

What Financial Intermediaries Can Expect From New Admin

By **A.J. Dhaliwal and Moorari Shah** (February 14, 2025)

Brokers, lead generators and digital platforms — key intermediaries in consumer financial services — are closely monitoring how the change in administration might affect ongoing regulatory initiatives. These intermediaries operate at the nexus of consumer access and financial innovation, making them integral yet vulnerable to evolving rules aimed at balancing consumer protection with market competition.

Over the past decade, consumer financial services regulation has evolved with changing political climates. The Obama administration prioritized oversight with the creation of the Consumer Financial Protection Bureau.[1] The first Trump administration focused on deregulation, while the Biden administration reemphasized consumer protections, data privacy and fair lending — often at a breakneck pace.

These shifts create both opportunities and challenges for intermediaries. Understanding the current regulatory landscape — and anticipating how it might evolve under Trump 2.0 — is essential for brokers, lead generators and digital platforms. This article explores current regulation, potential political effects, and strategies for managing regulatory uncertainty.



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What's Past Is Prologue

Digital Comparison Shopping Under the Real Estate Settlement Procedures Act

The Biden administration's CFPB expanded its interpretation of the Real Estate Settlement Procedures Act, or RESPA, to target digital platforms that facilitate financial transactions.[2]

The CFPB's 2023 advisory opinion emphasized that undisclosed referral fees, kickbacks and other compensation arrangements could violate RESPA's anti-kickback provisions.[3] Intermediaries operating digital platforms that connect consumers with financial products have faced heightened scrutiny over compensation models and business practices.

The CFPB placed a greater emphasis on transparency, requiring intermediaries to clearly disclose referral fees and compensation structures to consumers. While these measures aim to prevent deceptive practices, they also introduce operational complexities that can affect platform revenue and partnerships with financial institutions.

Many digital intermediaries are now reevaluating their compensation frameworks and exploring alternative models that comply with regulatory expectations while maintaining efficiency in consumer matching services.

The FCC's One-to-One Consent Rule

The Jan. 24 vacatur of the Federal Communications Commission's one-to-one consent rule by the U.S. Court of Appeals for the Eleventh Circuit in *Insurance Market Coalition Ltd. v.*

FCC temporarily alleviated certain telemarketing restrictions, but intermediaries must still navigate a patchwork of state and federal telemarketing laws.[4]

The ruling followed a legal challenge by the Insurance Marketing Coalition Ltd., which argued that the FCC exceeded its authority and imposed undue burdens on legitimate marketing practices. While the court's decision provided relief for businesses, uncertainty remains, as regulators may attempt to reintroduce similar constraints through new rulemaking or state-level initiatives.

Lead generators and brokers face continued compliance challenges, particularly as state regulators and the Federal Trade Commission ramp up enforcement of deceptive marketing and consumer consent violations.

The FTC's January 2024 settlement with a California-based lead generation company, Response Tree LLC, in the U.S. District Court for the Central District of California in *U.S. v. Response Tree LLC*, underscores these risks.[5] The company misled consumers into providing personal information under the guise of mortgage refinancing services, later sold to telemarketers.[6] The settlement banned Response Tree from telemarketing activities entirely, signaling a heightened focus on deceptive lead generation practices even as federal telemarketing rules shift.[7]

Intermediaries are refining data collection, strengthening consent management and exploring alternative engagement channels to mitigate regulatory risk while maintaining consumer trust. Despite the FCC rule change, compliance risks remain high, requiring proactive marketing and data-sharing strategies with evolving enforcement trends.

State Privacy Laws

Data privacy laws at the state level, such as the California Consumer Privacy Act, have introduced strict mandates around how consumer data is collected, used and disclosed.[8] These laws require intermediaries to implement robust privacy measures to protect consumer information and to provide clear disclosures about data usage.

Under the Biden administration, there was a push to harmonize state-level privacy frameworks with potential federal legislation, ensuring consistent consumer protections across jurisdictions.[9] Open banking initiatives promoting secure data sharing are also gaining traction. However, intermediaries must invest in data security to meet evolving compliance requirements.

Fair Credit Reporting Act Application to Data Brokers

The Fair Credit Reporting Act, or FCRA, has traditionally applied to credit reporting agencies and entities using consumer reports for credit decisions. [10]

However, a December CFPB proposed rule, *Protecting Americans From Harmful Data Broker Practices*, sought to expand the FCRA's scope to include brokers and lead generators that collect and share consumer data — a move that has sparked industry pushback.[11] The rule would impose significant compliance burdens on intermediaries, requiring them to verify the accuracy of the data they collect, provide consumer disclosures and manage disputes regarding the information they share.

Trade associations, including the U.S. Chamber of Commerce, have strongly opposed the proposal, arguing that it constitutes regulatory overreach and could disrupt legitimate data-

sharing practices. The chamber warns that the rule could stifle innovation, impose unnecessary compliance costs and limit access to financial products that rely on consumer data.[12] The Biden administration had signaled support for this expansion to address concerns about data accuracy and consumer rights, but the industry challenge underscores ongoing tensions over the CFPB's authority.[13]

Shifting Winds and New Masters

A shift in political leadership often brings a reevaluation of regulatory priorities. While Trump 2.0 may focus on deregulation, some Biden-era policies could remain to provide clearer rules for financial intermediaries.

Intensified Consumer Protection

One key area is the potential expansion of the FCRA to cover intermediaries that collect and share consumer data. This effort, initially championed under the Biden administration, could continue as policymakers seek to increase transparency and accuracy in data-driven financial services.

If implemented, brokers and lead generators may face stricter obligations to verify consumer data, provide disclosures and handle disputes — introducing new compliance burdens but also addressing concerns over misleading or outdated consumer information.

Similarly, unfair or deceptive acts or practices, and unfair, deceptive, or abusive acts or practices enforcement could remain a significant risk, particularly in areas where intermediaries influence consumer decision-making, such as marketing practices, referral arrangements and disclosures. While a Trump-defined CFPB may scale back aggressive rulemaking, it could still pursue targeted enforcement actions against intermediaries engaging in deceptive or abusive practices, focusing on clear-cut cases of consumer harm rather than sweeping regulatory mandates.

A recent CFPB enforcement action against Wise US Inc. illustrates this continued risk. In January, the CFPB ordered Wise to pay \$2.5 million for misleading consumers about fees and remittance disclosures.[14] The agency found that Wise falsely advertised ATM fees and failed to properly disclose exchange rate markups, violating consumer protection laws.[15] This case underscores that even in a deregulated environment, intermediaries remain vulnerable to enforcement actions if their disclosures, marketing or pricing structures mislead consumers.

State regulators play a growing role in consumer protection. Even if federal agencies reduce enforcement, state attorneys general and financial regulators remain active in data privacy, fair lending and deceptive advertising. Intermediaries must prepare for state-level scrutiny, licensing and litigation risks, even in a deregulated federal environment.

Easing Regulatory Burdens

A deregulatory approach at the federal level might focus on removing redundant or overly burdensome rules to foster innovation. Key areas for reform could include revisiting FCC communication rules to balance consumer privacy with the need for effective outreach.

The vacatur of the FCC's one-to-one consent rule has eased restrictions on consumer outreach, but uncertainty remains as regulators may attempt to reintroduce similar constraints. Without clear, stable rules, intermediaries face ongoing challenges in engaging

consumers efficiently.

Similarly, uncertainty around RESPA enforcement has made it challenging for intermediaries to structure compensation models. The CFPB's evolving position on referral fees and digital platform arrangements has introduced compliance risks, leaving businesses unsure of what is permissible. Clear guidance would ensure that intermediaries can operate without fear of sudden regulatory shifts or enforcement actions that disrupt long-standing industry practices.[16]

For smaller intermediaries, compliance costs are disproportionately high. Unlike large financial institutions with dedicated legal teams, they struggle to navigate shifting rules. Streamlined compliance pathways or targeted exemptions would help level the playing field, preserving competition and consumer choice.

Data Privacy and Open Banking

Consumer data protection remains a regulatory priority — regardless of political leadership. A key area to watch is the potential expansion of federal data privacy laws to align with state-level frameworks like the California Consumer Privacy Act and similar laws in other states.

Intermediaries could face stricter data governance requirements, expanded consumer rights over their data and increased compliance costs — particularly if state and federal regulations remain fragmented. Without a clear, uniform standard, intermediaries will be forced to navigate a complex patchwork of overlapping and sometimes conflicting privacy mandates that could expose them to enforcement risks.

Open banking initiatives, while promoting competition, change how intermediaries handle financial data. Poor implementation or inconsistent regulation could create liabilities in data portability, consent management and cybersecurity protections.

Crashing Waves: Key Risks for Financial Intermediaries

In the years ahead, intermediaries will face persistent regulatory challenges. Adapting to shifting enforcement priorities is essential to avoiding penalties and legal exposure.

- **Licensing:** Expanding state licensing requirements creates costly and complex compliance hurdles, particularly for lead generators and fintech platforms. Businesses that fail to secure proper licenses risk fines, operational shutdowns or exclusion from key markets.
- **Enforcement:** Certain state regulators will aggressively enforce unfair, deceptive, or abusive acts or practices; RESPA; and data privacy laws, using state analogs to federal laws where necessary to avoid battle with the remade federal government. Intermediaries must tighten marketing, compensation and disclosure practices to avoid investigations, fines and reputational harm.
- **Data Privacy:** A growing patchwork of state privacy laws forces intermediaries to comply with conflicting consumer data mandates. Without a federal standard, businesses face heightened enforcement and litigation risks over data collection, sharing and security.

- **Litigation:** Class actions targeting deceptive advertising, privacy violations and FCRA noncompliance are rising. Strengthening compliance programs is crucial to avoiding costly lawsuits and protecting brand reputation.

Charting the Uncharted: Preparing for the Unknown

To stay ahead of regulatory shifts, intermediaries must adopt a proactive compliance strategy that balances risk management with business growth.

Invest in compliance infrastructure.

Digital platforms facilitating consumer financial transactions must implement real-time compliance monitoring for licensing, disclosures and data privacy. Investing in automated consent tracking, audit systems and artificial intelligence-driven compliance tools can help manage high-risk areas such as lead sourcing, fee structures and referral arrangements.

Engage stakeholders.

Lead generators and fintech intermediaries should collaborate with trade associations and regulators to ensure their business models remain viable amid shifting compliance expectations. Engaging with financial services and technology coalitions can help shape practical regulations on data-sharing, marketing practices and open banking rules.

Focus on transparency.

Brokers and digital marketplaces must prioritize clear fee disclosures, robust fraud prevention measures and consumer-friendly data policies to mitigate scrutiny. Strengthening consumer trust through transparency will help intermediaries reduce enforcement risks and maintain strong industry partnerships.

Prepare for state-level enforcement and litigation.

With increasing regulatory scrutiny, intermediaries must conduct regular risk assessments and prepare for potential lawsuits related to deceptive practices, improper consent or privacy violations.

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[1] As of this writing, the CFPB has undergone significant changes under the Trump administration. President Trump dismissed Director Rohit Chopra and appointed Treasury Secretary Scott Bessent as acting director. Bessent has temporarily halted the CFPB's activities, including investigations, rule-making, and litigation. See

www.consumerfinance.gov/about-us/newsroom/statement-on-designation-of-treasury-secretary-scott-bessent-as-acting-director-of-the-consumer-financial-protection-bureau/.

[2] https://files.consumerfinance.gov/f/documents/cfpb_respa-advisory-opinion-on-online-mortgage-comparison-shopping-tools_2023-02.pdf.

[3] Id.

[4] See https://media.ca11.uscourts.gov/opinions/pub/files/202410277.pdf#_blank. The court ruled that the FCC exceeded its authority under the TCPA, leading the agency to stay enforcement until at least January 26, 2026. See <https://docs.fcc.gov/public/attachments/DA-25-90A1.pdf>.

[5] See <https://www.ftc.gov/news-events/news/press-releases/2024/01/california-based-lead-generator-agrees-settlement-banning-it-making-or-assisting-others-making>.

[6] Id.

[7] Id.

[8] See Cal. Civ. Code §§ 1798.100-1798.199.

[9] See https://energycommerce.house.gov/posts/committee-chairs-rodgers-cantwell-unveil-historic-draft-comprehensive-data-privacy-legislation?utm_source=chatgpt.com.

[10] See 15 U.S.C. §§ 1681-1681x.

[11] See <https://www.federalregister.gov/documents/2024/12/13/2024-28690/protecting-americans-from-harmful-data-broker-practices-regulation-v>.

[12] See Press Release, U.S. Chamber of Commerce, Chamber Challenges CFPB's Overreach on Data Broker Regulation (Dec. 2024), <https://www.uschamber.com/regulations/u-s-chamber-challenges-cfpbs-overreach-on-data-broker-regulation>.

[13] See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-stop-data-brokers-from-selling-sensitive-personal-data-to-scammers-stalkers-and-spies/>.

[14] See CFPB Press Release, CFPB Orders Wise to Pay \$25 Million for Illegal Remittance Practices (Jan. 31, 2024), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-wise-to-pay-25-million-for-illegal-remittance-practices/>.

[15] Id.

[16] The Mortgage Bankers Association (MBA) has highlighted the increasing uncertainty intermediaries face due to shifting RESPA enforcement, particularly regarding referral fees and digital platforms. The MBA warns that the lack of clear guidance leaves businesses exposed to regulatory risk and enforcement actions that could disrupt long-standing industry practices. The association has called for reforms to clarify permissible compensation structures and ensure regulatory stability for intermediaries navigating compliance obligations. See https://www.mba.org/news-and-research/newsroom/news/2024/10/24/mba-white-paper-reforms-needed-to-respa-section-8-to-better-serve-consumers-mortgage-market?utm_source=chatgpt.com.