTEN BY

David M. Gettings | Sadia Mirza | Ronald Raether, Jr. | Stephen C. Piepgrass | Amy Pritchard Williams | John S. West | Ashley L. Taylor, Jr. | Robert S. Claiborne, Jr. | Bryan M. Haynes | Ryan J. Strasser | Avi Schick | Hilary S. Cairnie | Judith "Judy" Jagdmann | Trey Smith | Michael Yaghi | Clayton S. Friedman | Susan N. Nikdel | Natalia A. Jacobo | Chris Willis | John Sample | Whitney L. Shephard | Namrata Kang | Michael B. Jordan | Ketan D. Bhirud | Timothy J. "Tim" Bado | Agustin E. Rodriguez | Christopher Carlson | Daniel Waltz

Make sure to visit Troutman Pepper's [Regulatory Oversight](#) blog to receive the most up-to-date information on regulatory actions and [subscribe](#) to our mailing list to receive a monthly digest.

Regulatory Oversight will provide in-depth analysis into regulatory actions by various state and federal authorities, including state attorneys general and other state administrative agencies, the Consumer Financial Protection Bureau (CFPB) and the Federal Trade Commission (FTC). Contributors to the blog will include attorneys with multiple specialties, including regulatory enforcement, litigation, and compliance.

REGULATORY OVERSIGHT PODCAST

AI: IMPACT AND USE IN THE FINANCIAL SERVICES INDUSTRY (PART FOUR)

By Stephen Piepgrass, Michael Yaghi, and Chris Willis

Financial services companies are using AI to assist with many business processes, including underwriting decisions, consumer credit approval, servicing and collections, loss mitigation programs, customer interaction on websites and mobile apps via chatbots, and in detecting fraud. In this fourth episode, Stephen Piepgrass and colleagues Chris Willis and Michael Yaghi examine the use and impact of AI in the financial services industry. They discuss the potential risks financial services companies may face with increased reliance on AI, as well as the increased focus on AI by various regulators and state attorneys general.

[Read more](#)

AI: IMPACT AND USE IN BACKGROUND SCREENING (PART FIVE)

By Stephen Piepgrass, Ron Raether, and Dave Gettings

Many companies use machine learning algorithms and artificial intelligence (AI) to assist with employment decisions and tenant screening. In our final episode, Stephen Piepgrass and colleagues Ron Raether and Dave Gettings examine the use and impact of AI in background screening, including the potential risks companies may face with increased reliance on AI.

[Read more](#)

TOBACCO UPDATES

STAKEHOLDERS' INPUT WELCOME: VIRGINIA ABC TO ASSESS OPTIONS FOR REGULATING LIQUID NICOTINE IN THE COMMONWEALTH

By Robert Claiborne, Nick Ramos, Bryan Haynes, and Agustin Rodriguez

The Virginia ABC will assess a regulatory scheme for liquid nicotine, with the consultation of stakeholders, and issue a report and recommendations.

On April 12, the Virginia General Assembly enacted House Bill 2296 and Senate Bill 1350, incorporating recommendations of Governor Glenn Youngkin to have the Virginia Alcoholic Beverage Control Authority (ABC) “assess” a potential licensing scheme for liquid nicotine manufacturers, distributors, and retail dealers, as well as administrative and enforcement matters relating to liquid nicotine licensing, age verification, product verification, and advertising restrictions. These bills effectively instruct the ABC to tell the Virginia General Assembly whether and how the Commonwealth should regulate liquid nicotine. The ABC’s report and recommendations are due by November 1, and will be informed by stakeholder input. The enactments specify that the ABC will conduct its assessment “in consultation with stakeholders, including public and community health organizations, retailers, tobacco and vaporized nicotine companies, and wholesalers.”

[Read more](#)

RJ REYNOLDS SUES CALIFORNIA AG DISPUTING APPLICABILITY OF FLAVOR BAN

By Agustin Rodriguez, Bryan Haynes, Chris Carlson, and Michael Jordan

On May 11, RJ Reynolds Tobacco Company, along with two convenience stores and the American Petroleum and Convenience Store Association, [sued](#) the California attorney general and district attorney for Fresno County in their official capacities, seeking declaratory relief that these California officials misinterpreted and misapplied California’s ban on flavored tobacco products and incorrectly concluded that RJ Reynolds’ new products violate this ban.

[Read more](#)

AG UPDATES

DC OAG RESOLVES ALLEGED USURY AND DECEPTIVE ACTS VIOLATIONS WITH COMMUNITY LENDING PLATFORM

By Troutman Pepper State Attorneys General Team

On May 10, SoLo Funds, Inc. (Solo), one of the largest community lending platforms in the United States, entered into a settlement with the District of Columbia attorney general (OAG). The settlement resolves claims that the company’s lending practices violated D.C. usury law and constituted unfair, deceptive, and/or abusive acts under

the D.C. Consumer Protection Procedures Act.

[Read more](#)

JOHN SCOTT APPOINTED AS INTERIM TEXAS AG

By Troutman Pepper State Attorneys General Team

On May 31, Governor Greg Abbott appointed John Scott, Fort Worth lawyer and former secretary of state, as the interim Texas attorney general (AG).

[Read more](#)

CALIFORNIA AG URGES CALIFORNIA LEGISLATURE TO BAN JUNK FEES

By Troutman Pepper State Attorneys General Team

On May 16, California Attorney General Rob Bonta held a [press conference](#), supporting California Senate Bill 478 (SB 478) to prohibit “junk fees” or hidden fees that a seller may add on top of an advertised price. The bill is currently pending before the California Senate Appropriations Committee.

[Read more](#)

FORTY-NINE AGS SUE TELECOMMUNICATIONS COMPANY OVER ILLEGAL ROBOCALLS

By Troutman Pepper State Attorneys General Team

On May 23, 49 state attorneys general [sued](#) Avid Telecom, its owner, and vice president for allegedly facilitating billions of robocalls in violation of the Telephone Consumer Protection Act. The AGs requested civil penalties and to temporarily and permanently enjoin Avid from transmitting robocalls. This suit comes after group co-leader North Carolina AG Josh Stein formed a nationwide anti-robocall task force that investigates and takes legal action against companies responsible for routing significant volumes of illegal robocall traffic.

[Read more](#)

NORTH CAROLINA AG SETTLES \$150K MEDICARE FRAUD CLAIM WITH HEALTH CARE PROVIDER

By Troutman Pepper State Attorneys General Team

North Carolina Attorney General Josh Stein [announced](#) that he reached a \$150,000 settlement with Rockingham health care provider Compassionate Counseling Services (Compassionate) for allegedly submitting false claims to the North Carolina Medicaid program from June 7, 2016 to January 8, 2021.

[Read more](#)

PENNSYLVANIA AG CRACKS DOWN ON TELEMARKETING CALLS

By Troutman Pepper State Attorneys General Team

Pennsylvania AG Michelle Henry [announced a settlement](#) with New York-based Fluent LLC and its subsidiaries over allegations that they engaged in deceptive and misleading business practices by placing millions of unwanted telemarketing calls to Pennsylvania residents.

[Read more](#)

UTAH AG LAUDS STATE'S LARGEST CONSUMER PROTECTION SETTLEMENT

By Troutman Pepper State Attorneys General Team

On May 19, Utah Attorney General Sean Reyes [announced](#) a consumer settlement with Response Marketing Group LLC and its principals for \$15 million and a lifetime ban against selling money-making products and training services nationwide. The settlement — the largest ever for the Utah AG's consumer protection division — concluded a case brought by the Federal Trade Commission (FTC) and the Utah AG's office (representing the Utah Department of Commerce – Division of Consumer Protection (DCP)), alleging violations of the FTC Act, the Telemarketing Sales Rule, and several Utah statutes. Two Response Marketing celebrity endorsers also agreed to pay \$1.7 million in redress cumulatively.

[Read more](#)

AGS REQUIRE COMPANY WITH OVULATION TRACKING APP TO PROTECT USER DATA

By Stephen Piepgrass, Sadia Mirza, and Dan Waltz

On May 17, District of Columbia Attorney General Brian Schwalb [announced the settlement](#) of an investigation into Easy Healthcare Corporation, requiring the company to change its privacy practices involving the ovulation tracking app “Premom” to protect the sensitive reproductive data of consumers. Easy Health agreed to several remedial measures intended to prevent the disclosure of sensitive information to third parties and to pay a \$100,000 penalty to the states involved with the investigation.

[Read more](#)

TWELVE STATE AGS SEND LETTER OPPOSING SEC RULE REGULATING CRYPTOCURRENCY

By Troutman Pepper State Attorneys General Team

On May 8, 12 states led by Arkansas Attorney General Tim Griffin sent a [letter](#) to the Securities and Exchange Commission (SEC), opposing its recently proposed rule to give the commission the authority to regulate non-securities, including cryptocurrencies.

[Read more](#)

COLORADO AG SETTLES WITH MARKETING COMPANY FOR PRIVACY VIOLATIONS

By Troutman Pepper State Attorneys General Team

On May 8, Colorado Attorney General Phil Weiser [announced](#) a \$21,250 settlement with Denver marketing company Ifficient for inappropriately using consumer data for work Ifficient performed on behalf of broadband industry clients concerning a Federal Communications Commission proposed regulation repeal.

[Read more](#)

CONSUMERS NATIONWIDE TO BEGIN RECEIVING CHECKS FROM INTUIT SETTLEMENT

By Troutman Pepper State Attorneys General Team

Consumers nationwide will begin receiving checks from a May 2022 multistate [settlement](#) between 51 attorneys general and Intuit, owner of TurboTax. The coalition of AGs settled with Intuit for \$141 million to resolve allegations that TurboTax deceptively marketed its products.

[Read more](#)

COLORADO AG ANNOUNCES ADDITIONAL SETTLEMENTS IN GAP REFUND INITIATIVE

By Troutman Pepper State Attorneys General Team

On May 8, Colorado Attorney General Phil Weiser [announced](#) settlements with four of the largest guaranteed automobile protection (GAP) administrators — Safe-Guard Products International, Inc., Jim Moran & Associates, Inc., Norman & Co., Inc., and National Auto Care Corporation — operating in Colorado, totaling more than \$2.87 million in restitution for 3,550 Colorado vehicle owners. Settlement amounts ranged from \$4,036.56 to \$1,655,124.78, with each settling entity agreeing to provide refunds to impacted consumers under an assurance of discontinuance agreement. We posted about previous GAP refund settlements [here](#) and [here](#).

[Read more](#)

ARIZONA AG SETTLES WITH RESTAURANTS OVER UNDISCLOSED ADD-ON FEES

By Troutman Pepper State Attorneys General Team

On April 28, Arizona Attorney General Kris Mayes [announced](#) a [settlement](#) with two Phoenix-area restaurants — Etta Scottsdale LLC and Maple & Ash Scottsdale LLC — over undisclosed add-on charges. AG Mayes claimed that the restaurants charged a 3.5% “employee benefits charge” to walk-in customers not disclosed on either restaurant’s menu, which allegedly violated the Arizona Consumer Fraud Act.

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Stephanie Kozol, Senior Government Relations Manager – State Attorneys General, also contributed to this newsletter.

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