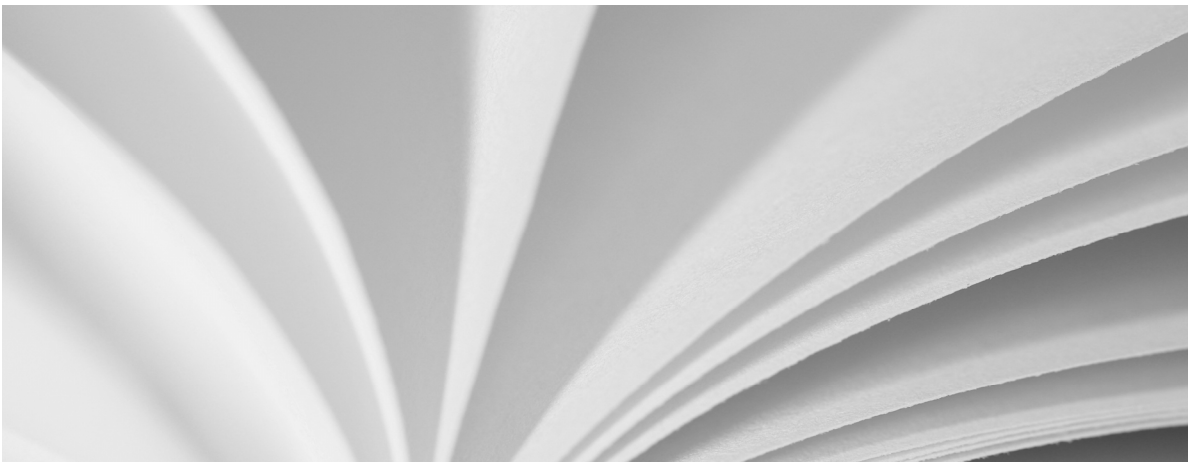


TCFA Annual Convention Legal Update June 19, 2026

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CFPB Updates



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CFPB – Regulatory Changes

- The One Big Beautiful Bill Act, signed July 4, 2025, reduced the CFPB's statutory funding cap from 12% to 6.5% of the Federal Reserve's 2009 operating expenses.
- April 2025 reduction-in-force that would have terminated more than 1,483 CFPB employees remains enjoined via a preliminary injunction. DC Circuit to decide whether reduction-in-force is legal. Decision currently pending.
- CFPB rescinded 67 guidance documents.
- By the end of 2025, only eight enforcement cases remained pending. New CFPB enforcement is seemingly rare.
 - State AGs are attempting to fill the gap.

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CFPB – Regulatory Changes Cont'd

- Amendments to Reg B, which implements Equal Credit Opportunity Act (ECOA)
 - Final Rule eff. 7.21.26 - removes the “effects test” (90 Fed. Reg. 50901)
 - Comment at 1002.6(a)-2 clarifies ECOA prohibits only intentional discrimination. Facially neutral policies actionable only if a proxy for intentional discrimination.
 - Limits Reg B's discouragement prohibition to statements directed at applicants that the creditor knows or should know would signal denial or less favorable terms based on a prohibited characteristic.
 - Ultimately, however, whether ECOA supports disparate-impact claims is a question for the courts, so lenders cannot dismiss disparate-impact liability risk regardless of the final rule.

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Legislation



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State Legislation

Texas Responsible AI Governance Act (TRAIGA)

- HB 149 (eff. 1/1/2026) Tex. Bus. & Comm. Code ch. 552:
 - prohibits developing or deploying AI systems with the *intent* to unlawfully discriminate against protected class
 - specifies that disparate impact alone is insufficient to establish discriminatory intent for purposes TRAIGA
 - AG can investigate; OCCC can enforce; civil penalty

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Artificial Intelligence (AI)



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AI in Financial Services: Existing Federal Laws and Regulations

Fair Credit Reporting Act (FCRA)

- Regulates use and furnishing of consumer reports
- Mandates specific credit score disclosures where a credit score is used in taking adverse action
- In some cases, proprietary generated loan scores may qualify as credit scores, triggering disclosure requirements.

Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)

- Consumer Financial Protection Act prohibits UDAAPs in connection with offering consumer financial products or services
- AI-driven customer interactions may create UDAAP exposure if responses are inaccurate, omit material terms, reframe pricing or eligibility criteria in misleading ways, or impede consumers' exercise of statutory rights.

Truth in Lending Act and Regulation Z (TILA)

- TILA requires clear and conspicuous disclosure of credit terms, including APR and finance charge
- Providing disclosures become complicated when agentic AI systems are used to communicate with consumers or ML-driven models offer consumers dynamic pricing.

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Gramm-Leach-Bliley Act (GLBA)

- GLBA imposes privacy notice and security obligations on financial institutions with respect to nonpublic personal information (NPI).
 - NPI = “personally identifiable financial information” you collect about an individual in connection with providing a financial product or service, unless it is publicly available.
 - Includes (1) information provided by consumer (e.g., SSN, income, application data), (2) information from transactions (e.g., account numbers, payment history, balances), and (3) information obtained in servicing the relationship (e.g., credit reports, court records).
- AI systems that collect or transmit NPI (including integrations with third-party model providers) may be subject to these requirements.

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GLBA: Core Regulations

Privacy R. 16 CFR 313

- governs notice obligations and consumer opt-out rights with respect to the disclosure of NPI to nonaffiliated third parties

Safeguards R. 16 CFR 314

- mandates implementation of an information security program commensurate with the institution's size, complexity, and data sensitivity.

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Privacy Rule (16 C.F.R. Part 313)



GLBA requires financial institutions to provide clear and conspicuous privacy notices describing their data collection, use, and sharing practices. 15 U.S.C. § 6803(a); 16 C.F.R. § 313.4(a).



Before disclosing NPI to nonaffiliated third parties outside statutory exceptions, institutions must provide an opt-out notice, a reasonable opt-out mechanism, and allow a reasonable period before disclosure. 16 C.F.R. § 313.10; §§ 313.14–313.15.



AI vendors that receive NPI qualify as nonaffiliated third parties, thereby triggering these requirements. Where such vendors use customer data to train AI models without prior disclosure, that use may constitute a violation of the Privacy Rule.

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Safeguards Rule (16 C.F.R. Part 314)

The Safeguards Rule imposes strict controls on the handling, processing, and storage of NPI. See 86 Fed. Reg. 70,272 (Dec. 9, 2021).

Financial institutions are also required to conduct regular audits and assessments to ensure that third-party vendors, including AI vendors, comply with GLBA's security and privacy standards.

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Safeguards Rule: AI Best Practices

Use of generative AI (e.g., ChatGPT) may implicate the Safeguards Rule if systems access, process, or transmit NPI without adequate controls.

Lenders must contractually prohibit secondary use of NPI for vendor model training, ensure data isolation and deletion rights, and retain audit rights sufficient to verify compliance. See 16 C.F.R. Part 314.

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Takeaways

Effective January 1, 2026, HB 149 (TRAIGA) introduces new AI discrimination guardrails, although state law and CFPB rule on ECOA seek to limit disparate impact liability (courts will decide)

The CFPB's budget has been cut, its workforce reduced, and most enforcement activity has ceased, but state attorneys general are trying to fill the void.

Deploying AI implicates the FCRA, UDAP standards, TILA disclosure requirements, and GLBA privacy and safeguards rules.

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