Banking and Finance Law Daily Wrap Up, WORTH NOTING—Other regulatory, legislative, litigation, and industry developments, (Jan. 9, 2026)

Banking and Finance Law Daily Wrap Up

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By WK Editorial Staff

A weekly roundup of other items of interest to the banking and finance law community.

BANK SECRECY ACT—The Federal Deposit Insurance Corporation is providing an additional 30 days—until Feb. 9, 2026—for the public to comment on the FDIC's proposed information collection, titled "Survey of the Costs of Anti-Money Laundering (AML) and Countering the Financing of Terrorism (CFT) Compliance." According to the agency's Jan. 8, 2026, *Federal Register* notice, the FDIC's survey "seeks to gather information on the direct compliance costs incurred by FDIC-supervised insured depository institutions and, to the extent these expenses overlap with those of other activities (such as fraud and credit card monitoring), the amount attributable to AML/CFT compliance." In addition, the FDIC "expects to submit this information collection as a common form so that the federal banking regulators and the National Credit Union Association may use the information collection to survey the entirety of the banking and credit union industry." As previously reported concerning the prior September 2025 information collection, the FDIC survey seeks comments about the necessity and utility of the information collection, the accuracy of burden estimates, ways to enhance the quality of the data, and methods to minimize the burden on respondents (see *Banking and Finance Law Daily*, Sept. 12, 2025).

CONSUMER CREDIT—3d Cir.: The U.S. Court of Appeals for the Third Circuit upheld a federal district court's decision to abstain from exercising jurisdiction over a challenge brought by certain business affiliates—TitleMax of Virginia, Inc., TitleMax of Delaware, Inc., TitleMax of Ohio, Inc., CCFI Companies, LLC, TMX Finance, LLC, and TitleMax Funding, Inc. (collectively "TitleMax") against orders by the Pennsylvania Department of Banking and Securities. In reviewing the consolidated appeal, the Third Circuit observed that, in 2024, the Pennsylvania Dept. ordered TitleMax "to show cause why it should not pay civil penalties and restitution for violating Pennsylvania's usury laws." In response, TitleMax then brought several lawsuits against the Pennsylvania Dept. and its Secretary alleging "violations of the Commerce Clause, the Full Faith and Credit Clause, and the Fourteenth Amendment." The Pennsylvania federal district court concluded that "*Younger v. Harris* and its progeny require abstention" and accordingly dismissed the complaints by TitleMax. Addressing TitleMax's consolidated appeal, the Third Circuit, in a non-precedential opinion, affirmed the lower court's ruling, stating that the federal district court "correctly abstained from exercising jurisdiction, promoting *Younger's* twin goals of comity and restraint where the state provides an adequate remedy" (*TitleMax of Virginia, Inc. v. Secretary Pennsylvania Dept. of Banking and Securities*, No. 25-1137 (3d Cir. Jan. 7, 2026)).

ENFORCEMENT ACTIONS—The U.S. Attorney's Office for the District of New Jersey announced that KeyBank National Association, headquartered in Cleveland, Ohio, has entered into a settlement agreement with the United States over allegations the bank violated the False Claims Act by submitting for forgiveness fraudulent loans from the Paycheck Protection Program (PPP), which one of its branch managers had fraudulently conspired to obtain. Under the settlement agreement, Key Bank agreed to pay $7,770,595.25 to resolve claims under the False Claims Act and the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

EQUAL CREDIT OPPORTUNITY—As previously reported, M. Miller filed a *pro se* petition for a writ of *certiorari* with the U.S. Supreme Court, requesting that the Court review Equal Credit Opportunity Act (ECOA) issues addressed by the U.S. Court of Appeals for the Tenth Circuit in its decision in favor of Legacy Bank and against Miller. In the underlying case, Miller, a Black male, alleged that Legacy Bank had engaged in discriminatory lending practices when he approached the bank about a potential loan. Ultimately, in an unpublished decision,

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the Tenth Circuit held that Miller could not bring his ECOA claim because he "did not formally submit a loan application" and "did not qualify as an 'applicant' under the statute." In his U.S. Supreme Court petition, Miller contends that the Tenth Circuit's interpretation of ECOA has created a circuit split with the Seventh Circuit (see *Banking and Finance Law Daily*, Dec. 5, 2025). Legacy Bank has now responded to Miller's pending petition, urging the Supreme Court to deny it. Among other things, the bank argues that: (i) there really is "no circuit conflict" for the Supreme Court to resolve because the Seventh Circuit's "*Townstone*" case "dealt exclusively with the scope of a regulatory enforcement action," rather than the scope of a private right of action under ECOA; (ii) Congress clearly intended that only *actual* applicants, and not prospective applicants, are entitled to maintain a private right of action under ECOA; (iii) an individual must provide a creditor with a *completed* application to maintain a private right of action under ECOA; (iv) Miller failed to provide the necessary information and documentation to Legacy Bank; and (v) the lower courts correctly determined that Miller failed to make a *prima facie* case of race discrimination under ECOA (*Miller v. Legacy Bank*, No. 25-6137 (U.S. Dec. 23, 2025)).

GOVERNMENT SPONSORED ENTERPRISES—The Federal Housing Finance Agency has adjusted the cap on the "average total assets" figure used in determining whether a Federal Home Loan Bank (FHLBank) member qualifies as a "community financial institution." Based on a 2.7-percent annual rise in the Consumer Price Index for all urban consumers (as published by the Department of Labor), the FHFA increased the cap to $1.541 billion, which took effect on Jan. 1, 2026. As explained by the agency's *Federal Register* notice, financial institutions with total assets below the $1.541 billion cap receive certain advantages in qualifying for FHLBank membership and accessing long-term advances under federal law.

LAW FIRM NEWS—Brian Klein has joined Cooley as a litigation partner in the firm's Business Litigation and White Collar Defense and Investigations practice groups in Los Angeles. Klein's practice has an emphasis on representing crypto and fintech companies in government investigations and commercial litigation. "Brian is widely regarded as one of the most accomplished and respected advocates for innovators in the crypto industry, and we are excited that he is joining our team," said Ian Shapiro, partner and chair of the firm's global litigation department. "Brian's arrival reinforces the litigation department's long-standing reputation as one of the elite for the representation of crypto companies."

LAW FIRM NEWS—Weil, Gotshal & Manges LLP announced that Anne Seymour has rejoined the Firm as a partner in the Banking & Finance practice and will be based in the Boston office. Anne started her career at Weil in the New York office. Seymour represents corporate borrowers, private equity sponsors and direct lenders in a wide range of financing transactions, including growth, middle-market and large-cap financings, asset-based loans, acquisition financings and working capital facilities. She has extensive experience across industries, including healthcare, industrials, technology and consumer services, and has advised on financing products of all types.

LAW FIRM NEWS—Husch Blackwell announced that Sarah Razaq Sallis has joined the firm as a partner in its Financial Services & Capital Markets team, based in Washington, DC. Sallis was formerly with the Financial Industry Regulatory Authority's (FINRA) Department of Member Regulation. Sallis advises broker-dealers, investment advisers, investment companies, financial institutions, and public companies in examinations, internal investigations, and prosecutions by FINRA, the SEC, and state securities regulators. "Sarah is an outstanding addition to our growing securities enforcement and regulatory investigations practice," said Sverre Roang, leader of the firm's Financial Services and Capital Markets industry group, stating that she enhances the firm's "ability to advise clients on ongoing federal investigations, internal investigations, and Securities Act and FINRA compliance."

LAW FIRM NEWS—David H. Kaufman has joined Blank Rome LLP's New York office as senior counsel in the Finance, Restructuring, and Bankruptcy group. David will also be a member of the Financial Services and Energy industry teams, drawing from extensive experience in U.S. derivatives, financial, and energy matters. He focuses his practice on the commodity, equity, fixed income, and credit derivative markets, along with a strong emphasis on structuring credit extension transactions. David joins Blank Rome from Morrison & Foerster LLP. Grant S. Palmer, Blank Rome's Chair and Managing Partner, said that "David's deep experience with structured

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commodity and derivatives transactions, combined with his knowledge of margin lending and distressed finance, strengthens our ability to deliver innovative, market-driven solutions for clients navigating complex financial and regulatory challenges.

MORTGAGES—7th Cir.: The U.S. Court of Appeals for the Seventh Circuit reviewed a lawsuit by an Illinois homeowner against Selene Finance, a mortgage loan servicer, claiming that Selene Finance violated the Fair Debt Collection Practices Act (FDCPA) and Illinois law by transmitting a "misleading letter" to her that unreasonably and unfairly constituted a "threat intended to panic her into prompt payment." The federal trial court dismissed the homeowner's claims, finding that Selene Finance "was the lender's assignee and thereby entitled under the original mortgage to notice and an opportunity to cure" prior to the homeowner's lawsuit. However, on appeal, the Seventh Circuit determined that "we cannot resolve on the pleadings that Selene, as a mortgage loan servicer, is an assignee as a matter of Illinois law." The federal appellate court referenced "*Bayview Loan Servicing, L.L.C. v. Nelson*, 890 N.E.2d 940, 944 (Ill. App. Ct. 2008)," a case in which the *Bayview* court concluded that the loan servicer (Bayview) "was not a mortgage lender's assignee because there was no evidence that Bayview ever obtained any legal interest in the subject property" and that, at most, the record indicated the lender "relied upon Bayview to service the mortgage payments." Against this backdrop, the Seventh Circuit reversed the decision of the lower court and remanded the matter, stating that the case "needs further analysis in the district court, informed not only by Illinois law, but also by Selene's servicing agreement" (*Milam v. Selene Finance*, No. 25-1208 (7th Cir. Dec. 22, 2025)).

TRUTH IN LENDING—The Consumer Financial Protection Bureau has updated its respective lists of counties that meet the respective definitions for "rural" or "underserved" under the Truth in Lending Act (TILA). Moreover, the Bureau not only covers the two definitions separately but also provides a third list depicting those counties that qualify as both "rural" and "underserved."

Attorneys: Marquise Miller, pro se. Robert E. Norman (Cheek & Falcone, PLLC) for Legacy Bank. Scott Harris (Bryson, Harris, Suciu & DeMay) for Ramona Milam. Phillip Russell Perdew (Troutman Pepper Locke LLP) for Selene Finance. Robert A. Angle (Troutman Pepper Locke) for TitleMax of Virginia, Inc. Robert W. Angle (Greenberg Traurig, LLP) for Secretary Pennsylvania Department of Banking and Securities. David H. Kaufman, Grant S. Palmer (Blank Rome LLP). Brian Klein, Ian Shapiro (Cooley LLP). Sverre Roang, Sarah Razaq Sallis (Husch Blackwell). Anne Seymour (Weil, Gotshal & Manges LLP).

Companies: CCFI Companies, LLC; KeyBank National Association; Legacy Bank; National Credit Union Association; Selene Finance; TitleMax Funding, Inc.; TitleMax of Delaware, Inc.; TitleMax of Ohio, Inc.; TitleMax of Virginia, Inc.; TMX Finance, LLC

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