

CFPB Bites of the Month - August Top 10

August 31, 2021 | [Eric L. Johnson](#) and [Justin B. Hosie](#)

Each month, we host a 30-minute **webinar** outlining the month's key announcements and takeaways from the Consumer Financial Protection Bureau (CFPB) for financial services providers to consider. In this month's article, we share some of our top "bites" covered during the August 18 webinar.

So what happened at the CFPB in the past month?

Bite #10 - The CFPB celebrated 10 years.

On July 19, Americans for Financial Reform (AFR) invited CFPB Acting Director Dave Uejio to speak at a celebration of the CFPB's 10th anniversary. He indicated that one of the CFPB's most valuable assets is the consumer complaint process. Since 2011, the CFPB has received more than 3 million complaints and 99% of the complaints the CFPB sent to companies have received a timely response. He also mentioned the CFPB's focus on promoting racial and economic equity in the consumer marketplace and addressed its COVID-19 response. Acting Director Uejio also posted a blog on July 21 summarizing the CFPB's achievements over the past 10 years.

Bite #9 - The CFPB found that credit applications have mostly recovered to pre-pandemic levels.

The CFPB published a report showing that credit applications have mostly recovered to pre-pandemic levels. According to the report, prime and near-prime consumers are driving the recovery. Consumer credit applications remain down for subprime and deep subprime applicants. The report provides a state-by-state analysis of the change in credit applications for auto loans, new mortgages, and revolving credit cards shows wide geographic variability in the demand for auto loans.

Bite #8 - The CFPB released an online tool to help renters and landlords access federal assistance.

The CFPB released an online tool to help renters and landlords access federal assistance. The tool, called the Rental Assistance Finder (available at www.consumerfinance.gov/renthelp) connects renters and landlords with the state and local programs distributing federal assistance to help renters. The CFPB also conducted a demonstration of the Rental Assistance Finder tool via Webex on July 28. Finally, along with the U.S. Departments of Agriculture, Housing and Urban Development, Treasury,

Veterans Affairs, and the Federal Housing Finance Agency, the CFPB has created a website, consumerfinance.gov/housing, which serves as the federal government's one-stop, go-to resource for up-to-date information on relief options, protections, and key deadlines.

Bite #7 - The CFPB and FHFA released updated data from the National Survey of Mortgage Originations for public use.

The CFPB and FHFA published updated loan-level data for public use collected through the National Survey of Mortgage Originations (NSMO). Since 2014, FHFA and CFPB have sent surveys each quarter to borrowers who had recently obtained mortgages. The surveys gather feedback on borrowers' experiences during the process of getting a mortgage, their perceptions of the mortgage market, and their future expectations. The recent release adds two additional years of new mortgage data through 2019.

Bite #6 - District Court appears to be close to a ruling on the Payday, Title, and High-Cost Installment Loan Rulemaking.

The U.S. District Court for the Western District of Texas Austin Division requested additional briefings regarding an implementation timeline in *Community Financial Services Association of America, LTD., Consumer Service Alliance of Texas v. Consumer Financial Protection Bureau*.

The case concerns the lawfulness and implementation of 2017 rulemaking, sometimes called the "Payday Rule." The supplemental briefings were requested to address the appropriate compliance date if the court were to deny the industry's motion and rule in favor of the CFPB. Briefs and response briefs have been filed. The request suggests the Court will grant the CFPB's motion for summary judgment. The CFPB appears to be asking for a 30-day period while industry is requesting 286-445 days for implementation.

Bite #5 - The CFPB confirmed the effective date for the final debt collection rules.

The CFPB has confirmed the effective date for the final debt collection rules. In a CFPB proposal issued in April 2021 the CFPB had considered extending the effective dates to January 29, 2022. But, the CFPB has now determined that the extension is unnecessary. Following this announcement, the CFPB will publish a formal notice in the Federal Register withdrawing the April 2021 proposal.

The first of two debt collection rules, issued in October 2020, focuses on debt collection communications and clarifies the FDCPA's prohibitions on harassment and abuse, false or misleading representations, and unfair practices by debt collectors when collecting consumer debt.

The second rule, issued in December 2020, clarifies disclosures debt collectors must provide to consumers at the beginning of collection communications. It also prohibits debt collectors from suing or threatening to sue consumers on time-barred debt and requires debt collectors to take specific steps to disclose the existence of a debt to consumers before reporting information about the debt to a consumer reporting agency.

The CFPB will consider additional guidance for debt collectors, including those that service mortgage loans, as necessary. The CFPB indicated that it recognizes that mortgage servicers are expected to receive a potentially historically high number of loss mitigation inquiries in the fall as large numbers of borrowers exit forbearance and that, as a result, mortgage servicers in particular may face capacity constraints.

Bite #4 - The CFPB updated its Mortgage Servicing Small Entity Compliance Guide.

Back in June of this year, the CFPB had issued its Final Rule to amend Regulation X to assist mortgage borrowers affected by the COVID-19 pandemic. The Small Entity Compliance Guide published on August 4, includes guidance from the Final Rule and from the 2020 Mortgage Servicing COVID-19 Interim Final Rule. The rules are intended to promote a "smooth and orderly transition" from pandemic-related foreclosure protections, allowing for meaningful loss mitigation options, streamlined modifications, and information about pre-foreclosure options. With the rules in place, the CFPB indicated that borrowers coming out of forbearance will have the option to resume regular mortgage payments, lower their monthly mortgage payments, or sell their homes. The Final Rule goes into effect on August 31, 2021 and expires in October 2022.

Bite #3 - The CFPB issued an interpretive rule on timing requirements related to the 2021 Juneteenth Federal Holiday.

The CFPB released an interpretive rule to assist the mortgage industry in determining whether to treat June 19, 2021, as a federal holiday or a business day for purposes of compliance with certain time-sensitive borrower protections. Because the Juneteenth National Independence Day Act was signed into law two days before the newly created holiday on June 19, the CFPB indicated that many in the mortgage industry reported being unsure of how to treat the day for purposes of regulatory compliance with Reg Z.

For rescission of closed-end mortgages and TILA-RESPA Integrated Disclosures, whether June 19, 2021, counts as a business day or federal holiday depends on when the relevant time period began. If the relevant time period began:

- On or before June 17, 2021, then June 19 was a business day.
- After June 17, 2021, then June 19 was a federal holiday.

Additionally, the interpretive rule explains that creditors are not prohibited from providing longer time periods than required.

Bite #2 - The CFPB released a pandemic metrics report addressing mortgage servicers.

In Spring of 2021, the CFPB obtained data from 16 large mortgage servicers to identify areas of risk in the servicers' COVID-19 pandemic response as part of its supervisory oversight. The Report presents data from December 2020 through April 2021 and the CFPB's observations based on the data. The CFPB concluded that:

- Some populations of borrowers at these servicers may have difficulty establishing live contact and obtaining assistance from some servicers.
- Growing numbers of borrowers are exiting COVID-19 hardship forbearances in a delinquent status, and some servicers are substantially underperforming their peers in key effectiveness metrics.

The CFPB encourage servicers to:

- Enhance their communication capabilities;
- Enhance outreach efforts
- Educate and assist all borrowers in resolving delinquency and enrolling in widely available assistance and loss mitigation options.

The CFPB also indicated that servicers should ensure that their compliance management systems include robust measures to identify and mitigate fair lending risk.

Bite #1 - The CFPB took action against a debt collector.

The CFPB filed a proposed settlement to resolve a lawsuit against a debt collection enterprise and its owner. The CFPB alleged the company violated the Consumer Financial Protection Act of 2010, the Fair Credit Reporting Act (FCRA), and Regulation V (the Furnisher Rule) by failing to implement reasonable written policies and procedures regarding the accuracy and integrity of the information it furnished to credit reporting agencies, and failing to conduct reasonable investigations of indirect consumer disputes, resulting in inaccurate information remaining on consumers' credit reports.

The CFPB also alleged that the company and its owner violated the Fair Debt Collection Practices Act when it represented that consumers owed certain debts when the company did not have a reasonable basis to assert that the consumers owed those debts. If entered by the court, the settlement would require the company to put in place reasonable policies and procedures to prevent future violations and pay a \$850,000 civil money penalty.

Extra Bite: The FFIEC issued guidance on authentication and access to financial institution services and systems.

The Federal Financial Institutions Examination Council (FFIEC), on behalf of its members (including the CFPB), issued guidance that provides financial institutions with *examples* of effective authentication and access risk management principles and practices for customers, employees, and third parties accessing digital banking services and information systems. The new guidance replaces previous documents issued in 2005 and 2011.

Still hungry?

Tune in September 15 for our next Bites of the Month webinar or request the recording of a past Bites.

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