

CFPB Bites of the Month - May Top 10

May 28, 2021 | [Justin B. Hosie](#) and [Eric L. Johnson](#)

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 May 26 webinar.

So what happened at the CFPB in the past month?

Bite #10 - The CFPB and NY AG moved to seize personal assets from the owner of a debt collection operation.

The CFPB and New York Attorney General sued the owner of a debt collection company previously involved in a regulatory action, in an effort to seize a \$1.6 million home, that the owner allegedly transferred fraudulently. In 2019, the CFPB and the NY AG settled with that debt collection operation and its owners over allegations that the involved companies harassed, threatened, and deceived millions of consumers across the nation into paying inflated debts or amounts they did not owe.

The CFPB permanently banned the companies and their owners from the debt collection industry and ordered them to pay \$60 million in consumer redress and penalties. Despite the court's order, the owner has allegedly failed to pay the judgment and failed to cooperate during the process.

Bite #9 - The CFPB provided updates on its two Tech Sprint programs.

The CFPB's Acting Director announced the release of presentations from the CFPB's two Tech Sprint programs. The Tech Sprint Program was designed to consider challenges facing the financial services industry, including the role that advanced technology can play to strengthen compliance and how to encourage innovation, drive down cost and burden, and promote transparency.

The first tech sprint, in October 2020, addressed adverse action notices and sought to improve disclosures to empower consumers to make better informed financial decisions. The second tech sprint, in March 2021, addressed the Home Mortgage Disclosure Act (HMDA), and sought to advance the submission and publication of mortgage data to better drive meaningful action.

Bite #8 - CFPB Acting Director Uejio issued a statement in response to alleged unauthorized withdrawals by a mortgage servicer.

The CFPB's Acting Director also issued a statement in response to alleged unauthorized withdrawals made by a mortgage servicer. The mortgage servicer allegedly used unauthorized duplicate-payment drafts that resulted in hundreds of thousands of consumers' bank accounts being debited for multiples

of their mortgage payments. Affected consumers reported being charged overdraft fees and the CFPB suspects consumers suffered additional due to these unauthorized withdrawals. The Acting Director stated that the CFPB is taking "immediate action to understand and resolve the situation" and that the CFPB will use all "appropriate tools" to provide consumer relief. The statement concluded by noting that consumers affected by the incident should monitor their accounts and may contact the servicer directly or submit complaints to the CFPB.

Bite #7 - The CFPB formally delayed the compliance date of the General Qualified Mortgage final rule.

The CFPB formally delayed the General Qualified Mortgage final rule's mandatory compliance date from July 1, 2021, to October 1, 2022. Under the Truth in Lending Act (TILA), qualified mortgage (QM) loans are presumed to be made based on the lender's reasonable determination of the homeowner's ability to repay the loan. Delaying the mandatory compliance date allows lenders more time to offer QM loans based on the homeowners' debt-to-income (DTI) ratio, and not solely based on certain pricing thresholds. Delaying the final rule's compliance date also gives lenders more time to use the Government-Sponsored Enterprise (GSE) Patch, which provides QM status to loans that are eligible for sale to Fannie Mae or Freddie Mac. The availability of the GSE Patch after July 1, 2021, may be limited by recent revisions to the Preferred Stock Purchase Agreements entered into by the Department of the Treasury and the Federal Housing Finance Agency.

Bite #6 - The CFPB took action against a reverse mortgage lender.

The CFPB entered a consent order against a reverse mortgage lender for allegedly sending deceptive loan advertisements to hundreds of thousands of older borrowers in violation of the Mortgage Acts and Practices Advertising Rule (MAP Rule), TILA, and the Consumer Financial Protection Act (CFPA). The CFPB alleges that the advertisement and letters included: (1) hidden costs, (2) hidden risks, (3) false existing relationships, and (4) false pre-approvals. The consent order requires the lender to pay a \$140,000 civil penalty, implement a compliance plan, and stop sending deceptive advertisements.

Bite #5 - The CFPB issued a consumer complaint bulletin.

The CFPB issued a consumer complaint bulletin analyzing consumer complaints nationwide. In 2019 and 2020, the CFPB claims it received more complaints on a per-capita basis from consumers living in predominantly minority counties than from consumers in predominantly white, non-Hispanic counties. Among other key findings in this bulletin:

- From 2019 to 2020, consumer complaints increased across all demographic groups. Complaints increased at a greater rate in predominantly minority counties compared to predominantly white, non-Hispanic counties.
- Consumers living in predominantly minority counties submitted more complaints on a per capita basis in nearly every one of the 11 product categories about which the CFPB accepts complaints.
- Credit or consumer reporting appears to cause significantly more issues for consumers in predominantly minority counties.

The CFPB will soon expand demographic collection to include household size and income.

Bite #4 - The CFPB and FTC address pandemic tenant protections.

The CFPB's Acting Director and Federal Trade Commission's Acting Chairwoman sent notification letters to the nation's largest apartment landlords—which collectively own more than 2 million units—reminding these landlords of federal protections in place to keep tenants in their homes and stop the spread of COVID-19.

The Centers for Disease Control and Prevention (CDC) has extended until June 30 a temporary moratorium on evictions for non-payment of rent, and the CFPB has issued an interim final rule establishing new notice requirements under the Fair Debt Collection Practices Act (FDCPA).

The letters ask landlords to examine their practices to ensure they comply with the CDC Moratorium and the FTC Act and remediate any harm to consumers stemming from any such law violations. It also encourages landlords to notify FDCPA-covered debt collectors working on their behalf, which may include attorneys, of the CDC moratorium, applicable state or local moratoria, and those parties' obligations under the FTC Act and FDCPA, including the CFPB's interim final rule.

The notices follow the March 2021 joint statement from the interim leaders of the agencies regarding preventing illegal evictions.

Bite #3 - The CFPB issued reports on continuing challenges for mortgage lenders during the pandemic, and on small dollar lending.

The CFPB released two reports on continuing challenges facing mortgage borrowers related to the COVID-19 pandemic. The first report, "Characteristics of Mortgage Borrowers During the COVID-19 Pandemic," documents that Black and Hispanic mortgage borrowers are much more likely to be delinquent or in a forbearance program than white borrowers. For example, 33% of borrowers in forbearance (and 27% of delinquent borrowers) are Black or Hispanic, while only 18% of the total population of mortgage borrowers are Black or Hispanic.

The second report, a special consumer complaint bulletin, shows that overall mortgage complaints have risen to their highest level in three years. The bulletin highlights complaints about servicer communications and delays/denials of loan modifications. The CFPB is seeking comments on a proposal intended to help prevent avoidable foreclosures for borrowers affected by the COVID-19 emergency.

The CFPB also released a report as part of its Making Ends Meet Series addressing payday, auto title, or pawn loans. The report indicated that consumers of such services can be found across a diverse spectrum of characteristics in the population and are not limited to certain consumer groups. The report indicated that for such consumers speed, discretion, and the lack of a credit check were important for deciding on their credit source. The report also indicated that a significant portion of consumers using these services had \$300 or more in available credit card credit at about the same time they owed money on one of these loans.

The report further indicated that 48 percent of consumers who had taken out a payday loan in the previous six months had rolled over at least one payday loan in the previous six months. For comparison, the report indicated that consumers roll over other types of loans frequently as well: 51 percent of consumers with a credit card did not pay the full bill in the previous month in June 2019. In the survey, 79 percent of consumers had a credit card.

Among other interesting findings, the report also indicated that when such consumers experience difficulty paying a bill or expense, they tend to also use other available credit, suggesting that for some consumers, these loans might be part of a broader and more complicated debt portfolio to deal with difficulties.

Bite #2 - The CFPB settled with a debt settlement company.

The CFPB settled with a debt settlement company over alleged violations of the Telemarketing Sales Rule (TSR) and the CFPA. Specifically, the CFPB alleged that the company:

- charged fees before some consumers had made at least one payment to a creditor under a settlement agreement and charged some consumers fees even though it did not negotiate a settlement;
- collected fees that were calculated on the consumer's debt amount after their time of enrollment in one of the company's debt-settlement programs;
- failed to disclose the amount that a consumer must save before making a settlement offer and the time by which it would make a settlement offer; and
- deceived consumers about settlement fees, including by charging settlement fees greater than what was disclosed in the enrollment agreement.

If the settlement is entered by the court, the company must provide \$5.4 million in consumer redress and pay a \$1 civil penalty. By requiring the company to pay a penalty of \$1, the order may make consumers eligible for additional relief from the CFPB Civil Penalty Fund in the future, although that determination has not yet been made.

Bite #1 - The CFPB issued a consent order against an auto finance company.

The CFPB issued a consent order against an auto finance company for allegedly charging interest for late payment on its Loss Damage Waiver (LDW) product without its customers' knowledge. The company required its customers to agree that if they had insufficient insurance coverage for their automobiles, they would add "loss-damage-waiver" coverage to their accounts. LDW is a product that, for a monthly fee, covers cancellation of the customer's debt in the event of a total vehicle loss or the cost of a repair if the vehicle was not a total loss. When a customer's LDW payment was late, the company would allegedly charge interest on the late payment without disclosing this interest to the customer.

The order requires the company to provide over \$565,000 in consumer relief to over 5,700 consumers, in addition to a \$50,000 civil money penalty.

Still hungry?

Tune in next month for a special 10-year anniversary bite with guest panelist Lucy Morris, one of the CFPB's earliest founders, as we discuss the CFPB's evolution and what to expect going forward.

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