

CFS Bites of the Month - 2025 Annual Review - Nondiscrimination and Military Protection Law

January 12, 2026 | [Erica A.N. Kramer](#), [Eric L. Johnson](#), [Justin B. Hosie](#) and [Kristen Yarows](#)

In this article, we share a timeline of monthly "bites" for the past year applicable to consumers protected by nondiscrimination and military protection laws. Though we've seen significant rollbacks in nondiscrimination requirements under this administration, enforcement efforts related to military protection laws continue. We expect to see more of the same in 2026.

CFPB Takes Action Against Mortgage Lender for Discrimination

On January 17, 2025, the CFPB [filed](#) a complaint and proposed consent order to resolve allegations that a mortgage lender violated the ECOA and Regulation B. The CFPB alleged that from 2019 through 2021, the mortgage lender engaged in unlawful discrimination against applicants and prospective applicants by redlining majority-Black and Hispanic areas. The CFPB alleged that the company's activity would discourage a reasonable person from applying for credit based on race, color, and national origin. According to the CFPB, the mortgage lender located its offices in majority-white neighborhoods and avoiding marketing to majority-Black and Hispanic neighborhoods. The CFPB alleged that these actions resulted in disproportionately low numbers of mortgage loan applications and mortgage loan originations from majority-Black and Hispanic neighborhoods in Chicago and Boston compared to other lenders. The proposed order, if approved by the court, would require the company to pay a \$1.5 civil money penalty and prohibit the company from acting as a non-depository residential mortgage lender for 5 years.

CFPB Issues Supervisory Highlights on Advanced Technologies

On January 17, 2025, the CFPB [released](#) its special edition supervisory highlights that discusses select examinations of institutions that use credit scoring models, including models built with advanced technology commonly marketed as AI/ML technology, when making credit decisions. The CFPB examiners reviewed credit card lenders' use of credit scoring models in the underwriting and pricing of credit card applications, including models built with AI or ML technology and found disparities in underwriting and pricing outcomes for Black and Hispanic applicants, as well as deficient compliance management systems. CFPB examiners found that auto creditors sometimes used credit scoring models that used more than a thousand input variables, including many that are considered "alternative data." Examiners identified risks associated with the use of such a large number of input variables, including whether they acted as a proxy for prohibited bases under the Equal Credit Opportunity Act ("ECOA"). CFPB examiners reported that auto originators did not sufficiently ensure compliance with adverse action notice requirements and had not validated that their processes for selecting reasons produced accurate results. The CFPB noted that there is no "advanced technology" exception to Federal

consumer financial laws and institutions must comply with the laws when using advanced computational methods.

CFPB Publishes Report on Servicemember Auto Finance

On January 29, 2025, the CFPB published a report on servicemember auto finance, claiming that servicemembers pay higher rates over longer terms. The report analyzed more than 20 million auto transactions originated between 2018 and 2022, noting that servicemembers typically had larger transactions, made smaller down payments, and had higher monthly costs. The report claims that for new vehicles servicemembers financed on average over \$2,200 more than civilians, and servicemembers financed on average almost \$400 more than civilians for used vehicles. According to the CFPB, servicemembers faced average annual percentage rates 0.6 percentage points above civilian rates and for longer terms. The report also indicated that over 70% of servicemembers purchased optional products and paid on average about \$140 more for optional products than civilians. The CFPB claims that the most common and expensive category of optional products that servicemembers purchased were warranty, service, and maintenance plans. The CFPB also claims that servicemembers' purchase of GAP products increased sharply in 2020 after the Department of Defense changed its interpretation of the Military Lending Act.

CFPB Seeks to Vacate Settlement with Mortgage Lender

On March 26, 2025, the CFPB and a mortgage lender jointly moved to vacate the Stipulated Final Judgment and Order previously entered against the company. The CFPB sued the mortgage lender in 2020, alleging that the company discouraged potential applicants on a radio program because of their race and the racial composition of the neighborhood where they lived or sought to live. In July 2024, the 7th Circuit held that the Equal Credit Opportunity Act prohibited not only outright discrimination against applicants for credit, but also the discrimination of *prospective* applicants for credit. Following that holding, the company settled with the CFPB for a \$105,000 penalty to the CFPB's victims relief fund. In the release the CFPB's Senior Advisor called the case a "flagrant misuse of government resources to destroy a small business that did nothing wrong" and said, we "are righting this wrong and protecting the First Amendment." The CFPB wrote in its press release that "after a thorough review" it is seeking to make the company "whole by returning the six-figure penalty they were forced to pay."

CFPB Withdraws Sixty-Seven Guidance Documents

On April 11, 2025, CFPB Acting Director Vought wrote a memo that directed CFPB staff to cease issuing guidance documents and to review past guidance documents and flag only those that conform to his principles set forth in the memo. He instructed that any guidance that hadn't been flagged for retention would be reviewed and rescinded. On May 9, 2025, the CFPB published its withdrawal of sixty-seven guidance documents in the Federal Register. Those guidance documents date way back to 2011, when the CFPB was in its infancy. This included: (a) eight Policy Statements such as the 2023 Statement of Policy regarding Abusive Acts or Practices and others; (b) seven Interpretive Rules such as the 2024 Truth in Lending Buy Now Pay Later Interpretation, the 2022 Authority of States to Enforce the CFPA Interpretation, 2021 Equal Credit Opportunity Act Interpretation on Discrimination on the Bases of Sexual Orientation and Gender Identity, and others; (c) thirteen Advisory Opinions including a couple on earned wage access, one on collection of medical debt, one on pay-to-pay fees, one on background screening, one on private education loans, and others; and (d) thirty-nine other guidance documents addressing everything from whistleblower protections, unenforceable contract terms and conditions,

steering by digital intermediaries, proper use of adverse action model forms, negative option marketing, and others. The CFPB statement withdrawing the sixty-seven guidance documents indicated that the CFPB was withdrawing all guidance documents to afford staff an opportunity to review and consider (1) "whether the guidance is statutorily prescribed," (2) whether the interpretation "is consistent with the relevant statute or regulation," and (3) whether it "imposes or decreases compliance burdens." The withdrawal included 2024's Interpretive Rules from the CFPB clarifying that the prohibition against discrimination on the basis of sex in the ECOA and Regulation includes sexual orientation discrimination and gender identity discrimination. The withdrawal also included interpretive guidance related to adverse action notices.

President Trump Issues EO to Eliminate Disparate Impact Analysis

On April 23, 2025, President Trump issued an executive order titled "Restoring Equality of Opportunity and Meritocracy." The executive order notes that it is now the policy of the United States to eliminate disparate impact liability to the maximum extent possible. It instructs all agencies to deprioritize enforcement of all statutes and regulations to the extent they include disparate-impact liability. Specifically, it instructs the Director of the CFPB, the Chair of the FTC, the Attorney General, and heads of other agencies to evaluate all pending proceedings that rely on theories of disparate-impact liability and take appropriate action with respect to such matters consistent with the policy of the executive order.

CFPB Settles Lawsuit with Pawnshop Company

On May 29, 2025, media outlets reported that the CFPB and a pawnshop company and its subsidiaries reached a settlement to resolve the CFPB's lawsuit against the companies. On November 12, 2021, the CFPB filed a lawsuit against the pawnshop company and its subsidiaries, alleging that the companies entered pawn transactions with active-duty servicemembers and their dependents in violation of the Military Lending Act. The lawsuit also alleged violations of a 2013 consent order with the CFPB. The lawsuit alleged that the company charges exceeded the MLA's 36% cap and included mandatory arbitration provisions despite the MLA's prohibition. In March, the CFPB informed the court that it would proceed with the litigation. The terms of the settlement agreement have not yet been disclosed.

CFPB's Top Fair Lending Official Put on Leave

The CFPB's assistant director for the Office of Fair Lending and Equal Opportunity was placed on administrative leave late on July 7, 2025. The official had reportedly raised concerns over acting CFPB Director Vought's multiple attempts to fire agency staff and the agency's management of the Home Mortgage Disclosure Act database. In April 2025, President Trump ordered federal agencies to stop using disparate impact analyses in their enforcement work. The CFPB also announced in April that it would no longer focus on redlining in its examinations. Further, the CFPB moved to vacate or amend several fair lending settlements. Based on an earlier submitted Declaration in the National Treasury Employees Union lawsuit against Acting Director Vought, this official was the only manager in the Office of Fair Lending and Equal Opportunity.

Massachusetts AG Takes Action Against Student Loan Company

On July 10, 2025, the Massachusetts Attorney General reached a settlement with a Delaware-based student loan company over allegations that the company's lending practices violated various consumer protection and fair lending laws. The Massachusetts Attorney General issued an Advisory in April 2024, clarifying that existing state consumer protection laws apply to emerging technology including artificial

intelligence (AI). The Massachusetts Attorney General alleged that this student loan company used AI models that could lead to disparate harm to Black, Hispanic, and non-citizen applicants and borrowers. The Massachusetts Attorney General alleged that the company failed to take reasonable measures to mitigate fair lending risks in its underwriting practices, including failing to test its models for disparate impact and training its models on arbitrary, discretionary human decisions. The Massachusetts Attorney General also alleged that the company used a "knockout rule" to automatically deny applications based on immigration status and sent inaccurate adverse action notices that prevented applicants from understanding their own creditworthiness. The settlement agreement requires the company to pay \$2.5 million, implement steps to mitigate risks of unfair lending, and regularly report compliance to the Attorney General.

CFPB Sued over Dismantling Section 1071 Rule

On July 23, 2025, media outlets reported that a group of consumer-aligned advocacy groups sued the CFPB, alleging that it illegally dismantled its data-collection rule. The lawsuit claims that the CFPB and acting director Vought of "unlawfully withholding and unreasonably delaying" implementation of the Section 1071 rule. The rule was finalized under the Biden Administration and became the target of multiple industry lawsuits. The lawsuits argued that the amount of data required from lenders is too burdensome. The CFPB extended its compliance deadlines by another year, making the earliest compliance date July 2026. The new lawsuit criticized the CFPB's compliance date postponement for being adopted without notice and comment. The lawsuit asks for a court decision that would vacate the recent postponement and require the agency to begin collecting data from lenders.

FTC Drops Disparate Impact Claims Against Auto Dealer

On August 13, 2025, it was reported that the FTC dropped its claims of discrimination against three Texas-based auto dealerships that allegedly discriminated against Black and Latino customers by charging more for add-on products. The FTC filed a motion to partially lift the stay of administrative proceedings to amend its administrative complaint and drop the disparate impact claims "out of an abundance of caution" to comply with the Executive Order discussed earlier in this article. The administrative law judge ruled that the FTC could remove its disparate impact claims. However, the FTC will continue pursuing its claims against the auto dealerships regarding alleged hidden fees and unwanted add-on products.

CFPB Finalizes Deadline Extensions for 1071 Rule

On October 2, 2025, the CFPB finalized its deadline extension for the 1071 Rule, with the first new compliance date set for July 1, 2026 for "Tier 1 lenders." The 1071 Rule will require the collection and reporting of demographic information on small business lending applications, to help identify potential discrimination as mandated by the Dodd-Frank Act. The rulemaking classifies lenders in tiers, based on their volume of small business loan originations. The new compliance date for Tier 2 lenders will be January 1, 2027, and Tier 3 will be October 1, 2027.

CFPB Settles Military Lending Act Lawsuit

On October 15, 2025, news outlets reported that the U.S. District Court for the Southern District of New York granted the CFPB and an online lender's joint motion to dismiss because the parties agreed to resolve their case. In 2022, the CFPB accused the online lender of targeting military families, illegally imposing fees, and making it difficult to cancel monthly subscriptions to a membership program that

offered access to online loans marketed as having low interest rates. Most of the CFPB's original complaint survived a motion to dismiss, and the CFPB filed an amended complaint in April. After the motion to dismiss, the New York Attorney General filed a lawsuit against the online lender. This case was one of the few CFPB cases that has continued during this administration.

CFPB Issues Proposed Rule Regarding 1071 Rule

On November 13, 2025, the CFPB [published](#) a proposed rule to revise certain provisions of Regulation B. The CFPB is reconsidering coverage of certain credit transactions and financial institutions; the small business definition; inclusion of certain data points and how others are collected; and the compliance date. The CFPB claims that these proposed changes would streamline the rule, reduce complexity for lenders, improve data quality, advancing the purposes of section 1071, and comply with recent executive directives. The CFPB also claims that a longer-term approach to advance the statutory purposes of section 1071 would be to commence the collection of data with a narrower scope to ensure its quality and to limit, as much as possible, disturbance to small businesses. The CFPB noted that it intends to approach the section 1071 rule like the Home Mortgage Disclosure Act; that is, with an incremental approach. Public comments on the proposed rule were due by December 15, 2025.

CFPB Issues Proposed Rule on ECOA

On November 13, 2025, the CFPB [published](#) a proposed rule for public comment amending provisions of Regulation B. The proposed changes provide that ECOA does not authorize disparate-impact liability (effects test), further define discouragement, and add prohibitions and restrictions for special purpose credit programs. Public comments on the proposed rule were due by December 15, 2025.

View all of the 2025 CFS Bites of the Month year-end recaps by topic on the [2025 Year-End Recap page](#).

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