

Podcast: *The Consumer Finance Podcast*

Episode: Point-of-Sale Finance Series: State AGs Filling the Federal Void in Point-of-Sale Finance Enforcement — Crossover Episode With *Regulatory Oversight* Podcast

Host: Taylor Gess

Guests: Michael Yaghi and Lane Page

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Taylor Gess (00:00):

Welcome to this crossover episode of [The Consumer Finance Podcast](#) and [Regulatory Oversight](#). I'm Taylor Gess, an associate in Troutman Pepper Locke's Consumer Financial Services Regulatory Practice, and I'll be your guest host for today's episode. Today we're giving you another installment of our special highlight series on point-of-sale finance, where we are joined by colleagues from our State Attorneys General and Regulatory Investigations, Strategy + Enforcement team to highlight areas in the point-of-sale space that have been of interest to state AGs. But before we jump into that topic, let me remind you to visit and subscribe to our blogs, [troutmanfinancialservices.com](#) and [consumerfinancialserviceslawmonitor.com](#). And don't forget about all of our other podcasts. We have the [FCRA Focus](#), all about credit reporting, the [Crypto Exchange](#), about crypto and digital assets, [Moving the Metal](#), our auto finance podcast, and [Payments Pros](#), focusing on trends in payments. All of those are available on all popular podcast platforms. Speaking of those platforms, if you like this podcast, please let us know. Leave us a review on your podcast platform of choice and tell us how we're doing. Now, as I said, today's episode is another in our special highlight series on point-of-sale finance. Here I'm joined by my colleagues Mike Yaghi and Lane Page to discuss what is on the mind of state AGs. Mike and Lane, welcome to the podcast.

Michael Yaghi:

It's nice to be with you. Thanks for having us.

Lane Page:

Yeah, happy to be here.

Taylor Gess:

One common theme we've seen running through many of our podcast episodes recently is the increase in state regulatory enforcement activity in light of the current administration's rollback of that type of activity. Mike, does that trend hold true in the point-of-sale space?

Michael Yaghi:

Yes, it does. Given that federal regulators have changed priorities under the current administration, we've seen point-of-sale become a greater focus for state regulators and state attorneys general. And it's not surprising that pricing and fees are obviously a big part of point-of-sale focus in those transactions in terms of are any of the charges or fees that consumers pay hidden according to the states. Those are all areas that regulators are certainly focused on to ensure that none of their state laws, from their perspective, are being violated during point-of-sale transactions. So it's not shocking that that's what we're seeing, and it's continuing and will continue.

Taylor Gess:

Thanks, Mike. And I think one area states appear to be concerned with currently is Buy Now, Pay Later. That seems to certainly be true from my compliance perspective, with Illinois recently sending a new Buy Now, Pay Later law to the governor for signature and the flurry of activity in New York. Lane, what do you have to share with us today on BNPL activity?

Lane Page:

Yeah, I think that is probably one of the most high-profile areas that state regulators are focusing on. As you noted, Illinois recently sent for signature a new Buy Now, Pay Later Act, which is similar to the New York Buy Now, Pay Later Act. I know this podcast has covered that, but that just clearly demonstrates that states are really focused and trying to regulate these types of products. And that comes directly in response to the CFPB withdrawing its Buy Now, Pay Later interpretive rule, which it did in early 2025, and really signaling to the industry that the federal government is not taking Buy Now, Pay Later as a priority. So as you noted, we have the two state rules, which are the — I think New York and Illinois are the only two states to have laws or potential laws currently on the books directly regulating these products. But at the end of last year, in December of 2025, seven Democratic state AGs announced that they were launching a coordinated inquiry into the country's six largest Buy Now, Pay Later providers to determine whether their products harm consumers and violate state consumer protection laws. That coordinated action really shows that this is something states care about and that they are planning to take action to address.

Taylor Gess:

So Mike, what have we seen after the AGs' inquiry and how are you more broadly viewing activity in the Buy Now, Pay Later space?

Michael Yaghi:

The states are definitely focused on new products like Buy Now, Pay Later. They're focused on this issue, again, making sure that consumers aren't being deceived in terms of how the structure of their payments work, what do the Buy Now, Pay Later terms and conditions impose on consumers, and how essentially the product works. And we understand the inquiry that the seven states that Lane mentioned, it's still ongoing and it signals that the states are coordinating and working together obviously on this issue and sharing information. And they're looking at the industry obviously as a whole, targeting the largest Buy Now, Pay Later companies. So it's really looking at the entire industry. It's not looking at one out of the top five or six, for example, where they think there's a one-off issue. It's more focused on the entire business model and how the product works and whether consumers are fully understanding what they're getting. The states are looking at these issues and they're going to enforce their UDAP statutes broadly. And they're looking at how are these products being disclosed, are they triggering loans, for example?

They're just trying to get a handle on this newer product, how it works, and whether or not they think the business model is really lending and falls under their lending requirements. But it's also broader than that. They're looking at any unfair, deceptive practices that may be prevalent from their perspective regarding these products in terms of, like I said, disclosures, the clarity, clear and conspicuousness of those disclosures, how the product works, what the cost is to consumers, and how all that's disclosed. So they're really digging into the industry as a whole and looking at the business model as opposed to one or two sort of perceived bad actors, which

isn't unusual, especially given the federal pullback and states now focusing on the industry themselves to ensure that consumers are protected in their jurisdictions with these products.

Lane Page:

Mike, you made a good point that they're really focused on Buy Now, Pay Later more broadly as opposed to specific practices. And I think you can really tell that that's the case when you focus on what the inquiries involve. They ask for documents and information covering almost all aspects of these Buy Now, Pay Later providers' businesses. And it touches on various different regulatory regimes, various different requirements that all lead to, like what you said, that they are focused on everything and trying to figure out how they work and whether they comply with various consumer protection laws. So, for example, these requests ask for information and documents concerning the providers' agreements and disclosures, their products and their structures, consumer dispute handling, customer service availability, ability to repay analysis, customer payment options, default and delinquency analysis, merchant relationships, credit reporting, because some of these providers are reporting Buy Now, Pay Later history to the credit reporting agencies, and then to TILA compliance efforts, so loan disclosures. We also understand that they're concerned with subscription practices, and I know that that's been a big issue recently, whether companies are complying with various subscription requirements and whether they have clear and conspicuous disclosures, easy cancellation processes.

So really, these inquiries show that states are focused on Buy Now, Pay Later as a whole rather than just something specific. So I think it suggests to Buy Now, Pay Later providers that they really should assess everything that they're doing. Take a look at these inquiries, see what they're asking about. Take a look at your own practices, processes, procedures, and see if those comply with the consumer protection laws that you're required to comply with. Because it definitely seems like this is going to be an area of focus for quite some time.

Michael Yaghi:

Yeah. And let me add to that. The fact that the states are looking at it holistically, they're really, I think, driven by a perception that there's increasing delinquencies, right? So they're looking at it from the perspective of consumers. And I think Lane mentioned defaults. Are consumers defaulting and then unable to pay? And then what are the fees and costs or what's the increased cost associated with that? And then are companies adequately evaluating consumers' ability to pay on the front end of the point-of-sale transaction? And that's why I think holistically they're looking at the whole industry and the product as a business model and not individual or specific targets. And another thing that Lane noted, I think it's important, is sort of aside from the product itself, how are companies gathering personal information? How are they using that data? How are they aggregating personal data? Are they harvesting data? So that's something that companies should really be thinking about. And when you have an investigation, states are going to dig in and look at the product and the practices broadly and the business model very broadly. So it's not just the point of sale per se, but it's sort of what are you gathering at point of sale and what are you doing with it?

So looking at privacy issues, data harvesting issues, those are areas of concern. And then if these are categorized as loans, are they properly doing underwriting evaluation in terms of ability to pay or repay whatever they're purchasing under the Buy Now, Pay Later platform? And so that's why states are really looking at it holistically to really understand the business model, what the industry's doing, the impact on consumers, and then identifying from their perspective

areas where there's potential state violations of not just the lending laws, but broader consumer protection laws. That's why the states are looking at these issues and why the companies need to look at them from sort of that real broad consumer protection standpoint and not just defending it as not falling under your state lending licensing regime or supervisory regime. But it's also how does the product operate in the marketplace from just a consumer protection standpoint, because that's where the states are coming from and they're looking at it at that very broad level. And I think it's important companies understand that and evaluate sort of from start to finish how the product's working, their interactions with consumers, and identifying areas where they might be able to improve compliance to minimize consumer protection exposure.

Taylor Gess:

Thanks, Mike and Lane. I think it's really helpful to understand just how broad states are taking a look at the Buy Now, Pay Later industry. So we're going to shift gears here a bit and discuss one of my personally favorite areas of point of sale finance, home improvement and solar finance. We've discussed on previous podcasts the unique considerations in the home improvement and solar verticals, including the associated dealer-related risks. Mike, I know this is an area with plenty of activity. So what do you want to highlight for us today?

Michael Yaghi:

Yeah, this is again another very good example of states looking at an entire industry or a practice. It's not, again, isolated to sort of one-off or two-off alleged bad actors, right? They're looking at the actual business model and how the financing transaction works and all of the disclosures to consumers and borrowers, right? So I think the biggest key area I would highlight in the solar finance industry and home improvement in general, but particularly it's really focused on solar finance from what we've seen, and it's really dealing with, and I mentioned this at the very top of the discussion, fees, pricing, and the cost of the product or the service, whatever's being sold to consumers. States are very focused on that issue. And in the solar space, under TILA and TILA regulations, Reg Z, there's sellers' points and different fees that an installer, solar installer, would pay to a lender to have different loan products available to consumers. And those are basically, not generally, they are literally excluded from buyers' points or the TILA disclosure requirements under the federal Truth in Lending Act and its implementing regulations. And a lot of states are focused on trying to argue, "Well, we don't necessarily agree that sellers' points are excluded." They are trying to rewrite the law and argue that those points paid by the installers to the lenders are instead buyers' points paid by the consumer to the lender.

And they're using that argument and making a loan product out of whole cloth to say it should have been structured as buyers' points, therefore the TILA disclosures would have been very different, meaning those fees would have been disclosed during the point-of-sale transaction, the Truth in Lending disclosures, and it would have been part of the finance charges as opposed to being absorbed as overhead essentially by the home improvement/solar installation companies. So what I'm highlighting is states are really focused on looking at business models and determining and crafting allegations that essentially argue that it's not clear and conspicuous, and they want to sort of reinvent what the loan product is. And this is a clear example of them doing that where they're literally trying to say that your sellers' points, while excluded under TILA from the disclosures to the consumer during a lending transaction, buyers' points are not. We're therefore going to try to rewrite the transaction through litigation to say you really were hiding buyers' points when it should have been disclosed.

Taylor Gess:

Lane, I think another area where state AGs have been active relates to the lender-merchant relationship and merchant oversight. Is there some activity in Texas that you'd want to highlight?

Lane Page:

Yeah. Recently Texas announced a lawsuit against a solar installation company alleging that it violated the Texas Deceptive Trade Practices Act. This was just in May of this year. And they alleged that the company used fraudulent and deceptive tactics to market and sell residential solar panels. This included misrepresenting energy bill savings, tax and tax credit eligibility, installing defective systems and performing improper installations, and charging undisclosed warranty and maintenance fees. So importantly, this complaint did not name a lender in the suit. So it's not bringing the lawsuit against the lender, it's just the installation company. But they did note in the allegations that customers were stuck in financing arrangements for defective solar systems, which suggests to us that this is, it's possible for lenders to get caught up in similar lawsuits. And we have seen this happen in other cases regulators target lenders based on this fact pattern, and they try to impose liability on the lender for essentially the merchant's conduct in installing a poor system.

Michael Yaghi:

Lane's right. It starts with installation companies being the focus and then usually the follow-on focus are the lenders. So all of those things just really highlight states aggressively looking at an entire loan product and crafting real novel legal arguments and legal theories.

Taylor Gess:

So everyone's eyes are on California right now with Chopra's recent appointment to lead the state's new Business and Consumer Services Agency. Lane, what are your thoughts on what we'll be seeing out of California?

Lane Page:

I think for the financial services industry, it's a bit scary. He was incredibly aggressive when he led the CFPB and right before he left, he set out an entire agenda for states to follow for how to approach consumer financial services enforcement. Now he is leading an agency that is intended to consolidate and elevate state-level consumer protection and market oversight activities across a wide array of areas. And he has incredible resources to do that. He, with respect to what we were just talking about, while at the CFPB, Chopra was focused on the solar industry. The CFPB and several other federal agencies under the Biden administration formed an interagency consumer solar industry initiative that was directed at both the sales and the financing of solar residential systems. So our expectation is that once he really gets running at this new agency, that that will be one area of focus. And I think it's important to note that before he left, he noted how state AGs often have sharper legislative tools at their disposals than federal counterparts to address the financial services industry. So we expect him to attempt to use those sharper legislative tools to address the solar industry, amongst many others.

Michael Yaghi:

Yeah. And on that point, I think it's real critical. Incoming Secretary Chopra really looked at, and this is consistent with what we've been talking about with all the state AGs, that he really looked at, especially with the CFPB, industries as a whole and entire business models, right? Again, not so much targeting one or two bad actors or alleged bad actors, but sort of holistically looking

at what's the product, what's the service, and how does it work in the marketplace. So I think you're going to see very aggressive state-level enforcement. The new agency that was formed that Secretary Chopra will lead will be in charge of California's Department of Financial Innovation and Protection, the DFPI, which is our state-level financial examiner, right? And it's going to be very active in looking at all sorts of loan products, any kind of impact or disparate impact on borrowers, consumers, fees and costs at point of sale disclosed versus fees and costs down the road during the transaction and interaction between consumers and the company.

I think you're going to see a lot of real aggressive enforcement coming out of California. And the DFPI is separate from the California Attorney General, by the way. The California Attorney General here in California is a constitutional officer created by the California Constitution. So you're going to have two agencies in parallel really pursuing and having enforcement powers. And similar to New York, our listeners, I'm sure, are aware that New York last year passed the FAIR Act, the Fostering Affordability and Integrity through Reasonable Business Practices Act, which basically gave the New York Attorney General the same elements to enforce against not just deceptive, but abusive and unfair practices that for decades New York's consumer protection statute only prohibited deceptive conduct. It was amended to prohibit deceptive, abusive, and unfair conduct. So California and New York are going to be, they're sort of positioning themselves as little CFPBs, right? So with the CFPB at the federal level pulling back with shifting priorities, you now have two really big states gearing up with the law and the appetite to police the financial services industry within their states.

Taylor Gess:

Yeah, it'll be exciting to see how that plays out. I'm sure we'll continue to monitor activity out of both of those states really carefully. So the last broad topic that we want to cover today is rent-to-own. Mike, what are you seeing in this space?

Michael Yaghi:

States are showing a significant interest in rent-to-own arrangements, and it's basically where consumers make periodic payments for using a product with an option to purchase the product at the end of their arrangement or their contract. Majority of states have laws governing these transactions and most of the state laws treat them as leases, not consumer credit. And the point is they want to ensure or argue that at the end of a transaction, the consumer's obligation sort of terminates, right? There's no remaining balance or credit reporting, there's no collections, right? It's a lease that cuts off and the duties and benefits and obligations are clear. It also means that disclosure requirements that apply for credit transactions under TILA don't apply to these transactions. And most state laws governing RTO transactions also impose certain requirements concerning full price and early purchase option disclosures, return rights, written agreements, and payment receipts. So there's all sorts of requirements. And states are focused on making sure companies engaging in rent-to-own transactions are obviously complying with all of the specific duties and obligations under their state laws.

Minnesota, New Jersey, and Wisconsin are three key states. They've classified RTO transactions as credit sales rather than leases, resulting in consumers having additional protections under their applicable lending laws. So it's sort of an interesting take on three states essentially saying, you're now engaging in loans and now we're going to impose even greater obligations on you. In addition, several states, including New Jersey, Minnesota, and Maine,

impose price caps on the total cost of an RTO agreement relative to the product's cash price. So state regulators have skepticism regarding RTO transactions and they're going to focus on, is this a true lease and are you treating it as a true lease transaction, or is it going to be deemed a loan? And all the triggers and requirements under engaging in loans, consumer finance transactions, are those laws triggered?

Taylor Gess:

So I think our audience has gained a lot of insight into what state AGs are thinking about with respect to point-of-sale finance these days. As we wrap up the podcast, do you want to leave us with some final thoughts? Lane, why don't we start with you?

Lane Page:

I think overall what we've been talking about demonstrates that there's kind of this opening left by the federal government that states are trying to fill with respect to consumer protection over the financial services industry. And for the remainder of the Trump administration at least, I think we should expect to see this continued state focus on this industry. I know we talked about a few different types of products. One in particular was Buy Now, Pay Later. And I think it's just going to be very important for Buy Now, Pay Later providers to focus on what states are doing. Focus on the inquiries from the seven-state coalition and the areas that they're asking about, but also keep an eye on what comes out of that. That started in December of 2025, and we don't know exactly where it is now, but we expect some type of enforcement action or guidance following from the inquiry. So pay attention to that. Pay attention to what's going on in Illinois and New York with respect to their Buy Now, Pay Later laws and just really holistically look at what your products are, how you're operating, how you're interacting with consumers to make sure that you're complying with laws that these different states are looking into.

Michael Yaghi:

Yeah. And looking at your products and services really just from start to finish, from just the point-of-sale transaction through your interactions with your consumers, your borrowers, you really want to look at, okay, what are our point-of-sale disclosures? Are they clear and conspicuous? Are they defensible? How are we interacting with consumers? Do they understand all of the terms? Are all fees and costs clearly and conspicuously disclosed? And really just understanding the nature of your transaction, having the controls in place to flag issues early and identify them early in order to make corrections if necessary so you don't create sort of a balloon of transactions where state regulators are focused on.

And one point I'll add to that, you really want to focus — a lot of companies ignore this, but people really value Better Business Bureau ratings, for example, and a lot of state AGs, most of the states will focus on consumer complaint volume, not just to their offices, but also to BBBs. And so that's another area where if you're starting to see issues, you want to try to address them sooner rather than later so you don't have a balloon of massive complaints and a drop in a BBB rating, for example, or massive numbers of complaints to state AGs on those issues that would trigger, potentially trigger, not a violation, trigger an investigation. So those are things that you could do upfront and sort of on a monitoring and for compliance purposes to minimize that exposure. And it's a good corporate health check and recommendation on a compliance front to do that regularly with your sales teams, marketing teams, customer service teams, et cetera. And so I think it's just good corporate hygiene to keep that in your sort of regular review and

compliance package to make sure that the company doesn't steer off course and expose itself to potential liability.

Taylor Gess:

I think that's a great point on the good corporate hygiene, Mike. Thank you, Mike and Lane, for being on the podcast today and updating the audience on what we are seeing from state AGs. We're going to leave this special point-of-sale finance series here for now. We'll pick back up with another very interesting topic on our next episode of [The Consumer Finance Podcast](#). In the meantime, thanks to our audience for listening today. And don't forget to visit and subscribe to our blogs, troutmanfinancialservices.com and consumerfinancialserviceslawmonitor.com. While you're at it, why not visit us on the web at troutman.com and add yourself to our Consumer Financial Services email list? That way we can send you copies of the alerts and advisories that we send out, as well as invitations to our industry-only webinars that we put on from time to time. And of course, stay tuned for a great new episode of this podcast every Thursday afternoon and look forward to the remainder of our special highlight series on point-of-sale finance coming soon to your podcast feed. Thank you all for listening.

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