New Equilibrium?

- Nearly three years into the current administration
- Took a while, but leaders are confirmed and have been making their imprints
  - Biggest impact on rulemaking
  - Little change to supervisory activity
  - Resumption of enforcement activity, after lull or freeze
  - Trying to collaborate with industry to promote responsible innovation
FDIC

- Opening for Chief Innovation Officer
  - “If our regulatory framework is unable to evolve with technological advances, the United States may cease to be a place where ideas and concepts become the products and services that improve people’s lives.”
  - Jelena McWilliams, 10/4/19, Op-Ed in American Banker

- Foster innovation in three ways:
  - Industrial loan company (ILC) charters
  - Oversight over banks’ third-party vendors
  - Banks get better processing, service, and efficiency by working with technology companies

OCC

- Fintech charter?
  - Will appeal adverse ruling in NYDFS case in SDNY

- Small-dollar lending
  - Oct 2017, rescinded prior restrictive guidance
  - May 2018, issued bulletin encouraging small-dollar lending
  - Feb 2019, issued statement supporting CFPB proposal to rescind ATR provisions of Bureau payday rule
  - Guidance about small-dollar lending?

- Address Madden v. Midland via rulemaking?
  - 9/19/19 letter to Otting from Republicans in HFSC
  - Joint amicus brief with FDIC in CO bankruptcy case
FTC

- Primary regulator for privacy and data security
- Fintechs and online lending
  - Marketing & UDAPs
  - Lead generation
  - Red Flags rule
- FTC v. Shire Viroparhma, 917 F.3d 147 (3d. Circ. 2019)
- FTC v. Credit Bureau Center, No. 18-3310 (7th Cir. 2019)

CFPB

- Seila Law v. CFPB
- Final Innovation Policies
- Increased enforcement activity
- New SEFL Director: Bryan Schneider
  - Formerly Secretary of the Illinois Department of Financial and Professional Regulation
James Kim

- James is co-leader of the firm’s Fintech industry group and a member of the Consumer Financial Services, Mortgage Banking, Privacy and Data Security, and Banking and Financial Services groups
- Advises banks, Fintechs, investors, and other clients regarding federal and state consumer financial laws and regulations, including Title X of the Dodd-Frank Act (UDAAP), TILA, RESPA, EFTA, and the FCRA
- Helps clients navigate examinations and investigations with the Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board, Federal Trade Commission (FTC), and various state agencies
- Assists clients with product development, regulatory due diligence, and matters involving cutting-edge issues, such as financial technology, data aggregation, mobile financial services, credit and prepaid cards, and marketplace lending