

Troutman Pepper Locke Regulatory Oversight Newsletter – August 2026

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REGULATORY OVERSIGHT BLOG

Make sure to visit Troutman Pepper Locke'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.

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TROUTMAN PEPPER LOCKE SPOTLIGHT

Compliance in the Wild West — How State AGs Are Using Traditional Legal Frameworks to Address AI Business Practices

By [Ashley L. Taylor, Jr.](#), [Clayton Friedman](#), [Daniel Waltz](#), and [Kyara Rivera Rivera](#)

Newsfeeds are saturated with dramatic headlines about artificial intelligence (AI) — self-driving cars, AI-generated art, hallucinated legal briefs, and predictions of technological dystopia. The constant noise can obscure a more practical reality: Artificial intelligence is, at its core, a tool. However, it does not relieve companies of their longstanding obligations to treat consumers fairly or comply with existing state law.

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State AGs Will Dominate Post-*Chevron* Litigation

By [Ashley L. Taylor, Jr.](#)

Ashley L. Taylor Jr., co-leader of Troutman Pepper Locke's State AG Practice Group, appeared in the September–October 2026 issue of *The Journal of Federal Agency Action* for his article, "State Attorneys General Will Dominate Post-*Chevron* Litigation." The article was co-authored with Paul Nolette, a professor at Marquette University, and Aaron M. Frey, the AG of Maine.

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States Are Cracking Down on Algorithmic Pricing. Are You Ready?

By [Clayton Friedman](#), [Ashley L. Taylor, Jr.](#), [Namrata Kang](#), and [Kyara Rivera Rivera](#)

Clayton Friedman, Ashley L. Taylor, Jr., Namrata Kang, and Kyara Rivera Rivera, of the firm's State AG Practice Group, were published in the July 22, 2026, *Bloomberg Law* for their article, "States Are Cracking Down on Algorithmic Pricing. Are You Ready?"

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Justices' Ruling Alters Playing Field for State Subpoena Suits

By [Ashley L. Taylor, Jr.](#), [Matthew Berns](#), and [Monica Coscia](#)

For the recipient of a subpoena from a state AG or other state regulator, the prospect of successfully blocking the subpoena through litigation can seem dim.

State laws governing investigative subpoenas may be permissive, and state judges who hear motions to quash may be sympathetic to the regulator. Federal courts may offer an attractive alternative — at least when federal law provides a basis for challenging the subpoena — but subpoena recipients have been required to overcome significant procedural hurdles before federal courts even consider the merits of their claims.

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REGULATORY OVERSIGHT PODCAST UPDATES

Point-of-Sale Finance Series: State AGs Filling the Federal Void in Point-of-Sale Finance Enforcement

By [Michael Yaghi](#), [Lane Page](#), and [Taylor Gess](#)

In this crossover episode of *Regulatory Oversight* and *The Consumer Finance Podcast*, Mike Yaghi and Lane Page join Taylor Gess from Troutman Pepper Locke's Consumer Financial Services Practice Group to discuss the hottest areas of state regulatory activity in the point-of-sale space. With federal consumer protection enforcement pulling back in certain areas under the current administration, state regulatory agencies are stepping into the spotlight to take an industrywide approach to point-of-sale finance.

[Read more](#)

Regulatory Intelligence Platform: Using AI and Curated Data to Defend Clients and Support Proactive Compliance

By [Stephen C. Piepgrass](#), [David Navetta](#), and [Daniel Waltz](#)

In this episode of *Regulatory Oversight*, host Stephen Piepgrass sits down with colleagues Dave Navetta and Dan Waltz to explore how state AG enforcement is accelerating across privacy, cybersecurity, and AI, and to introduce Troutman Pepper Locke's AI-fueled Regulatory Intelligence Platform. The discussion opens with a look at the evolving AG enforcement landscape, examining how state regulators have become more active, coordinated, and consequential for companies operating across the U.S.

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PAYMENTS PROS PODCAST UPDATES

Payments Compliance and the FTC's Focus on Subscription Practices

By [Keith J. Barnett](#)

In this episode of *Payments Pros*, host Keith Barnett examines a recent FTC enforcement action involving alleged violations of the FTC Act and ROSCA. Keith discusses the FTC's continued focus on negative option features, automatic renewals, subscription disclosures, free trial conversions, and cancellation practices, and explains why these issues remain important for companies operating in the payments ecosystem.

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SEC UPDATES

SEC Forms New Retail Fraud Working Group to Target Investor Fraud

By [Jay Dubow](#) and [Ghillaine Reid](#)

On July 7, the U.S. Securities and Exchange Commission (SEC) [announced](#) the creation of a new Retail Fraud

Working Group within its Division of Enforcement. The initiative represents a structural expansion of the SEC's enforcement capabilities and has direct implications for broker-dealers, investment advisers, and other regulated entities that serve retail clients. This is consistent with prior statements made by SEC Chairman Paul S. Atkins about focusing the SEC's Division of Enforcement on protecting retail investors.

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TOBACCO UPDATES

Advocacy Groups Sue FDA Over May 2026 Enforcement Guidance — What Industry Needs to Know

By [Bryan Haynes](#), [Agustin Rodriguez](#), and [Nick Ramos](#)

As our Tobacco + Nicotine team [previously reported](#), FDA's May 8, 2026 guidance (the 2026 Guidance or the Guidance) on enforcement priorities for certain unauthorized ENDS and nicotine pouch products created a path for products with pending premarket tobacco product applications (PMTAs) to remain on the market. That Guidance is now being challenged in federal court by advocacy organizations, threatening the viability of FDA's enforcement discretion.

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Federal Court Finds FDA Likely Failed to Assess Economic Impact of PMTA Rule on Small Nicotine Pouch Manufacturers

By [Bryan Haynes](#), [Agustin Rodriguez](#), [Michael Jordan](#), and Val Fesenko*

In June, the U.S. District Court for the Middle District of Florida made public an order that [stayed](#) a Food and Drug Administration (FDA) refuse to file (RTF) determination, finding that the FDA likely violated the [Regulatory Flexibility Act](#) (RFA) and the [Administrative Procedure Act](#) (APA) when it promulgated its 2021 PMTA rule based on a small-business certification that the court described as "facially false." The RTF letter is stayed pending final judgment.

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FDA Proposes Foreign Manufacturing Establishment Registration and Product Listing Requirements

By [Bryan Haynes](#), [Agustin Rodriguez](#), [Zie Alere](#), and Val Fesenko*

On June 29, 2026, the FDA published a [notice of proposed rulemaking](#) (NPRM) titled "Establishment Registration and Product Listing for Tobacco Products," which would, for the first time, require foreign tobacco product manufacturers to register their manufacturing establishments and list their products with the agency. Domestic manufacturers are already subject to these registration and listing requirements; foreign manufacturers are not. This regulation, if finalized, would close that gap.

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GAMING UPDATES

When ‘Skill-Based’ Isn’t: The Papaya Gaming Verdict and Its Implications for Mobile Gaming Operators

By [Stephen C. Piepgrass](#) and [Ayana Brown](#)

On July 28, U.S. District Judge Denise Cote of the Southern District of New York entered a judgment against Papaya Gaming Ltd. in *Skillz Platform Inc. v. Papaya Gaming Ltd.*, No. 1:24-cv-01646. The ruling followed an April jury verdict of \$420 million in damages; the court separately awarded \$719 million in disgorgement — an alternative remedy the plaintiff may elect in lieu of damages — along with \$10.1 million in attorneys’ fees. The lawsuit stemmed from Papaya’s alleged misrepresentation that its mobile cash tournament games rewarded player skill, when the outcomes were instead shaped by undisclosed bots designed to replicate a house advantage.

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PRIVACY + DATA UPDATES

Years in the Making, Suspended in a Day: DoD/W Halts CMMC Phase II but Keeps Baseline Cybersecurity Obligations

By [Michael Barnicle](#), [Hilary Cairnie](#), [Peter Jeydel](#), [Lu Reyes](#), [Bryan Williamson](#), [Bonnie Gill](#), [Anthony Pappas](#), and [Trey Smith](#)

On July 13, 2026, the U.S. Department of Defense/War (DoD/W) announced the immediate suspension of Cybersecurity Maturity Model Certification (CMMC) Phase II requirements — scheduled to take effect on November 10, 2026 — pending a top-to-bottom review by a newly established CMMC Reform Task Force. The [announcement](#), formally titled “Removing Barriers to Defense Industrial Base Expansion: Immediate Suspension and Strategic Review of Cybersecurity Maturity Model Certification Requirements,” came as a surprise reversal after years of rulemaking activity stretching back to 2019.

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State AGs Reach Novel Multistate Settlement With Genetic Testing Company 23andMe

By [Troutman Pepper Locke State Attorneys General Team](#), [Kaitlin Clemens](#), and [Bianca Nalaschi](#)

On July 14, 2026, a multistate group of 42 state AGs announced a \$150 million settlement with direct-to-consumer genetic data testing company 23andMe related to a 2023 data breach involving 6.9 million customers’ data. The actual settlement funds, however, are limited to \$18 million to be split among the states due to related bankruptcy proceedings involving the company.

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Regulatory Intelligence Platform: An Untapped Resource for Responding to Regulators and Proactively Mitigating Privacy, Security, and AI Regulatory Risk

By [Stephen C. Piepgrass](#), [David Navetta](#), and [Daniel Waltz](#)

At a high level, privacy, information security, and AI legal risks are influenced by three factors: (1) new legislation; (2) private litigation (often consumer class actions); and (3) regulatory enforcement. Troutman's 360 approach combines the experience and knowledge of its RISE group and Privacy + Cyber + AI litigation and advisory teams to address all three prongs. We have taken it a step further using AI to analyze over 300 privacy, security, and AI regulator activities since 2020 conducted by state AGs and privacy regulators. Troutman's resulting Regulatory Intelligence AI model provides insights that were previously untapped and gives our clients an advantage in addressing AG actions, as well as insights that support data-driven and risk-based compliance.

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New Jersey Enacts the Nation's Costliest Data Broker Law Yet

By [Troutman Pepper Locke State Attorneys General Team](#), [Laura Hamady](#), and [Shelby Dolen](#)

On June 30, 2026, New Jersey enacted legislation [A5328 \(P.L.2026, c.25\)](#), which will expose a broad swath of U.S. companies to data broker registration fees ranging from \$5,000 to \$1.5 million annually. The new legislation is not limited to data brokers in the conventional sense. It applies generally to any company that sells or licenses personal data of New Jersey residents, including those with direct customer relationships. Much of the law takes effect immediately, so companies should begin reviewing the requirements now to comply.

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Florida AG and Roku Resolve Children's Data Privacy Enforcement Action

By [Troutman Pepper Locke State Attorneys General Team](#) and [Laura Hamady](#)

On June 26, 2026, Florida AG James Uthmeier and Roku, Inc. [announced](#) a negotiated resolution of Florida's enforcement action filed under the Florida Digital Bill of Rights (FDBR). Under the agreement, Roku will enhance its child protection features by giving parents greater control over their children's streaming experience. The resolution includes no finding of wrongdoing and no civil fine.

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ADVERTISING + MARKETING UPDATES

Bipartisan Coalition of State AGs Asks FCC to Strengthen Rules Against Illegal Robocalls

By [Troutman Pepper Locke State Attorneys General Team](#)

On July 7, a bipartisan coalition of 49 state AGs sent a letter to the Federal Communications Commission (FCC) [urging the adoption](#) of stronger measures to combat illegal robocalls. The letter represents another action by the

state AGs' Anti-Robocall Multistate Litigation Task Force, which was established in 2022 to crack down on illegal robocalls.

[Read more](#)

New Jersey Signals Focus on 'Junk Fees' Regulation and Enforcement

By [Troutman Pepper Locke State Attorneys General Team](#)

In June, New Jersey Governor Mikie Sherrill and AG Jennifer Davenport announced a new statewide initiative on "junk fees." With this announcement, New Jersey joins other states that have targeted "junk fees" as part of a broader focus on affordability.

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CONSUMER PROTECTION UPDATES

New Jersey Consumer Fraud Act Now Covers Insurance Brokers, Agents, and Producers

By [Troutman Pepper Locke State Attorneys General Team](#)

On July 15, 2026, the New Jersey Supreme Court issued a decision overturning lower court rulings that had shielded "semi-professionals" — including insurance brokers, agents, and producers, among others — from regulation and litigation under the New Jersey Consumer Fraud Act (NJCFCA).

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CRYPTO UPDATES

States Push Back on the Clarity Act: What the Crypto Ethics and Enforcement Debate Means for Compliance Teams

By [Troutman Pepper Locke State Attorneys General Team](#)

On July 28, 2026, New York AG Letitia James submitted written testimony in connection with the pending federal Clarity Act, which aims to regulate the crypto market. In her testimony, she urged federal lawmakers to amend the Clarity Act to preserve the authority of the states to protect consumers, prosecute fraud, and hold government officials accountable for profiting from unlawful crypto-related activities.

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

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