



Partner Jean Noonan comments for Law360 article on CFPB application of FCRA for big tech companies

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In recent weeks, Consumer Financial Protection Bureau (CFPB) Director Rohit Chopra has expressed concerns over whether big tech companies should be complying with the Fair Credit Reporting Act (FCRA). According to *Law360*, although the FCRA is better known as the law that regulates the activities of traditional credit bureaus, background check companies and tenant screening services, Chopra has hinted that he sees Silicon Valley's collection and monetization of consumer data as potentially within the law's scope.

Law360 spoke to Hudson Cook Partner [Jean Noonan](#) about how companies dealing in consumer data frequently structure their businesses with the goal of falling outside the FCRA's definition of what counts as consumer reporting. One common approach, for example, involves setting explicit restrictions on how a company's data can be used by third parties. "Many companies that sell data do it with contractual provisions saying it cannot be used for determining credit, employment or insurance eligibility or any other permissible purpose under the Fair Credit Reporting Act, precisely because they don't want it to be covered by the FCRA," said Jean. "Consumer reporting is one of the most regulated industries in the United States, so if a company is not set up to fully comply with the FCRA, then they are almost certainly violating it," Jean added.

Law360 noted that there is nothing to stop the CFPB from conducting its own independent analysis under the FCRA to argue that a tech company is substantively engaged in consumer reporting, despite what its contracts and disclaimers might say.

Jean is a partner in Hudson Cook's Washington, DC office. She advises clients on consumer financial services, fair lending, marketing, financial privacy, and consumer protection matters. She counsels financial institutions and others in complying with laws related to consumer credit, privacy, telemarketing, and unfair trade practices. Jean represents clients in government investigations, examinations, and enforcement actions before federal agencies, including the Consumer Financial Protection Bureau, Federal Trade Commission, and federal prudential regulators, and in other ancillary matters. Jean is a former executive with the Federal Trade Commission, where she directed the agency's enforcement of consumer financial services laws.

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