

State Attorneys General Increase Investigations in Response to Perceived Federal Gaps

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As the Trump Administration has moved away from certain areas of federal enforcement, including consumer financial and environmental protection, many state attorneys general are working to address perceived gaps left by federal agencies. There is increased activity at the state level in numerous areas, ranging from marketing regulations to privacy compliance and civil fraud. As California Attorney General Rob Bonta recently stated: “[I]f they’re not going to do it, we’ll do it.”¹

Much of this increased state enforcement attention is focused on practices that allegedly victimized ordinary consumers, particularly in health care and financial markets. The state attorneys general, bolstered by new state legislation and increased funding, especially in California and New York, are opening and pursuing investigations focused on specific types of corporate conduct, creating a greater risk of more divergent state and federal enforcement. Consequently, businesses should pay particularly close attention to the actions of state attorneys general, monitor for relevant state law changes and trends in enforcement, and engage with experienced counsel quickly upon learning of potential investigatory interest by state authorities.

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I. Background

During the first Trump Administration, states brought a wave of litigation aimed at correcting perceived underenforcement of existing federal laws, such as the first independent state merger challenge in *Sprint v. T-Mobile*.² And, at odds with the rollback of Department of Education protections for student borrowers, several independent state actions were brought against for-profit university corporations, leading to hundreds of millions of dollars in student debt forgiveness.³

To support this direct enforcement activity, state legislatures began passing legislation enabling yet more state enforcement. For example, the California and New York state legislatures both allocated greater resources for civil enforcement and passed legislation like the California Consumer Privacy Act,⁴ enabling California to act as an independent privacy regulator, and expanded the statute of limitations for actions brought under New York's Martin Act,⁵ a broad-based statute used by the New York Attorney General to investigate matters ranging from climate change disclosures to cryptocurrency. Now, amid claimed underenforcement in the second Trump Administration, state attorneys general are bringing more enforcement actions in additional areas, building upon the gains and experience from their first wave of state "backstop" civil enforcement.

¹ Kaye Wiggins & Stefania Palma, Fin. Times (Apr. 17, 2026), <https://www.ft.com/content/befa71e1-fcfl-4c02-9662-a572543ddeb?syn-25a6b1a6=1>.

² Closed in 2020 following a defense victory in litigation, with Cleary as merger and trial counsel.

³ For example, in 2019, 48 states and the District of Columbia settled with Career Education Corporation for approximately \$500 million in borrower relief and other concessions. See Press Release, Dist. of Columbia Office of Attorney General, AG Racine Announces Career Education Corp. Will Provide \$2 Million in Debt Relief to District Student Borrowers Over Deceptive Recruiting (Jan. 3, 2019), <https://oag.dc.gov/release/ag-racine-announces-career-education-corp-will>.

⁴ Cal. Civ. Code § 1798.100 et seq., enacted in 2018 and later amended by the California Privacy Rights Act (CPRA) of 2020.

⁵ N.Y. Gen. Bus. Law Art. 23-A, §§ 352–359-h.

II. Key Areas of State AG Enforcement

Much of the increased state enforcement activity has occurred in discrete areas: (A) consumer protection and data privacy; (B) financial marketing and fiduciary duties to investors, including prediction markets and cryptocurrency; (C) health care compliance and marketing; and (D) environmental marketing claims focused on alleged exploitation or misleading of consumers.⁶

A. Consumer Protection and Data Privacy

State attorneys general have traditionally viewed themselves as protectors of consumers within their state, and with the reduction of consumer protection activity at the federal level, this activity has only increased.

For instance, following California's passage of the California Consumer Privacy Act in 2018 and the California Privacy Rights Act in 2020, the California AG has focused significant efforts on consumers' exercise of their data privacy rights under California law. This has involved requiring companies collecting consumer data to have sufficiently transparent, functional, and accessible "opt-out" mechanisms for the collection of personal data. This enforcement focus has already led to multiple settlements with parties such as video game developers and TV service providers.⁷ At least one such settlement also included

⁶ We do not address antitrust here, but our overview of the 2026 antitrust landscape includes an assessment of how state Attorneys General will be involved in antitrust enforcement going forward. See [here](#).

⁷ Press Release, State of Cal. Dep't of Just., Att'y Gen. Rob Bonta, Attorney General Bonta Secures \$1.4 Million Settlement with Mobile App Gaming Company for Violating California's Nation-Leading Privacy Law (Nov. 21, 2025), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-secures-14-million-settlement-mobile-app-gaming-company>; Press Release, State of Cal. Dep't of Just., Att'y Gen. Rob Bonta, Attorney General Bonta Secures \$530,000 Settlement with Sling TV, First Enforcement Action from DOJ's Sweep of Streaming Services (Oct. 30, 2025), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-secures-530000-settlement-sling-tv-first-enforcement>.

allegations of failing to adequately protect the privacy of underage users per regulatory requirements. New York, for its part, settled last year with an educational technology firm for allegedly misleading underage users about the privacy of their information and schedule while using its calendar app.⁸

California also has pursued enforcement against parties who inadvertently shared user data via online advertising systems. For example, the California AG reached a settlement with a medical media firm for allegedly failing to provide an opt-out option for users who browsed its website based on the presence of background trackers, regardless of whether the firm collected identifiable user data directly.⁹ The press release accompanying the settlement alleged that such browsing could have resulted in third-party advertisers learning about users' sensitive health conditions.¹⁰ In addition to monetary penalties, CCPA settlements have typically required substantial product or marketing changes—a business disruption that merits attention from companies operating in the state.

California also announced it is actively investigating the location data industry, including advertising networks, mobile app providers, and data brokers, for compliance with the CCPA, portending potential future investigations and settlements.¹¹

Of course, traditional consumer protection activity also continues apace. California settled with a realty service entity last year over its alleged misleading of homeowners in connection with 20-year exclusive listing agreements¹² and New York settled this year with a furniture distributor for alleged false advertising and excessive delivery delays.¹³

California, in particular, is likely to further escalate its consumer protection enforcement shortly; this month, Gavin Newsom appointed former Federal Trade Commissioner and Consumer Financial Protection Bureau head Rohit Chopra to head its new Business and Consumer Services Agency (BCSA), explicitly citing “Trump-era rollbacks” as justifying the need for heightened consumer protection.¹⁴ This agency will bring together “dozens of boards, bureaus, and departments under one roof” and will focus on “junk fees and hidden charges,” “oversight and accountability for oil companies,” “prescription drug costs,” “online privacy and consumer data protections,” “scams and predatory practices,” and “corporate transparency and accountability,” with the agency officially launching on July 1, 2026.¹⁵

⁸ Press Release, N.Y. State Att’y Gen. Letitia James, Attorney General James Announces Settlement with App Developer for Failing to Protect Young Users’ Privacy (Mar. 7, 2025), <https://ag.ny.gov/press-release/2025/attorney-general-james-announces-settlement-app-developer-failing-protect-young>.

⁹ Press Release, State of Cal. Dep’t of Just., Att’y Gen. Rob Bonta, Attorney General Bonta Announces Largest CCPA Settlement to Date, Secures \$1.55 Million from Healthline.com (July 1, 2025), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-largest-ccpa-settlement-date-secures-155>.

¹⁰ *Id.*

¹¹ Press Release, State of Cal. Dep’t of Just., Att’y Gen. Rob Bonta, Attorney General Bonta Announces Investigative Sweep of Location Data Industry, Compliance with California Consumer Privacy Act (Mar. 10, 2025), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-investigative-sweep-location-data-industry>.

¹² Press Release, State of Cal. Dep’t of Just., Att’y Gen. Rob Bonta, Attorney General Bonta Announces Settlement with California-Based HomeOptions over Predatory Real Estate Scheme (Apr. 4, 2025), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-settlement-california-based-homeoptions-over>.

¹³ Press Release, N.Y. State Att’y Gen. Letitia James, Attorney General James Secures \$350,000 From Brooklyn Furniture Store for Cheating Consumers (Apr. 14, 2026), <https://ag.ny.gov/press-release/2026/attorney-general-james-secures-350000-brooklyn-furniture-store-cheating>.

¹⁴ Press Release, Gov. Gavin Newsom, Governor Newsom appoints former federal regulator Rohit Chopra to head new Business and Consumer Services Agency amid Trump-era rollbacks (May 12, 2026), <https://www.gov.ca.gov/2026/05/12/governor-newsom-appoints-former-federal-regulator-rohit-chopra-to-head-new-business-and-consumer-services-agency-amid-trump-era-rollbacks/>.

¹⁵ *Id.*

B. Financial Marketing and Fiduciary Duties to Investors

As Securities and Exchange Commission enforcement activity drops dramatically¹⁶ and the Trump Administration attempts to decrease the authority of the Consumer Financial Protection Bureau,¹⁷ states have been growing more assertive in challenging alleged deceptive financial marketing and business practices. This builds upon settlements such as New York's settlement last year regarding merchant cash advances, where New York alleged small and medium-sized businesses received illegal, miscategorized loans that the defendant attempted to collect illegally.¹⁸ Earned wage access platforms, fintech platforms allowing workers to receive a portion of their wages before payday, have particularly been targeted as alleged usurious 'payday lenders,' with the New York AG suing multiple platforms last year following a similar lawsuit by the D.C. AG.¹⁹

New York, in particular, recently obtained additional tools to prohibit conduct in both the financial and general consumer protection context. The New York legislature's enactment of the FAIR Act this past

February revamps New York's consumer protection law to allow its Attorney General to sue businesses for "unfair" and "abusive" conduct, as opposed to only that which is deceptive, mirroring the FTC's standard under 15 U.S.C. § 45(n), and targets conduct directed at other businesses, rather than merely consumers.²⁰ Similarly, both Colorado and Virginia have also enacted new legislation within the past year targeting hidden or deceptive fees.²¹

Firms involved in cryptocurrency transactions face particular interest from the New York AG. New York has historically viewed itself as a leader in regulating cryptocurrency, creating its "Bitlicense" regulatory framework in 2015. The New York AG now maintains a separate webpage soliciting consumer crypto complaints.²² New York legislation under consideration would allow for criminal penalties for unlicensed cryptocurrency dealing.²³

New York has consistently targeted cryptocurrency dealers or platforms it views as deceptive or insufficiently compliant with New York law over the last several years.²⁴ These enforcement actions have targeted conduct that allegedly included charging

¹⁶ Chris Prentice & Kanishka Singh, *US SEC enforcement activity drops dramatically as agency "resets,"* Reuters (Apr. 7, 2026), <https://www.reuters.com/legal/government/us-sec-says-it-filed-456-enforcement-actions-during-fiscal-year-2025-2026-04-07>.

¹⁷ Stacy Cowley, *Trump Administration Scales Back Plan to Dismantle Consumer Protection Bureau,* N.Y. Times (Apr. 1, 2026), <https://www.nytimes.com/2026/04/01/us/politics/cfpb-layoffs.html>.

¹⁸ Press Release, N.Y. State Att'y Gen. Letitia James, Attorney General James Announces \$1 Billion Settlement with Predatory Lender Yellowstone Capital for Harming Small Businesses (Jan. 22, 2025), <https://ag.ny.gov/press-release/2025/attorney-general-james-announces-1-billion-settlement-predatory-lender>.

¹⁹ Press Release, N.Y. State Att'y Gen. Letitia James, Attorney General James Sues Payday Lending Companies for Exploiting Workers with Illegal Loans (Apr. 14, 2025), <https://ag.ny.gov/press-release/2025/attorney-general-james-sues-payday-lending-companies-exploiting-workers-illegal>; Press Release, Dist. of Columbia Office of Attorney General, Attorney General Schwalb Sues "Pay Advance"

Company EarnIn for Deceiving More Than 20,000 DC Borrowers (Nov. 19, 2024), <https://oag.dc.gov/release/attorney-general-schwalb-sues-pay-advance-company>.

²⁰ N.Y. Gen. Bus. Law Art. 22-A, §§ 348-349.

²¹ Colo. Rev. Stat. § 6-1-737, 2025 Va. Acts ch. 685.

²² N.Y. State Att'y Gen. Letitia James, *Cryptocurrency* (May 13, 2026), <https://ag.ny.gov/resources/individuals/investing-finance/cryptocurrency>.

²³ S. B. S8901, 2025-2026 Gen. Assemb., 249th Sess. (N.Y. 2026).

²⁴ *See, e.g.,* Press Release, N.Y. State Att'y Gen. Letitia James, Attorney General James Secures \$4.3 Million from Cryptocurrency Company for Defrauding Investors (May 18, 2023), <https://ag.ny.gov/press-release/2023/attorney-general-james-secures-43-million-cryptocurrency-company-defrauding>; Press Release, N.Y. State Att'y Gen. Letitia James, Attorney General James and Multistate Coalition Secure \$24 Million from Cryptocurrency Platform Nexo for Operating Illegally (Jan. 19, 2023), <https://ag.ny.gov/press-release/2023/attorney-general-james-and-multistate-coalition-secure-24-million-cryptocurrency>.

misleading fees, lying about registration status, and misleading investors about risk levels.

Individual executives also face potential liability. For example, in 2023, independently of multiple federal actions, New York sued the former CEO of the Celsius Network platform for allegedly defrauding investors, with the individual case still pending after a separate FTC settlement.²⁵ Last year, the New York AG reached a \$200 million settlement with a major cryptocurrency platform for failing to disclose its conflicts of interest in promoting a crypto-coin ecosystem.²⁶ The New York AG has indicated a continued appetite in the cryptocurrency enforcement space, partly as a counter to the perceived lack of federal enforcement under the second Trump Administration.²⁷

State AGs likely will remain active enforcers not only in these areas, but also in the rapidly expanding prediction market sector, depending on the outcome of litigation across the country regarding the CFTC's assertion of exclusive jurisdiction in this area.²⁸ For example, this past February, the New York AG's

office released guidance that sales of prediction market contracts into New York may violate state law and subject individuals to civil and criminal penalties, and brought several related enforcement actions in April.²⁹

C. Health Care Compliance and Marketing

While not an area of reduced federal enforcement, states have a long history of independent enforcement actions targeting medical billing fraud, and state challenges to health care business practices have grown more expansive. In the wake of the states' settlements alongside DOJ regarding prominent firms' alleged prescription drug kickbacks,³⁰ California has taken an expansive view of what may constitute kickbacks in prescription drug marketing, including the provision of free testing kits to healthcare providers. In 2025, this led to California AG settlements with pharmaceutical companies regarding provider support programs.³¹

State AGs have also aggressively investigated health care network adequacy claims, leading to independent settlements by both California and New York with health insurers.³² These settlements covered "ghost

²⁵ *State of New York v. Mashinsky*, No. 0450040/2023 (N.Y. Sup. Ct. N.Y. Cnty. Jan. 5, 2023).

²⁶ N.Y. Att'y Gen., *Assurance of Discontinuance In the matter of an Investigation by Letitia James, Attorney General of the State of New York of Galaxy Digital Holdings Ltd. et al.* (Mar. 27, 2025), <https://ag.ny.gov/sites/default/files/settlements-agreements/galaxy-digital-holding-ltd-et-al-assurance-of-discontinuance-2025.pdf>.

²⁷ Statement for the Rec. of the N.Y. State Off. of the Att'y Gen. Before the U.S. Senate Banking Comm., July 9, 2025, https://www.banking.senate.gov/imo/media/doc/statement_of_the_ny_attorney_general_to_the_senate_banking_committee_792025.pdf.

²⁸ Press Release, Commodity Futures Trading Commission, CFTC Reaffirms Exclusive Jurisdiction Over Prediction Markets in Sixth Circuit Amicus Brief (May 12, 2026), <https://www.cftc.gov/PressRoom/PressReleases/9230-26> (Noting ongoing litigation against five states to block state regulation of prediction futures markets.)

²⁹ Letitia James, N.Y. State Att'y Gen., *Industry Alert: Conducting, Advertising, and Promoting Unlicensed Gambling through "Event Contracts" May Subject So-Called "Prediction Markets" to Civil and Criminal Penalties*, Office of the N.Y. State Att'y Gen.,

<https://ag.ny.gov/sites/default/files/2026-02/prediction-market-industry-alert-oag-1.30.26-final.pdf>.

³⁰ Press Release, State of Cal. Dep't of Just., Att'y Gen. Rob Bonta, Attorney General Bonta Signs On to \$7.4 Billion Purdue Settlement (June 16, 2025), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-signs-74-billion-purdue-settlement>; Press Release, N.Y. State Att'y Gen. Letitia James, Attorney General James Announces Every State Has Joined \$7.4 Billion Settlement with Purdue Pharma and the Sackler Family (June 16, 2025), <https://ag.ny.gov/press-release/2025/attorney-general-james-announces-every-state-has-joined-74-billion-settlement>.

³¹ See, e.g., Press Release, State of Cal. Dep't of Just., Att'y Gen. Rob Bonta, Attorney General Bonta Combats Medi-Cal Fraud, Announces a \$47 Million Settlement Against QOL Medical (Jan. 30, 2025), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-combats-medi-cal-fraud-announces-47-million-settlement>.

³² Press Release, State of Cal. Dep't of Just., Att'y Gen. Rob Bonta, Attorney General Bonta Secures \$40 Million Settlement with Health Net for Misleading Consumers with Inaccurate Provider Directories (Oct. 13, 2025), <https://oag.ca.gov/news/press-releases/attorney-general->

networks” claims, where health insurance coverage networks allegedly lacked the requisite providers they claimed to have in directories. We expect state AGs to continue to look for creative ways to police the health care space, alongside a continued focus on traditional overbilling and false billing accusations.

D. Environmental Regulation and Marketing

Another area where states have moved more aggressively in light of a perceived decrease in federal activity is enforcement of environmental regulations. This builds on past deep involvement in the “emissions cheating scandal” litigations over the past decade, continuing with New York leading a coalition of all U.S. states in settling with Mercedes-Benz over alleged software emissions cheating last year.³³ For example, both California and New York continue to investigate both direct environmental hazards and potentially misleading marketing claims regarding product environmental friendliness or sustainability. Over the past year, California has settled with at least three seafood manufacturers over allegations of elevated lead and cadmium levels in seafood products,³⁴ and at least seven plastic bag manufacturers over allegations that they falsely certified that their plastic bags were recyclable.³⁵ Additionally, California continues its longstanding practice of regularly sending enforcement letters and settling allegations related to failures to inform consumers of hazardous chemicals in products (“Prop 65 letters”).

[bonta-secures-40-million-settlement-health-net-misleading](#); Press Release, N.Y. State Att’y Gen. Letitia James, Attorney General James Secures Sweeping Reforms Improving Access to Mental Health Care for EmblemHealth Members (Feb. 19, 2026), <https://ag.ny.gov/press-release/2026/attorney-general-james-secures-sweeping-reforms-improving-access-mental-health>.

³³ Press Release, N.Y. State Att’y Gen. Letitia James, Attorney General James Secures \$150 Million from Mercedes for Cheating Emissions Standards and Misleading Consumers (Dec. 22, 2025), <https://ag.ny.gov/press-release/2025/attorney-general-james-secures-150-million-mercedes-cheating-emissions-standards>.

As in other areas, states likely will intervene in certain private litigation where they perceive a settlement’s terms or remedy as inadequate.

Businesses should ensure both that they comply with applicable state environmental law and that they carefully vet that any statements that they make about the environmental friendliness of their business or products are factually consistent and compliant with any relevant state environmental marketing laws, such as California’s AB 1201.

III. Key Takeaways

Given the aforementioned risks, businesses should prepare for increased enforcement by state attorneys general by placing a renewed focus on state law compliance and working earnestly to resolve any investigations or disputes that emerge. Specifically, we recommend that companies consider taking the following precautions:

- (i) Scrutinize data collection and sharing practices, including consumer consent and disclosures to consumers, to avoid state privacy law violations;
- (ii) Evaluate the truthfulness of marketing materials, including any pricing or subscription terms that may be misleading to a reasonable consumer, particularly in relation to consumer financial products or environmental disclosures;
- (iii) If you are investigated by a state AG, try to negotiate early to limit the scope of

³⁴ Press Release, State of Cal. Dep’t of Just., Att’y Gen. Rob Bonta, Attorney General Bonta Announces Settlements with Companies Selling Seafood Products in California Regarding Cadmium and Lead in Their Products (Apr. 28, 2025), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-settlements-companies-selling-seafood-products>.

³⁵ Press Release, State of Cal. Dep’t of Just., Att’y Gen. Rob Bonta, Attorney General Bonta Announces \$3.35 Million Settlement with Plastic Bag Manufacturers (Jan. 16, 2026), <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-335-million-settlement-plastic-bag>.

production, as these states have similar civil investigative demand (CID) powers to federal agencies, will typically make expansive requests for data and documents, and, as entities with comprehensive state enforcement powers, have significant discretion and flexibility regarding the scope of conduct they ultimately investigate and seek to challenge, as well as the specific state laws they use to challenge it;

- (iv) For major settlements, whether with private plaintiff class counsel or federal regulators, consider whether previously uninvolved states may intervene to object to a proposed settlement and whether any such states should be proactively engaged;
- (v) Continue to invest in robust compliance programs and encourage compliance staff to monitor relevant changes in state law and enforcement practices.

Should you have any further questions or concerns, Cleary's litigators have substantial experience defending investigations and enforcement actions from state attorneys general across the country, including handling many high-profile engagements opposite the California and New York attorneys general. This experience includes Cleary lawyers who have worked inside and alongside these offices from an enforcement perspective. We would be happy to assist you.

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