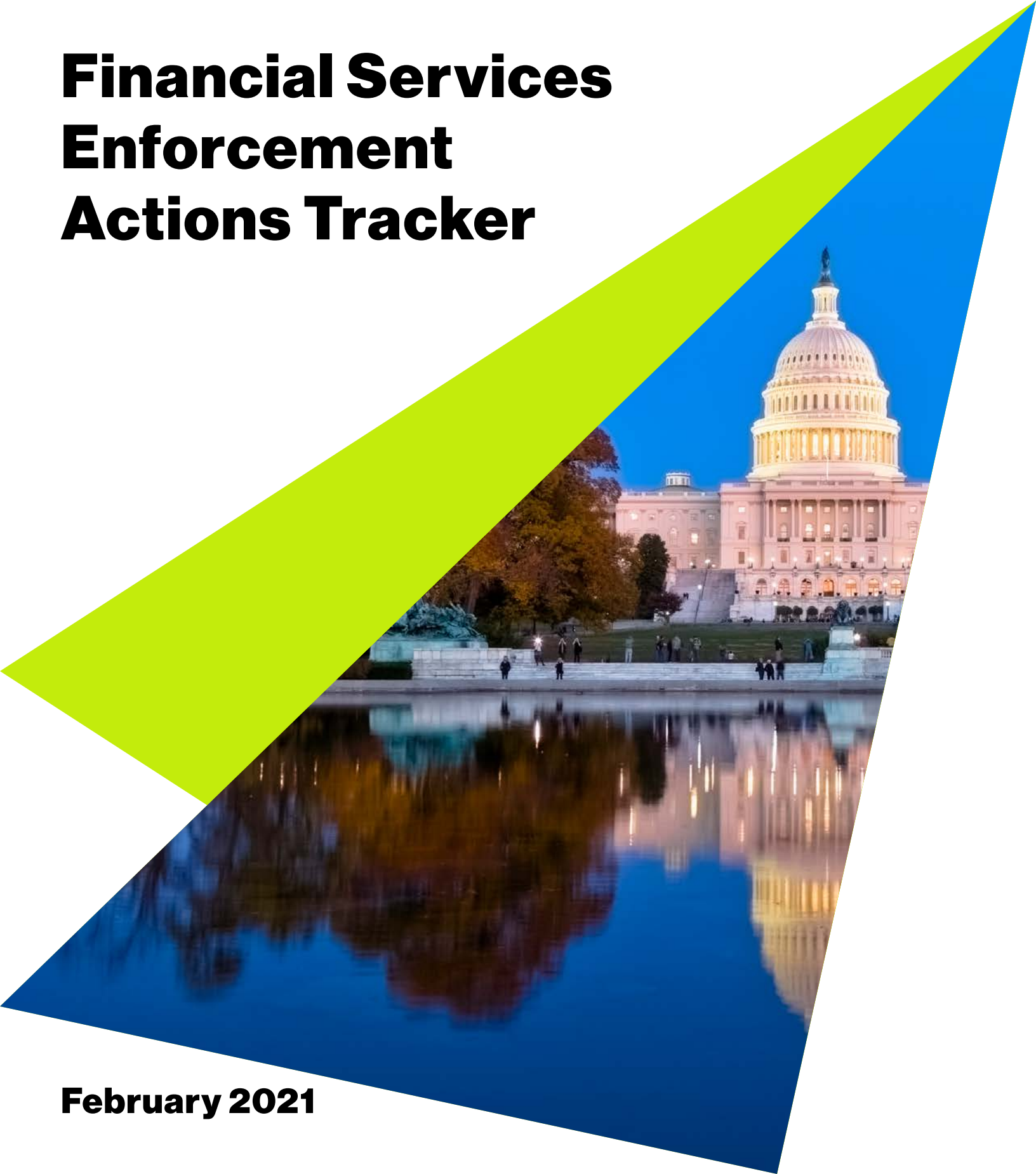


Financial Services Enforcement Actions Tracker



February 2021

Regulatory Outlook

During the Trump administration, Guidehouse observed an overall low volume of enforcement actions. With the transition to the Biden administration, key leadership roles in financial regulatory agencies are being filled by the new administration. In the coming years, Guidehouse believes that financial institutions can expect more aggressive regulatory enforcement. We also expect that federal regulators will collaborate more with state regulators to enforce financial regulations. With overall administrative priorities currently aimed at addressing COVID relief, protecting minorities, and equitability, financial institutions should be prepared for more strict oversight on topics of unfair and deceptive practices, fair lending, and other borrower-centered regulations.

- **September 29th, 2020:** Federal bank regulatory agencies finalized two rules allowing individuals and businesses to more quickly access real estate equity to help address needs for liquidity as a result of the coronavirus and to support the flow of credit to households and businesses affected by the coronavirus¹
- **November 2nd, 2020:** The CFPB published a guide for consumers on Mortgage Forbearance and Foreclosure Moratoriums as they pertain to the CARES Act. This guide is intended to educate consumers on the protections they have, but also serves to indicate where the CFPB might focus their enforcement efforts in 2021²
- **November 3rd, 2020:** United States Presidential Election results in transition from Republican Donald Trump to Democrat Joe Biden as president. Guidehouse believes that this transition from a Republican to a Democrat will likely result in increase in regulatory supervision and enforcement actions over the next four years.
- **January 20, 2021:** President Joe Biden is inaugurated and nominates Rohit Chopra to serve as CFPB director and Gary Gensler to lead the SEC, indicating an increase in regulatory enforcement action in the coming years³

Regulatory agencies have shown some leniency throughout 2020 as COVID-19 impacted businesses, but Guidehouse has noted an increase in enforcement activity in Q3 2020 and anticipates that this trend will continue as regulatory agencies further adjust to COVID-19 and are encouraged to increase enforcement, especially around fair lending.

1. <https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-129.html>

2. <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/mortgage-relief/>

3. <https://www.consumerfinancemonitor.com/2021/01/18/president-elect-biden-nominates-rohit-chopra-to-serve-as-cfpb-director/>



Federal-Level Enforcement Actions

Top Q3 2020 Federal Enforcement Actions

Unfair, Deceptive, or Abusive Acts or Practices (UDAAP) and Governance Deficiencies continue to be leading action areas. The following enforcement actions are examples of additional areas of **federal enforcement actions** for Q3 2020.

Commodities or Securities Exchange Act

In Q3 2020, there were eight actions cited as pertaining to the Commodities or Securities Exchange Act, totaling \$1.8 billion in monetary penalties and restitution. These actions included allegations of spoofing, manipulative trading of US Treasury Securities, inaccurate reporting of swap data, and schemes to defraud. The eight actions indicate a significant increase over the two from Q1 2020 and one from Q2 2020.

Regulation E: Electronic Fund Transfer Act

In Q3 2020, there were three actions cited as pertaining to Regulation E, totaling \$124 million in monetary penalties and restitution. These actions included charging consumers overdraft fees for ATM and one-time debit card transactions without obtaining their affirmative consent, failing to respond to cancellation requests, and failing to maintain adequate policies and procedures.

Truth in Lending/ Regulation Z

In Q3 2020, there were four actions cited as pertaining to Regulation Z, totaling \$1.5 million in monetary penalties and restitution. All four actions were related to VA-guaranteed mortgage lending. The violations included the lenders sending thousands of mailers containing false, misleading, and inaccurate statements, as well as violations pertaining to missing disclosures.

National Flood Insurance Program

In Q3 2020, there were four actions cited as pertaining to the National Flood Insurance Program, totaling \$77,000 in monetary penalties and restitution. All four actions were related to VA-guaranteed mortgage lending. The violations were primarily related to the notification requirements.



Federal-Level Enforcement Actions

2020 Federal Enforcement Actions by Product and Issue Type

In 2020, Mortgage was the most frequently cited product type for Federal Enforcement Actions. The most frequently cited issues pertained to the Flood Act.

Product Type	Q1 2020	Q2 2020	Q3 2020	Total
Mortgage (closed-end)	5	9	13	27
Sales and Trading	-	-	6	6
Investments	1	2	-	3
Deposits	3	-	-	3
Auto Loans	-	1	1	2
Unsecured Lending	-	1	-	1
Student Loans	-	-	1	1
Overdraft Protection	-	-	1	1
Product Type Not Specified in Action	7	14	13	34
Total	16	27	35	78

Guidehouse tracks the **Product Type** associated with each Federal Enforcement Action.

- In 2020 Guidehouse saw the **highest count of enforcement actions related to mortgage products**
- Product Type not Specified in Action are generic actions taken against institutions where there is not a product type specified or readily apparent in the action

Issue Type	Q1 2020	Q2 2020	Q3 2020	Total
National Flood Insurance Program	4	5	4	13
Board Oversight	3	5	2	10
Anti-Money Laundering	1	4	4	9
Advertising	-	1	8	9
Fraud	2	1	5	8
Inadequate Policies & Procedures	2	2	1	5
Timing Issues	1	2	2	5
Compliance Management	2	2	1	5
Fees	-	1	4	5
Underwriting	1	2	-	3
Reporting	-	1	2	3
Disclosures	-	-	2	2
Debt Collection	-	1	-	1
Total	16	27	35	78

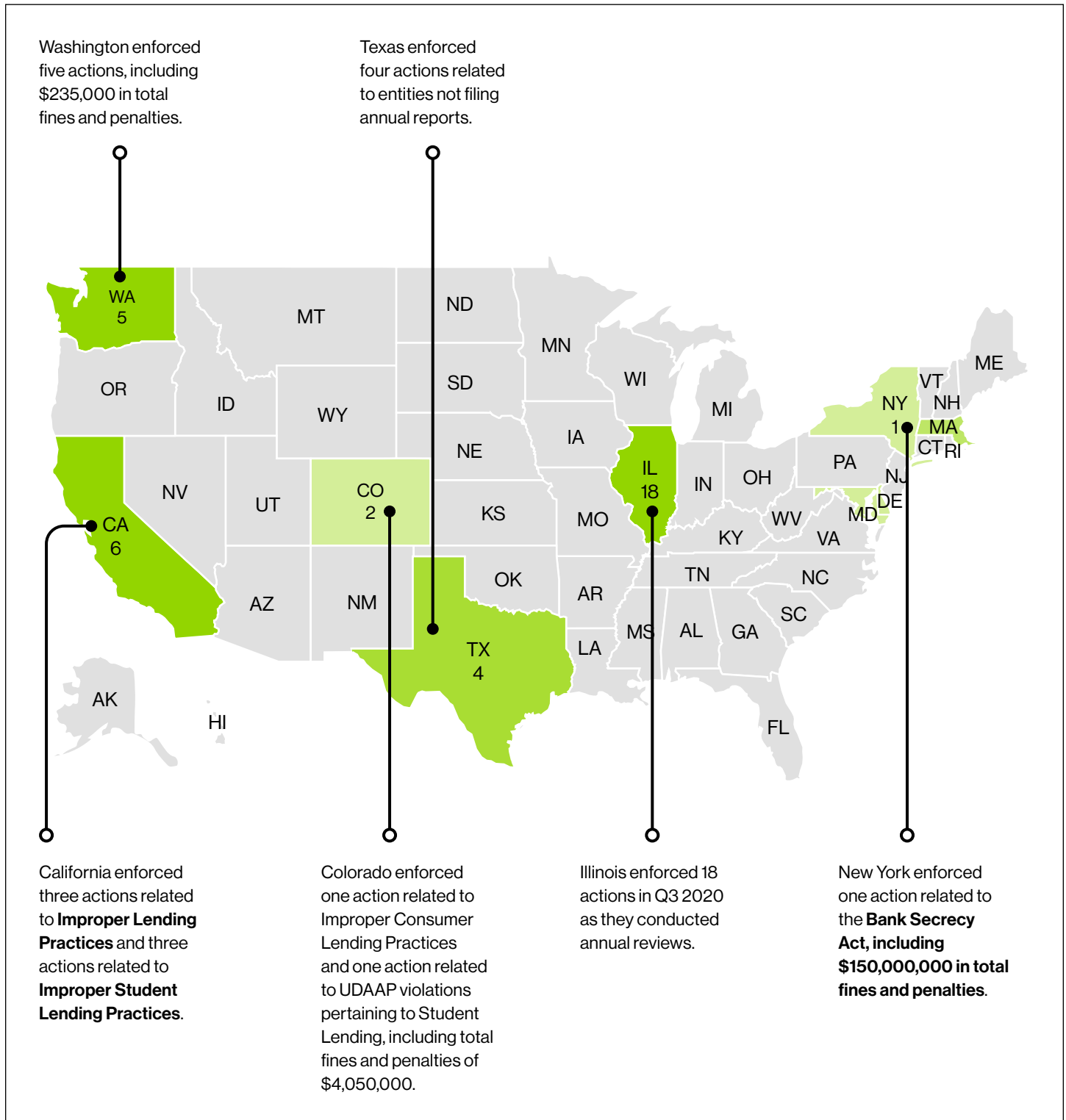
Guidehouse tracks the **Issue Type** associated with each Federal Enforcement Action. In 2020, some top Issue Types identified include:

- **National Flood Insurance Program:** Example issues identified include: failure to purchase regulatory required flood insurance on behalf of borrowers and failure to provide proper notification.
- **Board Oversight:** Example issues identified include: unsafe or unsound practices related to strategic planning and earnings and insufficient oversight associated with credit oversight and administration, internal controls, internal audit, and liquidity risk.
- **Advertising:** Example issues identified include: deceptive representations in its TV ads and telemarketing calls, mailers that contained false, misleading, and inaccurate statements

State-Level Enforcement Actions

Q3 2020 State Enforcement Actions

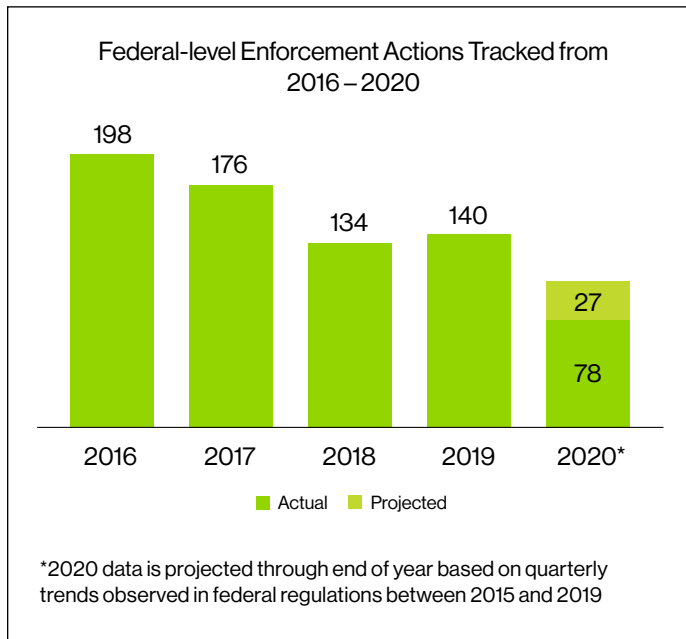
Below please find a map of enforcement actions for each state that had at least one enforcement action in Q3 2020.



Federal-Level Enforcement Actions

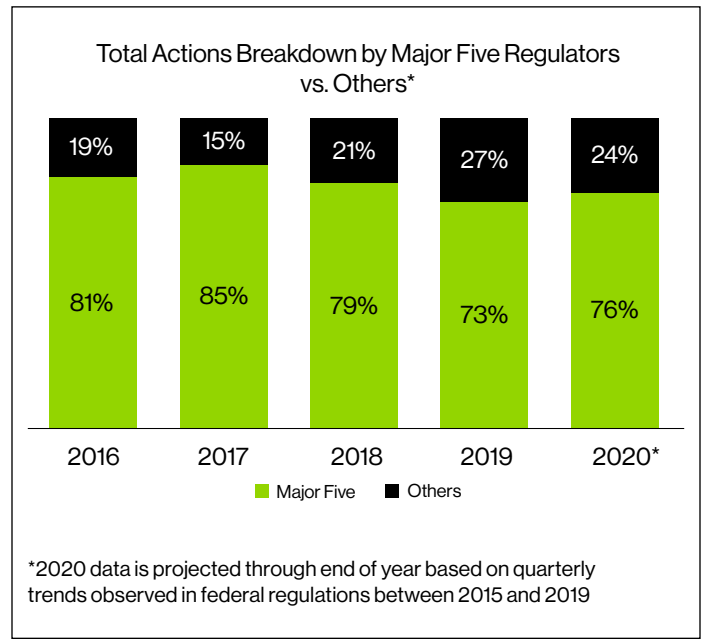
Prior Five Years (2016 – 2020*)

Below please find charts that describe the **federal-level enforcement actions from 2016 to 2020***. As seen in these charts, there's been a **consistent decline in enforcement actions over this time** and an increasing role of regulators that are not considered the major five.



An overall downward trend in volume of federal-level enforcement actions was observed between 2016 – 2020.*

- In 2016, federal-level regulators enforced 198 actions.
- In 2020, Guidehouse projects this number decreased to 105, representing a 47% decrease compared to 2016.



In the past four years, actions enforced by other federal-level regulators have accounted for a higher proportion in total federal-level enforcement actions:

- In 2017, 85% of federal actions were enforced by the major five regulators (CFPB, FRB, FDIC, OCC, and DOJ), **only 15% of federal-level enforcement actions were enforced by non-major five federal regulators.**
- In 2020, Guidehouse projects 76% of federal actions to be enforced by the major five regulators, and the **other federal regulators to enforce 24% of total federal-level actions.**

*2020 data is projected through end of year based on quarterly trends observed in federal regulations between 2015 and 2019.

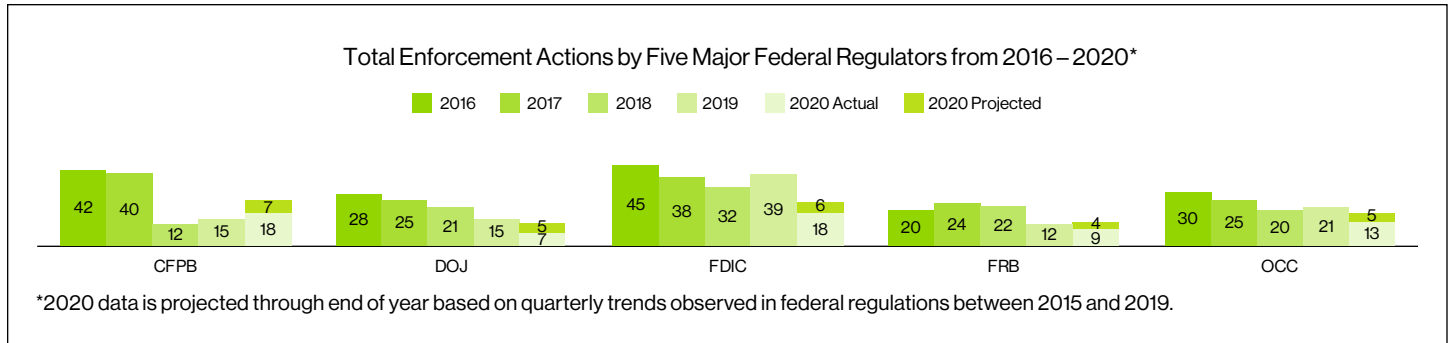
Guidehouse tracks federal-level enforcement actions related to consumer finance from certain regulators. Specifically, major five federal regulators consist of the CFPB, DOJ, FDIC, FRB, and OCC. "Others" consist of certain relevant enforcement actions levied by the CFTC, FHFA, FinCEN, FINRA, FTC, HUD, SEC, NCUA, and OFAC at banks and subsidiaries of bank holding companies.

Federal-Level Enforcement Actions

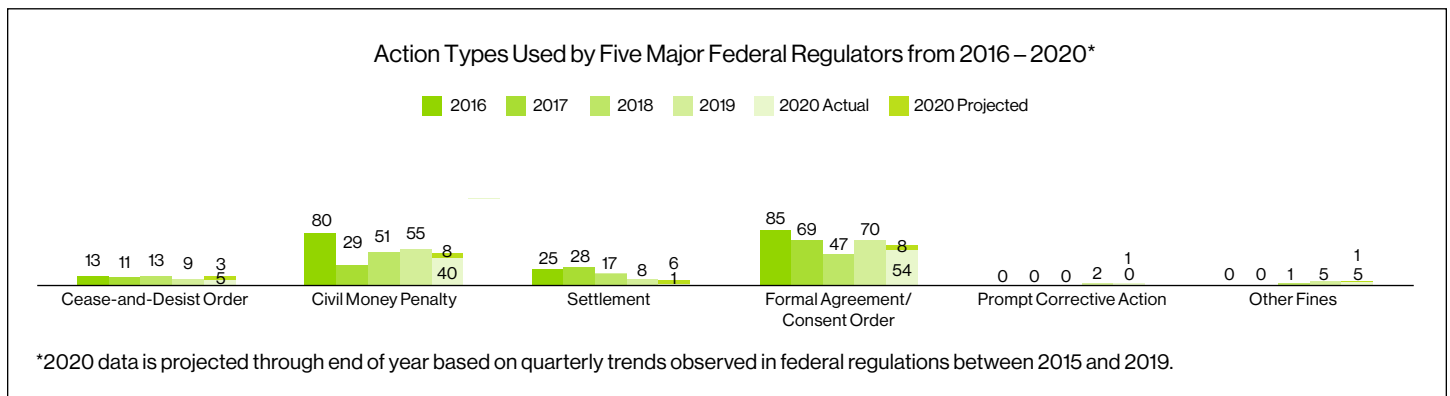
Prior Five Years (2016 – 2020*)

Below please find charts that describe the **federal-level enforcement actions from 2016 to 2020* broken down by the five major regulators** and their corresponding action types. As seen in these charts, there's been a consistent decline in enforcement actions over this time.

An **overall downward trend** in volume of actions enforced by **five major federal regulators** was observed between 2016 – 2020*



Formal Agreement/Consent Order and **Civil Money Penalty** were the most frequently used action types for five major federal regulators to enforce regulatory requirements.



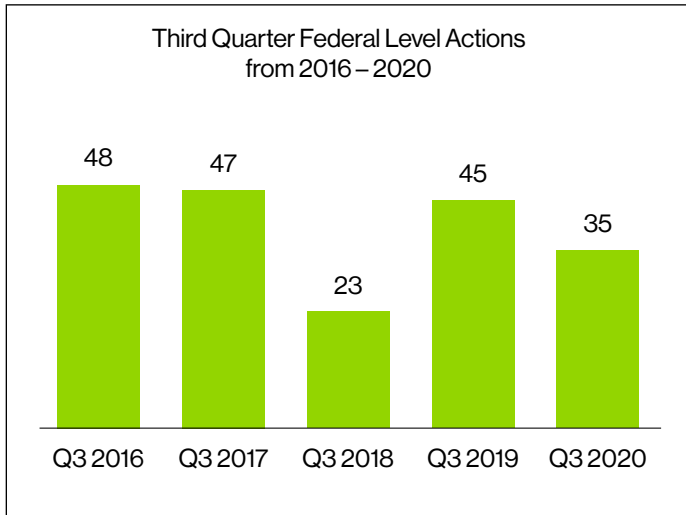
Note: One regulatory action may be categorized as multiple action types. Actions from previous quarters issued after the previous publication's cutoff date may be included in the above figures



Federal-Level Enforcement Actions

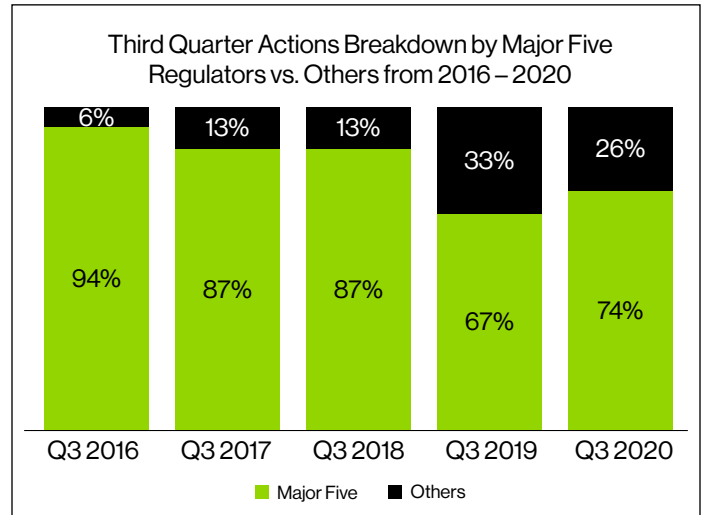
Third Quarter Actions of Prior Five Years (Q3 2016 – Q3 2020)

Below please find charts that describe the **federal-level enforcement actions for the third quarter of each year from 2016 to 2020**. As seen in these charts, there's been a consistent decline in enforcement actions in the third quarter over this time, but an increasing role of regulators that are not considered the major five.



An overall downward trend in Q3 volume of federal-level enforcement actions was observed between 2016-2020:

- In Q3 2016, federal-level regulators enforced 48 actions.
- In Q3 2020, this number decreased to 35, representing a 27% decrease compared to five years ago.



In the past five years, actions enforced by “other” federal-level regulators have accounted for an increasing proportion in total federal-level enforcement actions for the third quarter of each year:

- “Other” federal-level regulators accounted for 6% of enforcements in Q3 2016, while accounting for 26% of enforcements in Q3 2020.
- In Q3 2020, 74% of federal actions were enforced by the major five regulators, and the other federal regulators collectively enforced 26% of total federal-level actions.

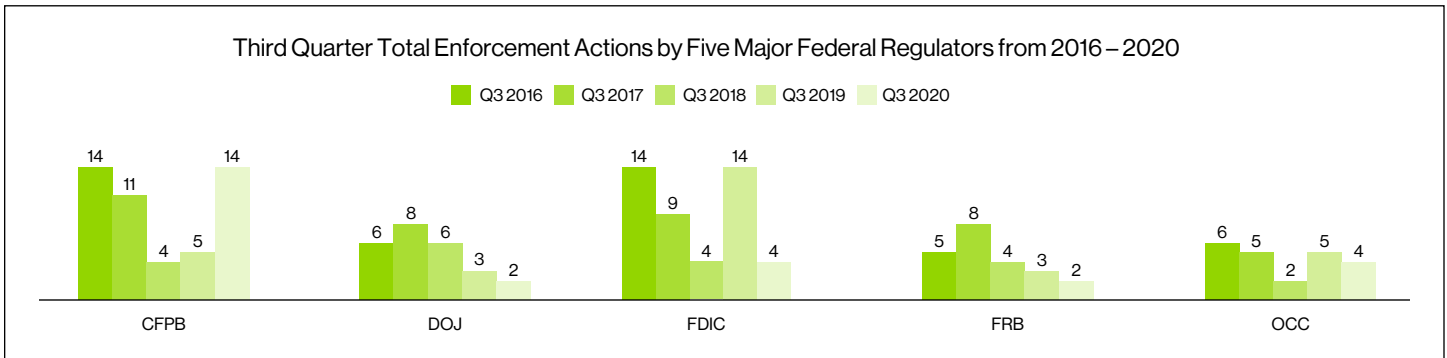
Guidehouse tracks federal-level enforcement actions related to consumer finance from certain regulators. Specifically, Major Five federal regulators consist of the CFPB, DOJ, FDIC, FRB, and OCC. “Others” consist of certain relevant enforcement actions levied by the CFTC, FHFA, FinCEN, FINRA, FTC, HUD, SEC, NCUA, and OFAC at banks and subsidiaries of bank holding companies.

Federal-Level Enforcement Actions

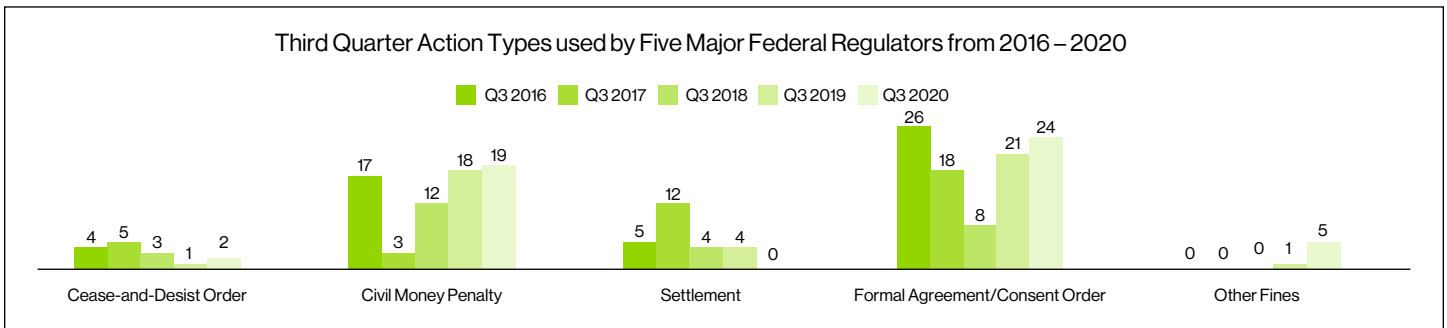
Third Quarter Actions of Prior Five Years (Q3 2016 – Q3 2020)

Below please find charts that describe the **federal-level enforcement actions for the third quarter of each year from 2016 to 2020** broken down by the five major regulators and their corresponding action types. As seen in these charts, there's been a consistent decline in enforcement actions over this time.

An **overall downward trend** in volume of actions enforced by **five major federal regulators** was observed between 2016-2020, with an increase in CFPB enforcements in Q3 2020.



Formal Agreement/Consent Order and **Civil Money Penalty** were the most frequently used action types for five major federal regulators to enforce regulatory requirements.



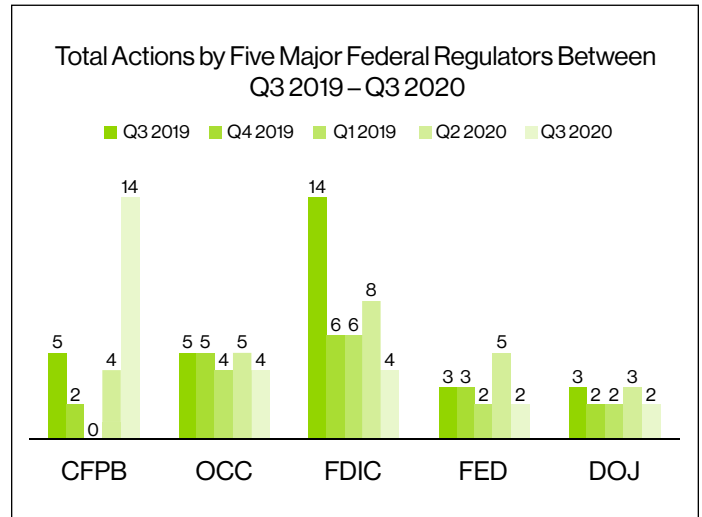
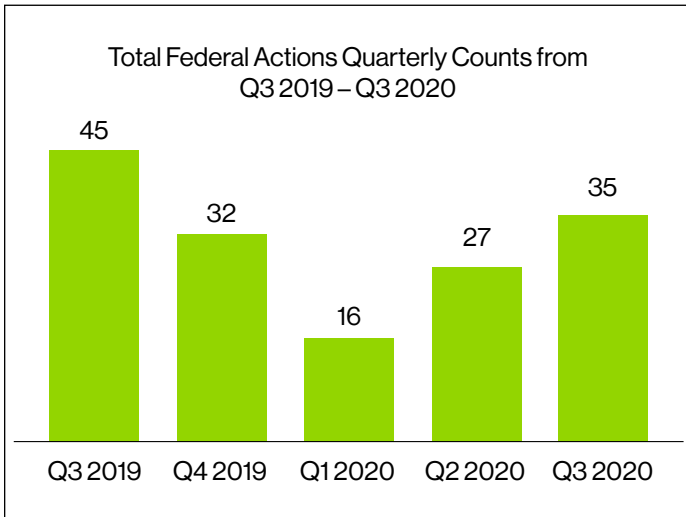
Note: One regulatory action may be categorized as multiple action types. Actions from previous quarters issued after the previous publication's cutoff date may be included in the above figures.



Federal-Level Enforcement Actions

Prior Five Quarters (Q2 2019 – Q2 2020)

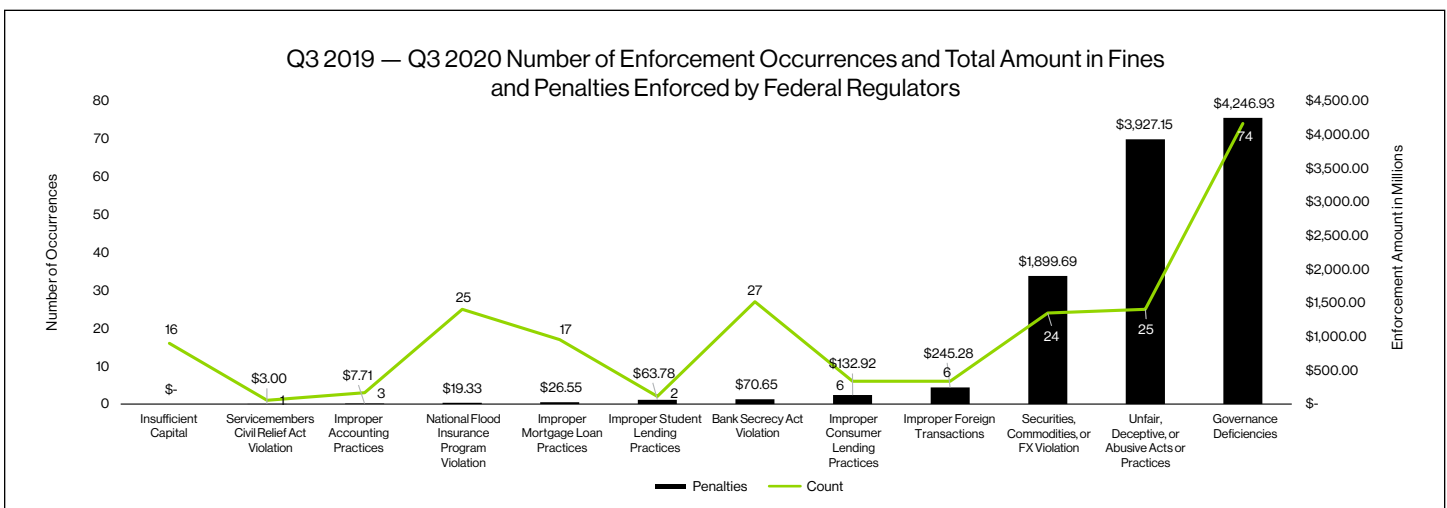
Below please find charts that describe the **federal-level enforcement actions for the last five quarters (Q2 2019 – Q2 2020)**. As seen in the charts, there was a significant increase of enforcement actions from Q2 2019 to Q3 2019 with the **highest concentration of enforcement actions over the last five quarters occurring in Q3 2019**. This large increase in Q3 2019 is largely caused by a higher than normal level of enforcement action by the FDIC for this quarter.



- A total of **35 federal level regulatory actions** were observed in Q3 2020.
 - With 27 federal actions in Q2 2020, Q3 2020 saw a **30% increase** quarter over quarter
 - With 45 federal actions in Q3 2019, Q3 2020 saw a **22% decrease** year over year
- In Q3 2020, the CFPB saw a significant increase in enforcement action, leading to increased enforcement among the major five.

Prior Five Quarters (Q3 2019 – Q3 2020)

Below please find a chart that depicts the federal-level enforcement actions for the past five quarters (Q3 2019 – Q3 2020). **A total of 74 actions over the past five quarters involved Governance Deficiencies**, making it the most frequently occurring violation – accumulating over \$4 billion in fines and penalties enforced. **UDAAP and Governance Deficiencies** were the source of the highest amount of monetary penalties enforced by federal regulators, with nearly \$4 billion in fines and penalties each.



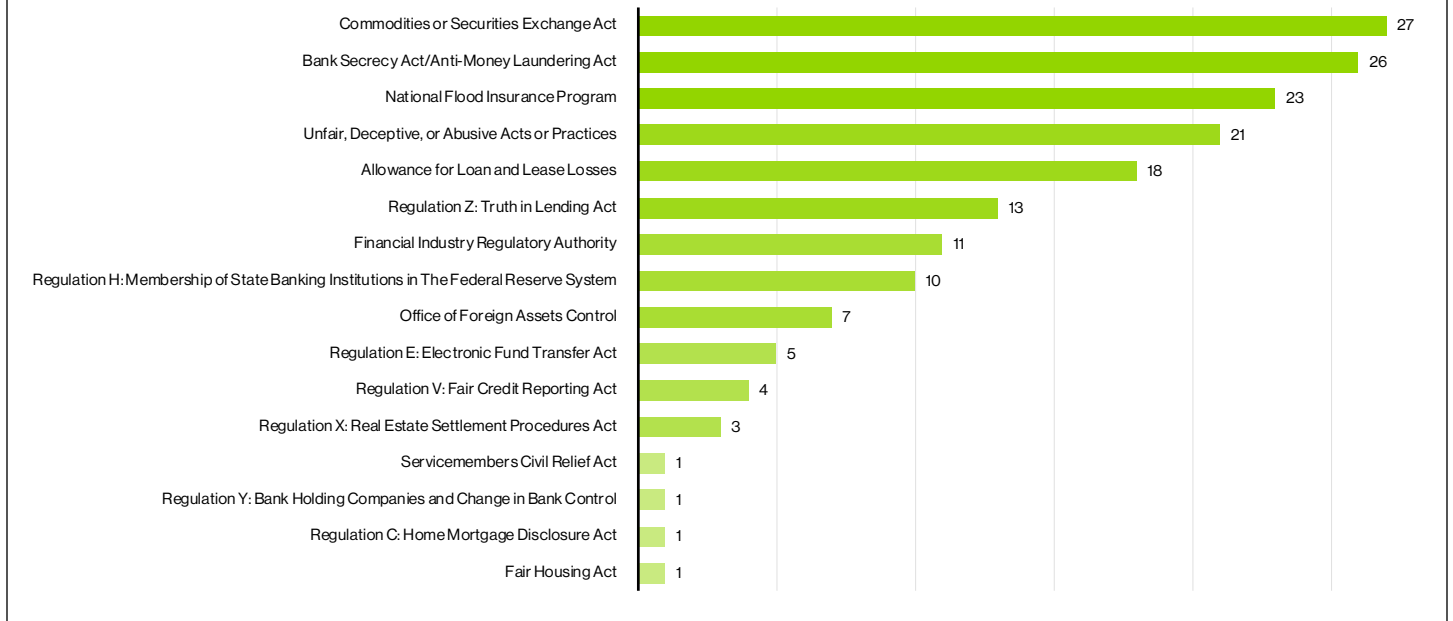
Federal-Level Enforcement Actions

Prior Five Quarters (Q3 2019 – Q3 2020)

Below please find a chart that breaks down the regulations cited in federal-level enforcement actions for Q3 2019 – Q3 2020.

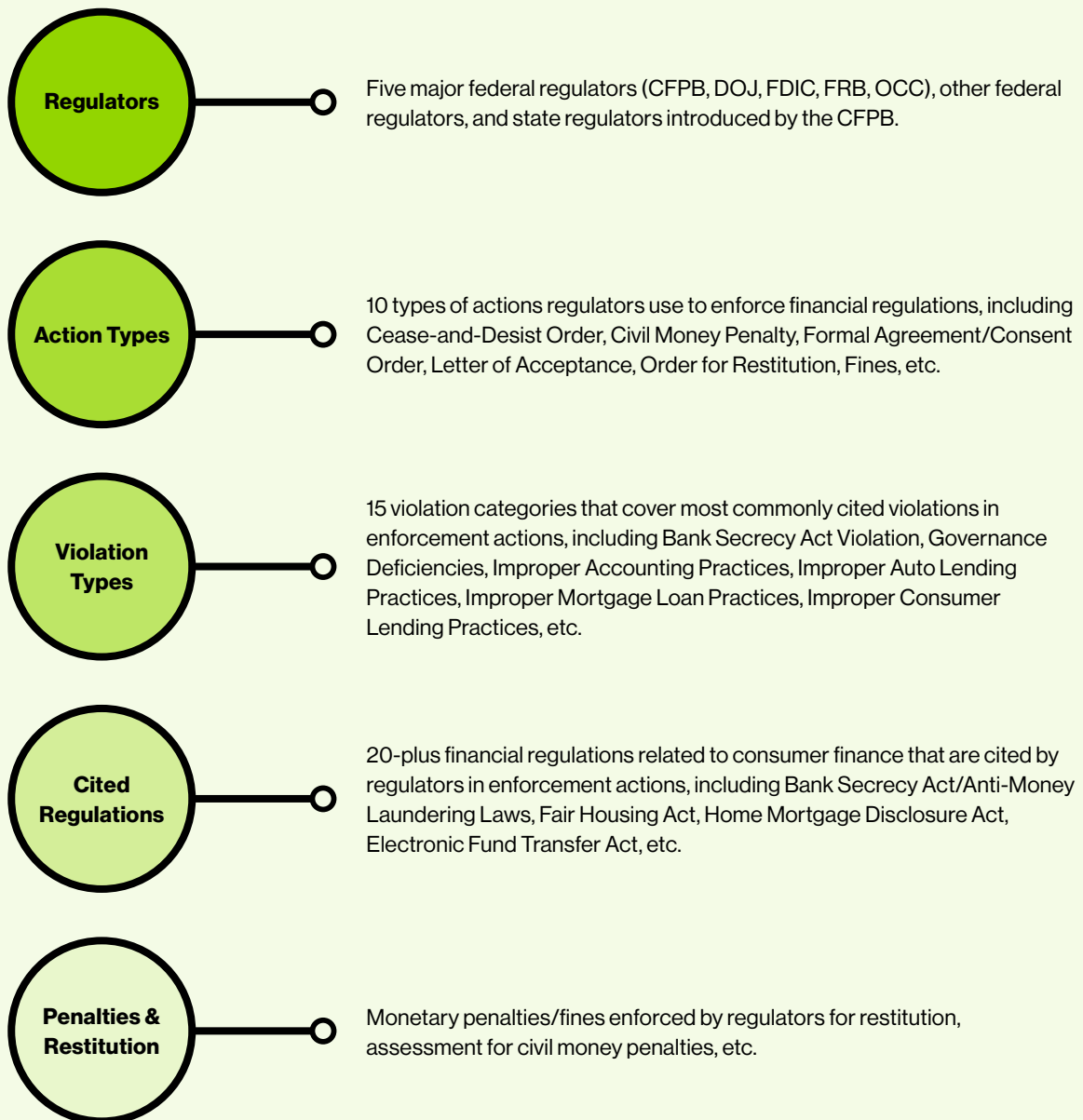
Commodities or Securities Exchange Act was the most frequently cited area of law in federal actions during the past five quarters, with a total of 27 actions. Other top areas of cited regulations were **Bank Secrecy Act/Anti-Money Laundering Act**, **Allowance for Loan and Lease Losses**, **National Flood Insurance Program**, and **UDAAP**.

Q3 2019 to Q3 2020 Number of Regulations Cited by Federal Regulators



Methodology

Guidehouse's Financial Services Enforcement Actions Tracker compiles publicly available data from both federal and state regulators regarding quarterly enforcement actions against financial institutions. First published in 2016, the Tracker showcases the types of activities that consumer finance-focused regulators are currently monitoring and helps the audience better address the trends and challenges in today's regulatory environment.



Note: Actions against individuals, removal or prohibition orders, termination of insurance, Section 19 letters, 1829 letters, certain securities enforcement actions, and actions related to improper report filing or licensing, unlawful debt collection, and complaints are not captured.



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