

Fraud in Focus: SentiLink Policy Insights

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US Policy Insights

CFPB issued its proposed "data broker" rulemaking under the FCRA. How would it impact fraud prevention and identity verification in the financial sector?

- The Bureau's proposal has the potential to materially disrupt fraud prevention and identity verification efforts. The proposal would subject all of these processes (e.g., all of the regulatory efforts currently prescribed by KYC/AML rules) and the data used to make them possible -- including credit header data, which is often a foundational element of identity analysis -- to the FCRA's regulatory framework.

  One of the major conceptual missteps of the proposal is the Bureau's conclusion that subjecting credit header data -- biographical information such as name, date of birth, address and SSN which are licensed by consumer reporting agencies -- to the FCRA is without consequence. Many service providers that provide identity verification and fraud prevention services utilize credit header data to build and train the analytic models used to protect consumers. Building on these foundations, the models are supplemented and refined with additional data points derived from a multitude of other data sources.

  Once operational, the models are utilized to perform fraud or identity verification checks for financial institutions, government agencies, telecommunication companies, utility providers and many others with high accuracy, helping legitimate consumer applicants while stopping bad actors and criminals. Under the Bureau's proposal, credit header data would not be accessible for use in developing the models necessary for fraud detection and identity verification, resulting in less accurate models and more consumer victims.

Overall, the Bureau took an extremely broad-brush approach in its proposal. While it acknowledges that beneficial use cases of data -- including credit header data -- exist, no exemptions were made for any of them, including for fraud, identity verification or compliance with KYC requirements. CFPB stated that concerns expressed over the impact of its proposal on these processes were "overstat[ed]."

For a broad overview of the CFPB's proposed rule, see here.

How could the CFPB's "data broker" proposal impact consumers?

- When financial institutions that utilize data analytics to assist in identity verification have that data taken away or rendered inaccessible by regulation, consumers will be significantly impacted. Models trained on data will become less accurate, leading to fewer identity theft victims being protected. In addition, less accurate identity verification methods will lead to increased false positives -- that is, legitimate consumers being flagged as high risk -- creating friction and possibly reducing the availability of products and services.

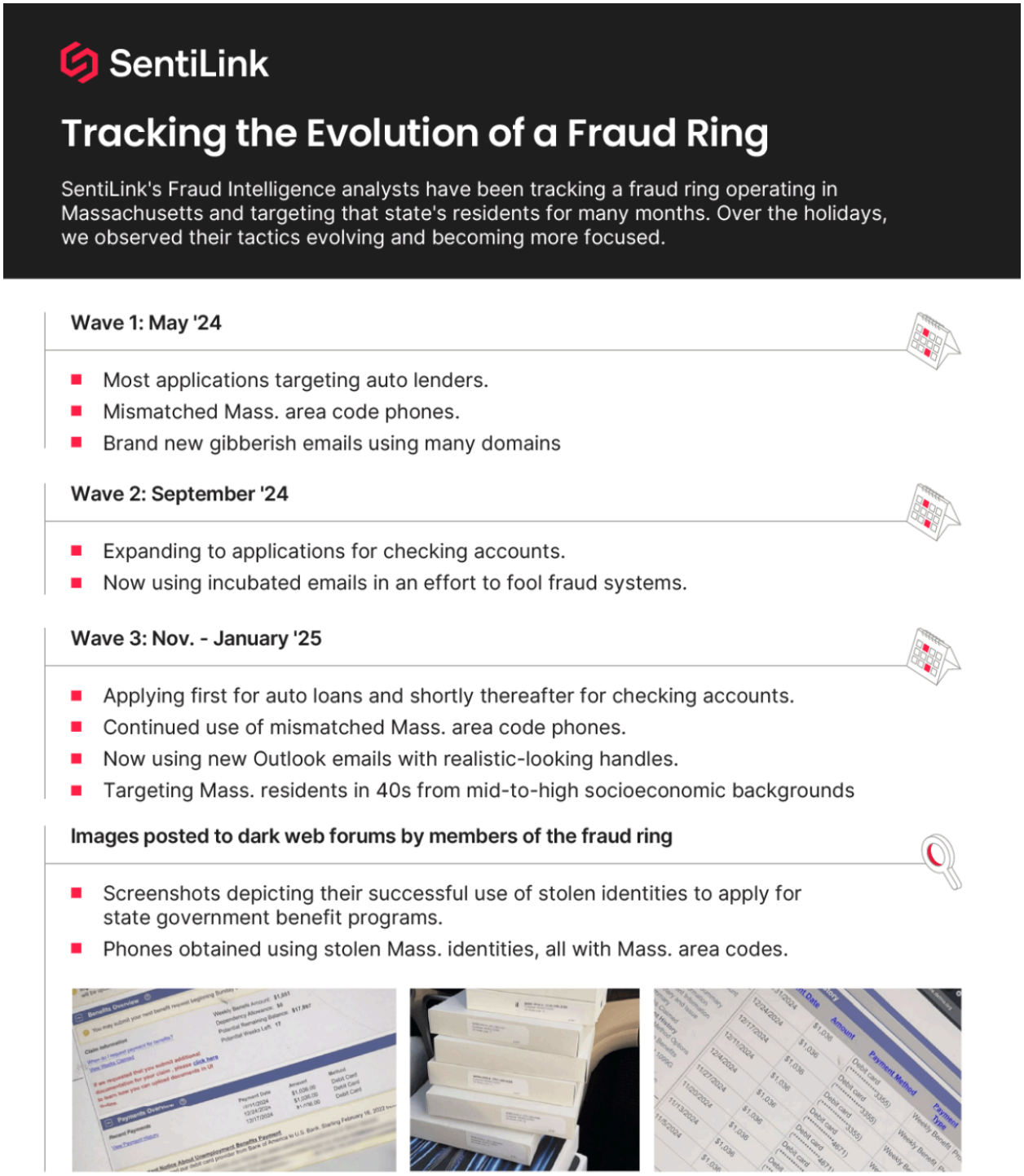
What's likely to happen with the "data broker" proposal given the change in Administration?

- While it cannot be finalized before the new Administration takes office, the "data broker" proposal will remain an open rulemaking after President Trump takes office. However, publication of the proposed rule by the current CFPB leadership does not bind the next CFPB director to any specific course of action. In fact, the new/acting director (assuming current Director Chopra is removed around January 20 or resigns) will have a variety of options: Pause the rulemaking, extend the comment period, withdraw and re-propose certain elements, finalize the proposal with changes (such as addressing beneficial use cases of data for fraud prevention and identity verification), or abandon the rulemaking through a full withdrawal.

It is too early to know exactly what the next Administration will do, but it is reasonable to believe that regulation of data brokers in some fashion will remain a viable regulatory agenda item

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Fraud Spotlight



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In the News

"Millions of SSNs have now been verified by the SSA through eCBSV. Out of everyone, they verified my SSN first" by Naftali Harris, SentiLink CEO.

"We analyzed $485M in stolen checks. Here's what we found," by Dr. David Maimon, head of fraud insights, SentiLink.

Webinar: "How data exposed in 2024 could lead to 2025 fraud."

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