

Troutman Pepper State Attorneys General Monitor – April 2022

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REGULATORY OVERSIGHT PODCAST

Troutman Pepper's *Regulatory Oversight* podcast analyzes the underlying trends that drive enforcement activity and provides expert perspectives on key focus areas. Featuring insights from members of the firm's Regulatory Practice Group, including its nationally ranked State Attorneys General practice, with guest commentary from business leaders, regulatory experts, and current and former government officials, our podcast examines a range of topics affecting companies operating in highly regulated industries.

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REGULATORY OVERSIGHT BLOG

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.

FREEDOM OF INFORMATION ACTION

JUDGE KETANJI BROWN JACKSON'S FOIA RECORD

By [Stephen Piepgrass](#) and Abbey Thornhill

On February 25, President Biden nominated Judge Ketanji Brown Jackson of the Court of Appeals for the District of Columbia to fill the vacancy on the Supreme Court created by Justice Stephen Breyer's retirement. Judge Jackson's resume includes almost 10 years of service on the bench — she was first nominated by President

Obama to the District Court for the District of Columbia in 2012 and served as a federal trial judge until her appointment to the Circuit Court in 2021. Sitting as a judge in the nation's capital, her docket included an extensive number of cases involving the federal Freedom of Information Act (FOIA), as individuals and business challenged federal agencies' withholding of requested documents sought under the federal statute. Judge Jackson's rulings in many of these cases provides insight into where she stands with respect to important FOIA issues. If she is confirmed to the highest court, Judge Jackson's stance and views on these issues could affect the privacy interests, intellectual property rights, and business interests of all individuals and business who contract and correspond with government agencies.

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ALCOHOL AND TOBACCO UPDATES

DR. CALIFF TAKES THE REINS AT FDA: FIVE TAKEAWAYS FOR THE TOBACCO INDUSTRY

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

On February 15, the Senate [confirmed](#) cardiologist Robert M. Califf, M.D., to lead the U.S. Food and Drug Administration (FDA). He's no stranger to the agency. Dr. Califf served a brief stint as FDA's commissioner of food and drugs from February 2016 to January 2017, and before that, he was deputy commissioner for medical products and tobacco from February 2015 until February 2016. So what might his appointment mean for the tobacco industry? We have five takeaways.

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BIDEN BANS IMPORTATION OF RUSSIAN ALCOHOL AND EXPORTATION OF CERTAIN ALCOHOL AND TOBACCO PRODUCTS TO RUSSIA AND BELARUS

By [John West](#) and [Nick Ramos](#)

Most of us are keenly aware of the ongoing fallout from the Russian Federation's invasion of Ukraine. As the conflict continues, the U.S. government has taken action to support Ukraine, while at the same time, punishing the Russia Federation for its violation of international law and norms. Consistent with this strategy, on March 11, President Biden issued an [executive order on prohibiting certain imports, exports, and new investment with respect to continued Russian Federation aggression \(the EO\)](#), prohibiting the following:

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TREASURY RELEASES COMPETITION REPORT FOR ALCOHOL MARKET

By [John West](#) and [Nick Ramos](#)

As we previously [reported](#), [Executive Order 14036](#) (E.O. 14036) required the Treasury secretary, who oversees the Alcohol and Tobacco Tax and Trade Bureau (TTB), to issue a report to the White House Competition Council (the Council) chair, assessing the current market structure and conditions of competition in the U.S. alcohol market.

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RIGHT TO REPAIR MOVEMENT

RIGHT-TO-REPAIR MOVEMENT WITHOUT RIGHT-TO-REPAIR LAWS

By [Seth Erickson](#), [Stephen Piepgrass](#), [Ashley L. Taylor, Jr.](#), and [Daniel Waltz](#)

The “right-to-repair” movement continues to gain momentum, and as predicted, litigation has started even in the absence of enacted right-to-repair laws. In a recently filed class-action complaint in the U.S. District Court for the Northern District of Illinois, the plaintiff alleges that the equipment manufacturer deliberately prevents farmers from repairing their own equipment or using independent repair shops, which the plaintiff argues are antitrust violations under Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1, 2. See *Eagle Lake Farms Partnership v. Deere & Co.*, No. 3:22-cv-50078 (N.D. Ill.).

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UTAH CONSUMER PRIVACY ACT

UTAH CONSUMER PRIVACY ACT AWAITING SIGNATURE

By [Robyn Lin](#), [Daniel Waltz](#), [Stephen Piepgrass](#), [Ashley L. Taylor, Jr.](#), and [Sadia Mirza](#)

On February 25, the Utah Senate passed the Utah [Consumer Privacy Act](#) (the UCPA), which closely resembles both the Virginia Consumer Data Protection Act (the VCDPA) and the Colorado Privacy Act (the CPA). The House unanimously passed the bill on March 2. The bill now goes to Governor Spencer Cox, who has 20 days to sign or veto it. If signed, Utah would be the fourth state to pass a comprehensive privacy bill after California, Virginia, and Colorado.

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FINTECH UPDATES

SENATE DEMOCRATS INTRODUCE DIGITAL ASSET SANCTIONS COMPLIANCE ENHANCEMENT ACT OF 2022

By [Keith Barnett](#), [Kalama Lui-Kwan](#), [Ethan Ostroff](#), and [Carlin McCrory](#)

On March 17, Senators Elizabeth Warren (D-MA), Jack Reed (D-RI), Mark Warner (D-VA), and Jon Tester (D-MT) introduced the [Digital Asset Sanctions Compliance Enhancement Act](#) (Act) in an attempt to ensure blacklisted Russian individuals and businesses do not use cryptocurrency to evade economic sanctions.

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BIDEN SIGNS EXECUTIVE ORDER ON CRYPTOCURRENCY

By [Keith Barnett](#), [Jay Dubow](#), [Kalama Lui-Kwan](#), [Ethan Ostroff](#), [Ghillaine Reid](#), [Zachary Epstein](#), [Carlin McCrory](#),

and Gerard Mazarakis

On March 9, President Biden signed an [Executive Order](#) (the Order) to establish the first comprehensive federal digital asset strategy for the U.S., which would promote digital asset innovation while balancing benefits and associated risks. The order directs the Justice Department, U.S. Department of the Treasury, the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau (CFPB), and many other federal agencies to study the legal and economic implications of creating a U.S. Central Bank Digital Currency (CBDC).

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FTC ENTERS CONSENT AGREEMENT WITH PAYMENT PROCESSOR FOR OPENING MERCHANT ACCOUNTS FOR FICTITIOUS COMPANIES

By [Keith Barnett](#), [Kalama Lui-Kwan](#), [Ethan Ostroff](#), and [Carlin McCrory](#)

On March 15, the Federal Trade Commission (FTC or Commission) released a consent agreement with Electronic Payment Systems and its owners John Dorsey and Thomas McCann (collectively, EPS) for allegedly opening credit card processing merchant accounts for fictitious companies on behalf of Money Now Funding (MNF).

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FED LAUNCHES FEDNOW SERVICE PROVIDER SHOWCASE

By [Keith Barnett](#), [Kalama Lui-Kwan](#), [Ethan Ostroff](#), and [Carlin McCrory](#)

On March 8, the U.S. Federal Reserve Banks launched the [FedNow Service Provider Showcase](#) (Showcase) to show financial institutions and users the various services to assist them in implementing the [FedNow Service](#) (Service).

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BLOCKING PAYMENTS TO RUSSIA AND ITS IMPACT ON PAYMENTS COMPANIES AND FINTECHS

By [Keith Barnett](#), [Kalama Lui-Kwan](#), [Ethan Ostroff](#), and [Carlin McCrory](#)

On February 21, President Biden issued an [executive order](#) blocking property of certain persons, and prohibiting transactions regarding Russia's invasion of the Ukraine. The following day, the U.S. Treasury's Office of Foreign Assets Control (OFAC) issued [restrictions](#) on activities with Russian individuals and entities. On February 25, these [lists](#) were updated to include political leaders such as Vladimir Putin.

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