

Moving the Metal: The Auto Finance Podcast**Hosts: Brooke Conkle and Chris Capurso****Aired: 4/15/26****Auto Finance Year in Review, Part 2: Security Clearances, Supervisory Lines, and Connected Cars****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 (00:19):

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

Brooke Conkle (00:24):

Today, we'll be discussing part two of the Auto Finance Year in Review: service members, supervisors, and screens new risk hotspots in auto finance. 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](https://www.troutmanfinancialservices.com) and [ConsumerFinancialServicesLawMonitor.com](https://www.consumerfinancialserviceslawmonitor.com). And also, we have a bevy of other podcasts that you might find interesting. We have [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 insightful shows are available on your favorite podcast platform, so check them out. And speaking of those platforms, if you like what you hear, please leave us a review and let us know how we're doing. We'd love to hear from you. Alternatively, please feel free to reach out to us directly. Our contact information can easily be found on the firm's website, [troutman.com](https://www.troutman.com). If you enjoy reading our blogs or listening to our podcasts, please also check out our financial services mobile app.

Brooke Conkle (01:41):

To download, simply go to your [iOS](#) or [Android](#) app store and search for Troutman Pepper Locke. Not only does our app have all of our blog content and podcast episodes in one handy place, it also has a listing of all of the firm's financially focused attorneys. So check it out and see what you think. Today, as I mentioned, we'll be discussing part two of the auto finance year in review, 2025: the year that was. Chris, first, let's talk about the 2025 Service Member Auto Lending Report. Does that sound good?

Chris Capurso (02:12):

It sure does. And I just wanted to say that at the end of last podcast, I noted the great traditions of movies being split up into twos, and I somehow unbelievably forgot the great tradition of movies being split up into threes. I forgot to mention *The Hobbit*. But we are not gonna be doing that to you. We're not gonna be having a random love triangle and random battles thrown in to try to make nine hours of movie or, in this case, three hours of podcast. So I should just note I didn't give *The Hobbit* its due course as a movie that's been split up way too many times, and I apologize for that. But yes, here we are. We're gonna discuss the CFPB's 2025 Service Member Auto Lending Report.

Brooke Conkle (02:52):

That's right. And even though the CARS Rule, we saw the end of that very briefly with the FTC, the CFPB was, in a limited way, frankly, kinda active, which that was sort of a news flash, but especially around service members. And in January 2025, the Bureau released a major report on service members in the auto lending market. And it was a big data project. It was a review of the Trump years and the Biden years, 33.8 million loans from 2018 to 2022, including about 200,000 loans to service members. And the headline finding in this study was service members face heightened financial risks compared to civilians. They tend to have, one, higher loan amounts; two, higher interest rates; and three, higher monthly payments. On top of that, the circumstances that tend to be specific to service members, frequent moves, deployments, bases that are often in isolated areas, those factors, according to the Bureau, can limit the vehicle financing options for service members, which makes them potentially more exposed to high-cost or deceptive practices. And one of the angles that the Bureau highlighted is one that maybe isn't covered as often specifically with service member issues.

Brooke Conkle (04:13):

And that's the fact that there is sort of uniqueness about auto debt in the military context in that it's not only a financial issue, it can also be a career issue. From the Bureau's perspective, auto-related debt problems can jeopardize security clearances or even lead to discipline, career delays, or termination. And so from the CFPB's perspective, it's a double impact: consumer harm plus national security concerns. The Bureau noted in the report that current protections, including the Servicemembers Civil Relief Act and the Military Lending Act, can be limited when it comes to auto loans. And the gap that the Bureau flagged in particular were key supervision and enforcement priorities going forward. So this was issued in the last days of the Chopra-led Bureau. But still, Chris, we note this is always evergreen content. Issues related to service members are always of interest to both parties. This is an issue that is, frankly, just never gonna go away depending on the party that is in control in Washington. So if you finance or service auto loans for service members, the practices are always gonna be under a spotlight. Repossession practices, add-ons, rate setting, treatment during moves or deployment, all of that is gonna be under a lot of scrutiny.

Brooke Conkle (05:37):

So the takeaways from that: does your auto finance company have policies specifically tailored to service member borrowers? Are you tracking complaints and disputes by military status? And

how confident are you in your SCRA and MLA controls? Chris, that wasn't the only thing that the Bureau was up to in 2025. What about the larger participant threshold?

Chris Capurso (06:02):

Right. And as far as the service member report, not totally surprising. We've discussed all the time, as you said, it's kind of an ever-present issue. Service members, right, it's gonna be there whoever's in charge. But the changes to the larger participant rules may have been a little bit more expected as something that this iteration of the CFPB was gonna do. A CFPB that was looking to dial back non-bank authority compared to covering banks. And one of the ways to do it is altering the larger participant rules. The CFPB has supervisory authority with respect to certain defined larger participants. And there are a bunch of larger participant rules. There's a debt collection one, there's a consumer reporting one, there's one in payments, but there's also one in auto finance, as probably most people listening know. And back in August of 2025, the CFPB issued several Advanced Notice of Proposed Rulemakings, the famed Advanced Notice of Proposed Rulemaking that ultimately doomed the FTC and the CARS Rule. But they issued all of these advanced notice of proposed rulemakings to try to gauge feedback on how to potentially alter these larger participant rules and their thresholds.

Chris Capurso (07:11):

And just as the current rule is laid out, a non-bank covered person would be a larger participant in the automobile financing market if the person has at least 10,000, quote, aggregate annual originations. And that is a very broad term. An annual origination includes credit for the purchase of the automobile, leases, refinancings, and purchases or acquisitions of any of those types of things, so purchasing that kind of paper. So 10,000, you're probably saying that's a pretty low threshold. And you'd be right. The Bureau asks about this and asks, should this be adjusted? Because currently the 10,000 aggregate annual originations cover 63 non-bank entities and 94% of annual originations in the United States. That's a huge percentage. So the CFPB proposed three alternatives. And remember, keep in mind that the current threshold is 10,000. The lowest of the three alternatives that the CFPB proposed was 300,000. So automatically jumping from 10 to 300,000 as the lower boundary. And the CFPB specifically noted that if it was 300,000, it would hit 17 entities and roughly 79% of the annual originations market, which is still a high percentage but way less entities, which shows just how concentrated the market can be.

Chris Capurso (08:37):

The middle proposed alternative is 550,000 annual originations. Again, 10,000 was the original. 550,000 would cover 11 entities and 66% of the annual originations market. So again, you're over half of the market, but you have chopped down the list of entities by over 50 at this point. And then finally the top threshold, the big one, is 1,050,000 annual originations. And that would only cover five entities and 42% of the market. So we finally crossed below the 50% threshold. Still pretty high, 42% for five entities, but we're now at five entities rather than 63. So it's fairly obvious in this whole thing that the CFPB is looking to dial back the amount of folks subject to supervision based on this larger participant rule. And with some of the other rules, for example, debt collection, the CFPB had noted, well, we want to get back to where we were in 2012 when the ideas of these first came about. And times have changed and we want to adjust, just as

anyone in the financing space knows, dollar amounts under TILA or under state laws adjust for inflation. They adjust year to year depending on how things have changed over time.

Chris Capurso (09:53):

So too does the CFPB want to alter the larger participant rules to account for changes in the amount of originations and changes in the business generally. So this could be a huge impact for those who are in the non-bank auto finance space, potentially removing CFPB supervision depending on how many annual originations you have in the aggregate. So this is obviously a big deal. It came in August, the original ANPRMs. There's a rulemaking process, as we well know from the FTC CARS Rule, that has to be followed. But we're always on the lookout for the next step in all of that, and we'll obviously keep you apprised of anything we find out. But that's a good summary of some of the things that happened at the CFPB specifically related to auto finance. But we're not done with the states just yet. Brooke, tell us a little bit about New Jersey's data deletion law and a recent update in 2025.

Brooke Conkle (10:52):

That's right, Chris. And increasingly we're seeing sort of the intersection of a lot of different areas of law. But with auto finance in particular, issues related to privacy law more and more are sort of coming to the fore. And New Jersey has been a leader here. Data privacy used to feel more like a manufacturer issue, but increasingly is an issue that's important to dealers and indirectly to finance companies. And as I mentioned, New Jersey specifically has been a leader in this area, starting with a law enacted in January 2024. And then in July 2025, the New Jersey Division of Consumer Affairs sent reminders to approximately 3,000 dealerships about their obligations. And specifically, what New Jersey requires is that dealers must offer data deletion services when vehicles are taken in for resale or for lease. So all of the personal information that can sort of live within your vehicle, call logs, text messages, navigation addresses, all of that information that we don't necessarily think of as kind of being stored in our vehicles, all of that can still stay in the car when it changes hands. So New Jersey permits dealers to charge a reasonable fee if that fee is disclosed upfront.

Brooke Conkle (12:14):

And they also have to let consumers know that the consumers themselves can delete that data or can use a vendor. And there are some serious penalties associated with this, Chris. So failure to comply can mean civil penalties up to \$1,000 per violation. And the guidance provided by New Jersey suggests that the NIST's guideline for media sanitation is the standard for doing it right. So what does it mean beyond New Jersey? The state law is one of the first, but several states have proposed similar legislation. Chris, we're seeing this all over the place where one state is the first domino to drop and then there are multiple others that follow behind it. This law is a really good example of how auto, as we mentioned, is converging with privacy and cybersecurity. For auto finance companies, you might not be pressing the delete button, but you're part of the ecosystem, especially when you're handing off lease turn-ins, repossessions, and remarketing. So the questions we're getting from clients include: Do our vendor management and remarketing agreements address vehicle data? Who in particular is responsible for deletion? And how do we document or confirm that the deletion was done?

Brooke Conkle (13:33):

Chris, we haven't necessarily seen other states immediately follow this pattern, but where one pops up, we imagine that others are going to follow.

Chris Capurso (13:42):

We've now reached the point, we've covered several developments over 2025 over the course of these two podcasts, and kind of the question is, what does it mean? And it really does go back to what we would have said at the beginning of 2025 about 2024 going into 2025. That is, there may be conventional wisdom about what's going to happen when you change from a Democrat in the White House to a Republican in the White House, that you're going to see less regulation and those types of things. I mean, we've heard those buzzwords from clients all the time. And I think the important thing to note is maybe in some aspects there could be less regulation, but there's always going to be something. And obviously, California CARS Rule is a great example of this where federal government dials back something and then California, of course, is the state that develops a brand new, in the most unbelievable of quotes because it's very similar to the FTC CARS Rule, but they develop a brand new kind of state legislative version of that. And we see Oregon with its own separate financing law. We saw New Hampshire last year.

Chris Capurso (14:51):

The states can still legislate these things. So you've always got to be on the lookout for that. And the other caveat is just because there's a perceived dial-back in maybe certain enforcement or supervision of federal regulators doesn't mean that they're doing nothing. As we noted, the CFPB dropped that service member report. That obviously signals their intention to be looking into service member issues, which is something we always say is going to cross the aisle and it's always going to be something that's going to be looked at by any administration, anyone in charge. But you also have regulatory developments such as the ANPRMs with larger participant rule. You have things like that. So what I would say is it's never a clear-cut, oh, it's going to be a dial-back. You've got to be paying attention to everything, especially at the state level, but also at the federal level, because you don't know truly what regulators are going to be doing in different administrations depending on what the focus is. So it's always going to be our buzzwords: Make sure your compliance operations are up to snuff, make sure your documents are in order, make sure your consumer complaint processes are in a way that intake is smooth and you have root cause analysis and you have all those things checking on complaints because you never know.

Chris Capurso (16:10):

Even without a legislative or regulatory solution, there's still that specter of private litigation. So you've got to make sure that a complaint doesn't blow up into some systemic issue that becomes a class action that people talk about for years. Those are kind of my big pulling-it-together from our two-part podcast series.

Brooke Conkle (16:26):

That's right. For auto finance companies on the compliance side, I think everything we've seen both in 2024 and in 2025 all kind of points to the need for robust but also state-specific compliance systems, stronger dealer oversight and contractual controls, and then lastly, targeted risk programs for service member borrowers. As we've said, we'll beat a dead horse here, but service members are always going to be a priority no matter who the regulator is. On the litigation side, we expect plaintiffs' lawyers and regulators to use these new state laws as just new hooks. Whether it's alleging unlawful add-ons under the California CARS Act or improper handling of spot delivery deals in Oregon, privacy violations tied to vehicle data in New Jersey, all of these are going to implicate UDAP statutes. And as we all know, those UDAP statutes have fee-shifter provisions. So that's what we're seeing for 2026.

Chris Capurso (17:26):

And we figured right at the end we would do an exciting, I don't know if it's a sequel. We had such an exciting time with the holiday movie countdown that we would discuss some of the sports, movies, music, things that we enjoyed in 2025 and some of the things we look forward to in 2026. I guess I'll kick it off. I immediately think of sports as a sports person, and my sports are just utterly depressing. If anybody knows me, I am a die-hard Indianapolis Colts fan. Horrible, horrible ending to the season, and it doesn't look like it's gonna get better. So I say, okay, well, maybe I'll turn to soccer. I'm a big Tottenham fan, which anybody who watches soccer hears that word and is like, oh, buddy. They do well in Europe. They won a title for the first time in 17 years, which is very cool.

Brooke Conkle (18:12):

That's right.

Chris Capurso (18:13):

And now I'll get to look forward to them winning a title in the second division as they get relegated from the Premier League in the next couple months. But hopefully there's a silver lining that Brooke's Manchester City team can pip Arsenal to the title and I can at least have some joy in sports. So those are my immediate initial thoughts, what happened in 2025 and what I'm looking forward to in 2026. Brooke, what about you?

Brooke Conkle (18:37):

For me, I'm an introvert, and so my two literary picks for 2025 both are novels. One, *The Antidote* by Karen Russell. Highly recommend this book. It has elements of the supernatural and science fiction. I am not a fan of either of those, and yet Karen Russell was able to make this very long book unbelievably interesting, bookended by two natural disasters in the Dust Bowl. Just a phenomenal book. I highly recommend it. And then secondly, the book *The Hounding* by Zenobie Purvis. The book jacket describes this novel as a cross between *The Crucible* and *The Virgin Suicides*. That is the absolute best possible way to describe this novel. Again, highly recommend. Both of these are books that will stay with you and you'll be thinking

about for weeks after. And with sports, I can't go without giving a high five to my Virginia Cavaliers who had, by our standards, a phenomenal football season. And yes, as Chris mentioned, fingers crossed that Manchester City can catch Arsenal in the Premier League this year.

Chris Capurso (19:48):

Fingers crossed by everyone who does not root for that team. And with that, that'll wrap it up for today's podcast and our two-part Year in Review series. Thank you to our audience for tuning in. Don't forget to check out our blogs where you can subscribe to the entire blog or just the specific content you find most helpful. That's the [ConsumerFinancialServicesLawMonitor.com](https://www.ConsumerFinancialServicesLawMonitor.com) and the [TroutmanFinancialServices.com](https://www.TroutmanFinancialServices.com) blogs. And while you're at it, why don't you head on over to [troutman.com](https://www.troutman.com) and sign up for our Consumer Financial Services mailing list so you can stay abreast of current issues via our insightful alerts and advisories and 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. Until next time.

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