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# **Regime Change**

### What does it mean and what doesn't it mean?

- ◆ The CEPE
  - Acting Director(s) Bessent / Vought
    - Scope of directions so far
    - Examinations
    - Rules past their effective date but before their compliance date
    - Other issue
    - Project 2025 Free market leadership vs populist leadership
    - Lessons from Mulvaney / Kraninger CFPB
    - Impact on state activity
  - Industries
    - Installment
    - EWA
    - BNPL
    - Others
- ◆ The FTC Andrew Ferguson at the helm along with Melissa Holyoak as Republican Commissioners. Slaughter and Bedoya as Democratic Commissioners. Currently one vacancy.
- ◆ Disruption Be Ready!

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## The Small Dollar Rule

### What's going to happen with the Payday Rule in 2025?

- ◆ The Requirements
- ◆ The Case
- ◆ Compliance status
  - Bessent/Vought Directives
    - Effective Date: January 16, 2018 and Compliance Date: March 30, 2025
    - Case law: Compliance dates and effective dates are not the same under Section 705 of the APA: Becerra v. United States Dep't of Interior, 276 F. Supp. 3d 953, 964 (N.D. Cal. 2017) and several other cases.
    - What's next?
  - Consider state AG enforcement if the Compliance Date is not addressed via notice/public comment
- → If the rule is suspended: Opportunity to study, amend, and revoke?
- ♦ If the rule moves forward:
  - · Opportunity to develop regulatory momentum reasonably
  - Opportunity to address numerous gray areas reasonably
    - Bank / CSO Models
    - Debiting in 2 days
    - Affiliated entities
    - Payments after the compliance date on loans before the compliance date
    - Regular debit date payment schedules and actual practices
    - And more . . .

## **Installment Loans**

What happens at the state and federal level for installment lending?

- ◆ Chopra CFPB
  - World Finance Order
  - Larger Participant Rule
- ◆ The New CFPB and Installment Lenders
  - Bessent/Vought memo and examinations
  - Cases involving installment lenders
- ◆ State legislative changes
  - 36% push
  - State referendum activity
- ◆ State AG enforcement of Dodd-Frank Act

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## **Earned Wage Access / Early Wage Advance**

A lot has changed over the last 4 years . . .

- ◆ The CFPB
  - Early Cordray pronouncements on EWA
  - EWA under Mulvaney Kraninger
  - EWA under Chopra
    - Issues with prior analysis
    - Missing piece in the Chopra analysis
  - Where will the CFPB go from here?
- ◆ The FTC's activities so far
- ◆ Evolving consumer advocate perspectives and state legislation
- ◆ State AGs and EWA

## **Buy Now Pay Later**

Will it become a bigger disruptor?

- **◆**Early approaches
- **♦**Chopra's CFPB
- **♦BNPL** under state law
- +2025 and after

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## **FCC 1-to-1 TCPA Consent Rule**

Does this apply to your actual practices?

- ◆Effective date (was) January 27, 2025
- ◆The scope and various practices for lead generators and lenders
- **♦**FCC action and 11<sup>th</sup> Circuit decision
- ♦ What next? Dead for now, but what about existing requirements and issues?

## **Other Considerations**

#### A brave new world

#### **→** Opportunities in 2025 and beyond:

- Sandbox and innovation programs
- Emerging AI opportunities
- · Chance to evaluate and reinforce compliance management systems before next federal administration change
- Emerging balance verification tools may reduce NSF risks; get compliance right
- · Regular use of same day ACH and other emerging payment methods
- What to do about pending CIDs and/or examinations?

### **→** Emerging risks

- The States
  - State data / privacy laws gaining traction, will GLBA exemptions continue?
  - State DIDMCA opt-outs, rate cap legislation, other advocacy efforts see Chopra roadmap
  - State AGs enforcing the DFA
- Federal
  - MLA and SCRA enforcement under the prior Trump administration
  - Populism vs free market?

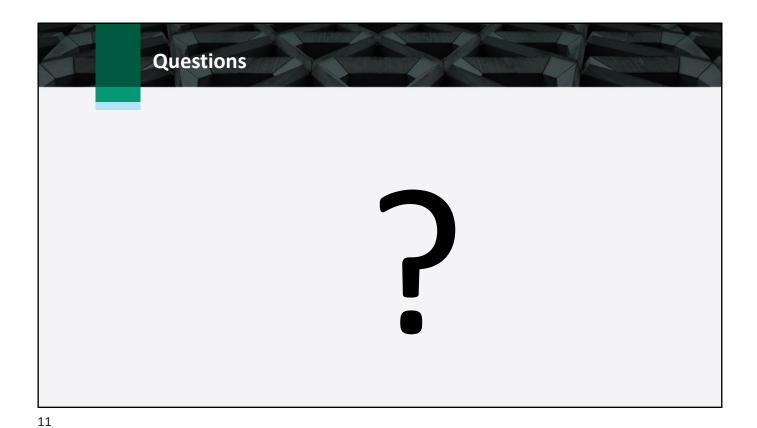
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### **Other Considerations**

### A brave new world

### → Potential 2025 Disruptors – Are you Ready?

- Artificial Intelligence Evolution of usage (Generative v. Machine Learning)
- Gamification Properly engaging with a younger consumer
- Account balance verification services Tool of necessity can now be a compliance and "better business" tool
- Subscription services Doing it right
- Multi-Product Business Meeting more customer needs
- Peer-to-Peer lending Don't call it a comeback ...
- Crypto lending "Most Crypto-Friendly President ever"
- Small business lending and MCA



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