

Legislative Update 246

September 1, 2024

Highlights this issue:

- On August 16, the House Financial Services Committee Chairman Patrick McHenry (R-NC) along with several subcommittee chairs sent a letter to Department of Treasury Secretary Janet Yellen in response to a Request for Information (“RFI”) on artificial intelligence (“AI”) in financial services. The representatives highlighted that AI has significant potential for the financial services sector and said that it is crucial for financial regulators to focus on how this technology can benefit consumers.
- On August 2, the CFPB announced that it along with several federal financial regulatory agencies — including the Office of the Comptroller of Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Federal Housing Finance Agency, Commodity Futures Trading Commission, Securities and Exchange Commission, and Department of Treasury — issued a proposed rule to create data standards for specific information collection submissions to financial regulatory agencies.
- On August 20, a U.S. District Judge Ada Brown barred the Federal Trade Commission rule that would ban non-compete agreements in employment from taking effect.
- In August, California reconvened after their summer recess to complete the 2024 legislative session. The legislature approved several bills intended to regulate artificial intelligence, sending the bills to the governor who will have until September 30 to sign or veto the proposals.

FEDERAL UPDATE

House Financial Services Committee leadership sends letter regarding AI in financial services

On August 16, the House Financial Services Committee Chairman Patrick McHenry (R-NC) along with several subcommittee chairs sent a [letter](#) to Department of Treasury Secretary Janet Yellen in response to a [Request for Information](#) (“RFI”) on artificial intelligence (“AI”) in financial services. The representatives highlighted that AI has significant potential for the financial services sector and said that it is crucial for financial regulators to focus on how this technology can benefit consumers. The



letter included the importance of protecting data privacy as AI technology advances, utilizing AI in fraud detection, underwriting, and debt collection, and evolving regulatory frameworks to adapt to AI advancements. The letter noted the Committee's support for fostering innovation and enhancing customer experiences while advancing consumer protection and market integrity.

CFPB and financial regulatory agencies propose rule regarding data standards for government submissions

On August 2, the CFPB announced that it along with several federal financial regulatory agencies — including the Office of the Comptroller of Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Federal Housing Finance Agency, Commodity Futures Trading Commission, Securities and Exchange Commission, and Department of Treasury — issued a proposed rule to create data standards for specific information collection submissions to financial regulatory agencies. The proposed rule aims to enhance the interoperability of financial regulatory data by establishing uniform data standards for identifiers of legal entities and other common identifiers. The proposed rule is mandated by the Financial Data Transparency Act of 2022, and within two years of finalizing these standards, the CFPB is mandated to establish its own rule adopting data standards for information collections regularly filed with or submitted to the CFPB. Comments on the proposed rule are due 60 days after its publication in the Federal Register.

Judge strikes down FTC ban on 'noncompete' agreements

On August 20, a U.S. District Judge Ada Brown barred the Federal Trade Commission rule that would ban non-compete agreements in employment from taking effect. Judge Brown ruled that the antitrust agency lacked authority to issue substantive rules related to unfair methods of competition, including the noncompete rule. Brown had temporarily blocked the rule in July while she considered a bid by the U.S. Chamber of Commerce and tax service firm Ryan to strike it down entirely. Brown said in her ruling that even if the FTC had the power to adopt the rule, the agency had not justified banning virtually all noncompete agreements. "The Commission's lack of evidence as to why they chose to impose such a sweeping prohibition ... instead of targeting specific, harmful non-competes, renders the Rule arbitrary and capricious." In a separate case, a federal judge in Pennsylvania declined last month to block the rule. Diverging rulings on the ban likely mean review by higher courts.



STATE UPDATES

California legislature sends artificial intelligence bills to governor

In August, California reconvened after their summer recess to complete the 2024 legislative session. The legislature approved several bills intended to regulate artificial intelligence, sending the bills to the governor who will have until September 30 to sign or veto the proposals. Experian has worked directly and along with our trade associations, including CalChamber, CalRetailers, ANA, and CDIA, to educate lawmakers about the impact of the proposals. The following bills were approved by the legislature:

SB 1047 – Frontier AI Model regulation

The Safe and Secure Innovation for Frontier Artificial Intelligence Models Act, requires developers of very large “covered models” to implement cybersecurity protections and take reasonable care to implement measures to prevent mass casualties, harms of at least \$500 million, or other comparable harms. Developers must retain a third-party auditor to perform an independent compliance audit. The bill would require regulations to be developed by the newly created Board of Frontier Models.

AB 2013 – Generative AI training data transparency

The legislation requires developers of Generative AI systems or services to post on their website documentation regarding the data used to train the system or service, including high level summaries of the datasets used. The bill applies to GenAI released after January 1, 2022, but excludes a system whose sole purpose is for fraud prevention.

SB 942 – Generative AI detection tools

The bill requires a publicly available GenAI system with over one million monthly visitors or users to provide an AI detection tool. The legislation applies to GenAI systems that produce images, audio, video content, or a combination. The AI detection tool should allow a user to assess whether the content was created or altered by the covered provider’s GenAI system. The bill would become effective January 1, 2026.

AB 3211 – Generative AI watermarking standards

The legislation would apply to a GenAI system capable of producing synthetic content that could falsely appear to a reasonable person to depict real-life persons, objects, places, entities or events. A covered developer must make available to the public a watermark decoder for an individual to assess the provenance of a single piece of content. If signed, the bill would be effective July 1, 2026.

AB 2930 – Automated decisioning technology

The bill regulates the use of “automated decision systems” (“ADS”) for decisions that influence an individual’s access to government services or the availability or



terms of hiring, termination, pay, or promotion. Developers and deployers of ADS for use in employment must perform impact assessments on the system. The bill also establishes a consumer's right to know when an ADS is being used, the right to opt-out of its use if technological feasible, correct any incorrect personal information, and access to an explanation of how it is used. If signed, the bill goes into effect January 1, 2025

California legislature amends privacy law to address online opt-outs and expand children's privacy

The California legislature continued to expand the state's comprehensive privacy law with new provisions providing consumers with greater opt-out preferences and expanding privacy protections for children and teens. The following bills were approved by the legislature and under consideration by the governor:

AB 3048 - Opt-out preference signal

The legislation requires a browser or mobile operating system to include a setting to enable a consumer to send an opt-out preference signal to businesses with which the consumer interacts through the browser. The California Privacy Protection Agency (CPPA) must adopt regulations that outline the requirements and technical specifications. The bill, sponsored by the CPPA, would be effective after the agency completes a rulemaking process.

AB 1949 - Expands CPRA definition of minor to under 18

The bill amends the definition of minor in the California Privacy Rights Act to include the personal information of kids from 13-17. Under the CPRA, a business would be prohibited from collecting or sharing personal information if the business has actual knowledge that the consumer is less than 18 years of age, unless the minor or their parent/guardian has authorized collection. A business that willfully disregards the consumer's age shall be deemed to have had actual knowledge of the age. If signed, the bill would be effective on January 1, 2025.

SB 1223 – Adds “neural data” to sensitive definition

The bill amends the CPRA definition of sensitive personal information to include neural data, which is subject to an opt-out. Neural data is defined as information that is generated by measuring the activity of a consumer's central or peripheral nervous system, and that is not inferred from nonneural information. Similar language passed in Colorado this year. If signed, it becomes effective January 1, 2025.

AB 1008 – Personal information and AI systems

The legislation seeks to clarify that information that exists in AI systems is personal information and subject to consumer rights under the CPRA. The bill would also clarify that “publicly available” does not include biometric information collected by a business without the consumer's knowledge.



AB 1824 – Prior opt-outs for mergers/acquisitions

The bill seeks to clarify that when a business transfers personal information as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the transferee assumes control must comply with a consumer's existing privacy direction under the CPRA.

Amendments to autorenewal contract disclosures approved by California legislature

On August 28, the California legislature approved [AB 2683](#) to add new disclosure obligations for automatic contract renewals and continuous service offers. Expanding coverage to include free trial offers, businesses offering auto renewing contracts will need to display new disclosures when a consumer is seeking to cancel a contract but is presented with a retention offer. Contracts will also be subject to an annual reminder disclosure to inform a consumer about the charges and the means to cancel. If a business provides a mechanism for cancellation by toll-free number, the call must be answered promptly during normal business hours. Experian worked with a broad business coalition to seek amendments to the bill and narrow the application to paid consumer services. If signed the bill applies to contracts entered into after July 1, 2025.

California approves bill banning medical debt on credit reports

On August 28, the California legislature passed [SB 1061](#) to prohibit consumer reports from containing medical debt. Before passing the bill, the Assembly Appropriations Committee made amendments to the definition of medical debt to narrow its application. Under the revised legislation, the definition of medical debt would more closely align with the proposed rulemaking by the CFPB. Medical debt would cover debts owed by a consumer to a person whose primary business is providing medical services, products, or devices, thereby excluding medical debt on revolving credit or specialty healthcare payment cards. The bill would also prohibit a person from furnishing medical debt to a credit reporting agency and prohibit a user of a credit report from using medical debt as a negative factor in a credit decision. If signed the bill would go into effect January 1, 2025. The Consumer Data Industry Association raised concerns throughout the legislative process about FCRA preemption.

California legislature to require landlords to offer reporting of on-time rental payments

On August 29, the California legislature approved [AB 2747](#) to require certain landlords to offer each tenant the option of having the tenant's positive rental payment information furnished to a consumer reporting agency. The legislation would require landlords to offer rent reporting to tenants no later than April 1, 2025, and annually thereafter. If a tenant elects to have rental payments reporting, the landlord may charge a fee not to exceed the lesser of the actual cost of providing the service or \$10 per month. The bill would exempt any landlord of a residential building that contains 15 or fewer dwelling units unless the landlord is a real estate investment trust or a corporation.

