

Consumer Financial Services Bites of the Month - February 18, 2026 - "February Seven."

February 26, 2026 | [Justin B. Hosie](#), [Eric L. Johnson](#) and [Kristen Yarows](#)

In this month's article, we share some of our top "bites" covered during the February 2026 webinar.

Bite 14: CFPB Switches to Virtual Exams, Reduces Number of Exams

On January 29, 2026, a media outlet [reported](#) that CFPB supervisors will begin developing the scope of their exams, and CFPB examiners will be back on the job as early as April. According to report, the CFPB is expected to carry out fewer than 70 exams over the course of 2026, which is a steep drop from previous years. All the exams will be conducted virtually. From fiscal year 2020 through 2024, the CFPB averaged more than 600 "supervisory events" according to its most recent performance report. The exams will focus on "pressing threats to consumers" and be guided by principles outlined in the recent "humility pledge," which states that supervision would be "fundamentally different" than how it was conducted under former CFPB Director Chopra. Exams will be shorter than the typical eight weeks and focus particularly on servicemembers and their families, veterans, and areas clearly within the scope of the CFPB's authority. According to the report, CFPB exams during this administration will not use disparate impact to determine consumer harm.

Bite 13: FTC Chairman Appoints New Deputy Director

On January 30, 2026, FTC Chairman Ferguson [appointed](#) Levi Swank as a new Deputy Director of the FTC's Bureau of Consumer Protection. Before joining the FTC, Swank spent his career in private practice at a large law firm in Washington, DC. He represented clients in a wide variety of enforcement matters, class actions, and investigations involving consumer protection matters. Swank holds a J.D. from the University of Virginia School of Law.

Bite 12: CFPB Implements New Requirements on Complaint Portal

On February 5, 2026, it was [reported](#) that the CFPB has added new pages of disclaimers to its consumer complaint portal. The instructions advise consumers not to file complaints about inaccurate information on a credit report. The CFPB is also requiring that citizens attest to the truthfulness of any complaint and provide personal information, so the CFPB can identify the consumer. It was reported that these changes were influenced by the three national Consumer Reporting Agencies and industry trade groups, who noted the complaint portal has been abused by third-party credit repair firms and AI bots that lodge meritless and duplicative complaints resulting in credit reporting complaints seeming to hit an all-time high. In 2024, there were more than 2 million credit reporting complaints, which appears to be up 180% over two years.

Bite 11: SCOTUS Will Consider Definition of "Consumer" under VPPA

On January 26, 2026, the U.S. Supreme Court granted a petition for writ of certiorari in the case of *Salazar v. Paramount Global*, in which SCOTUS will consider the definition of "consumer" under the federal Video Privacy Protection Act ("VPPA"). In *Salazar*, a plaintiff brought a class action lawsuit against Paramount Global for alleged violations of the VPPA. The plaintiff alleged that he was a "consumer" under the VPPA because he subscribed to the website's newsletter plan that provided video media content to this desktop, tablet, and mobile device. He argued that the broad statutory phrase "goods and services" in the VPPA included the defendant's newsletter, but the U.S. Court of Appeals for the Sixth Circuit disagreed. The Sixth Circuit held that a person is a "consumer" only when the person subscribes to "goods or services" in the nature of "video cassette tapes or similar audio visual materials." The Sixth Circuit's holding broke from the Second and Seventh Circuits' approach to the issue. The Second and Seventh Circuits recently held that the fact that a "good or service" to which a plaintiff subscribed under the VPPA was not "audio visual material" was not as important to the determination about VPPA coverage as whether the "consumer" had a viable complaint about the sharing of "personally identifiable information" under the VPPA.

Bite 10: CFPB Seeks Comments on Complaint Portal

On January 30, 2026, the CFPB published notice in the Federal Register announcing that it is seeking comments on its complaint intake form. The CFPB seeks comments on the following topics: (a) whether the collection of information is necessary for the proper performance of the functions of the CFPB, including whether the information will have practical utility; (b) the accuracy of the CFPB's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. The comment period is open through March 2, 2026.

Bite 9: AFSA Comments on CFPB Consumer Complaint Portal

On January 28, 2026, the American Financial Services Association ("AFSA") announced that it filed comments in connection with two CFPB proposals regarding its consumer complaint portal. Late last year, the CFPB published routine notices of existing information collections regarding its consumer complaint intake system company portal boarding form and its consumer response intake form. AFSA commented that the submissions in the complaint portal have little to no quality control, which forces creditors to spend resources responding to complaints that often have no basis in fact. AFSA also commented that the complaint portal has evolved into an alternative method for submitting disputes about credit reporting issues. AFSA requested that the CFPB refrain from publishing consumer complaint narratives since the CFPB is not required to publish them under law and publishing them can cause significant harms to creditors without providing corresponding benefits to consumers.

Bite 8: GAO Issues Report on CFPB's "Status of Reorganization Efforts"

On February 9, 2026, the Government Accountability Office ("GAO") released a 31-page initial report on the CFPB's "Status of Reorganization Efforts" in response to a request from members of Congress, including Senator Elizabeth Warren and Representative Maxine Waters. Mark Paoletta, the CFPB's chief legal officer, told the GAO that its report was "full of biased and incomplete information." The report

focuses on the CFPB's downsizing efforts and it appears that there will be a future report on the effects of the agency's actions. The GAO report included several timelines of significant events over the past year, including the attempted firing of 88% of the CFPB's staff, temporarily closing the CFPB headquarters, terminating all regional office leases, the rescission of more than 70 actions, and the CFPB dropping half of its enforcement actions.

Bite 7: FTC Takes Final Action Regarding Three Recent Rules

On February 12, 2026, the FTC took final action to conform three of its recent rules as a result of some recent court decisions. First, the FTC revised its "Rule Concerning Recurring Subscriptions and Other Negative Option Programs" (the "Negative Option Rule") to recodify the text as it existed before the effective date of the FTC's 2024 final rule amending it. After the 2024 Negative Option Rule was published, businesses and industry groups asked four Federal circuit courts to review the Negative Option Rule. The multidistrict litigation was consolidated into the 8th Circuit, and the court held that the FTC's failure to issue a preliminary regulatory analysis was "procedurally insufficient" and vacated the 2024 Rule. Secondly, the FTC withdrew its final rule "Combating Auto Retail Scams Trade Regulation Rule" (the "CARS Rule"). On January 27, 2025, the Fifth Circuit held that the FTC violated its own regulations when it failed to issue an Advance Notice of Proposed Rulemaking ("ANPRM") for the CARS Rule and vacated the Rule. Lastly, the FTC removed its "Non-Compete Clause Rule" (the "Non-Compete Rule") from the Code of Federal Regulations. After the Non-Compete Rule was issued, several employers and trade groups filed lawsuits arguing that the FTC did not have statutory authority to issue the Rule, the Rule violated the major questions doctrine, and the Rule was unlawfully retroactive.

Bite 6: State AGs Move for Partial Summary Judgment Against CFPB and FRB

On February 21, 2026, a group of 22 attorneys general filed a motion for partial summary judgment in their case against the CFPB and the Federal Reserve ("FRB"). The Attorneys General filed the lawsuit alleging that the determination that the CFPB will not request funding from the FRB unless it's "profitable" is unconstitutional and violates the Administrative Procedures Act. The AGs sought declaratory and injunctive relief arguing that Acting Director Vought acted unlawfully in determining that he cannot request funds from the FRB when the FRB's interest expenses exceed its outcome; and deciding not to request funds from the FRB for fiscal year 2026. The states asked the court to vacate the challenged decisions, compel the CFPB to request the required funding, and issue a permanent injunction to prevent ongoing harm to the consumer-protection framework.

Bite 5: California AG Announces Investigative Sweep on Surveillance Pricing

On January 27, 2026, the California Attorney General announced an investigative sweep focused on businesses' use of consumers' personal information to set targeted, personalized prices for products and service (a practice known as surveillance pricing). The AG stated that surveillance "pricing practices may trigger obligations under and even violate the California Consumer Privacy Act (CCPA)." As part of the sweep, the California Department of Justice is sending letters to businesses with significant online presence in the retail, grocery, and hotel sectors, requesting information regarding how businesses use consumers' shopping and internet browsing history, location, demographics, inferential, or other data to set the prices of goods and services. The letters request information including: (a) companies' use of consumer personal information to set prices; (b) policies and public disclosures regarding personalized pricing; (c) any pricing experiments undertaken by companies; and (d) measures companies are taking to comply with algorithmic pricing, competition, and civil rights laws. The California AG said that

practices "like surveillance pricing may undermine consumer trust, unfairly raise prices, and when conducted without proper disclosure or beyond reasonable expectations, may violate California law."

Bite 4: FTC Sends Warning Letters to Data Brokers

On February 9, 2026, the FTC announced that it sent letters to thirteen data brokers, warning them of their responsibility to comply with the Protecting Americans' Data from Foreign Adversaries Act of 2024 ("PADFAA"). PADFAA prohibits data brokers from selling, releasing, disclosing, or providing access to personally identifiable sensitive data about Americans to any foreign adversary, which include North Korea, China, Russia, Iran, or any entity controlled by these countries. The letters warn the data brokers that the agency has identified instances in which some of the recipients have "offered solutions and insights involving the status of an individual as a member of the Armed Forces. Such information is subject to PADFAA's requirements." The letters warn the companies to conduct a comprehensive review of their business practices to ensure compliance with PADFAA and note that a violation may result in enforcement by the FTC, which includes civil penalties of up to \$53,088 per violation.

Bite 3: FTC Announces New Rulemakings

On January 30, 2026, the FTC submitted a draft ANPRM on the agency's Rule Concerning the Use of Prenotification Negative Option Plans ("Negative Option Rule") and a draft ANPRM on fees in the rental housing market. The FTC submitted the draft rules to the Office of Information and Regulatory Affairs ("OIRA") within the Office of Management and Budget for its review since they qualify as significant regulatory actions. Once the OIRA completes its review, the FTC will publish the ANPRMs in the Federal Register and the public can submit comments on the proposals. The Commission vote approving the planned ANPRM submission to OIRA review was 2-0 for both ANPRMs. On the proposed rental housing fee rule, FTC Chairman Ferguson said that the FTC "will be soliciting public comment on the need for a new rule to prevent the imposition of deceptive or unfair fees on renters seeking long-term housing options."

Bite 2: Senate Report Finds CFPB Cost Consumers \$19 Billion

On February 9, 2026, the Senate Committee on Banking, Housing, and Urban Affairs Minority Staff released a new report analyzing the purported cost of the Trump Administration's efforts to shutter the CFPB on consumers. The report calculates that over the past year, the efforts have cost consumers \$19 billion. The staff calculated the number by analyzing documents from the CFPB, reports from other federal agencies, and publicly available data. The report broke down the purported costs to consumers into four major categories. First, the report estimated that at least \$3.5 billion was lost from dismissed enforcement actions. The administration dismissed at least 22 enforcement actions. The report only calculated the enforcement actions with decided monetary amounts. Second, the report estimated that the efforts cost \$225 million to consumers in non-distributed payments. According to the report, the administration dropped, reduced, or failed to distribute payments from 23 settlements or consent orders against companies. Third, the report estimated that \$15 million came from rescinded rules and guidance. According to the report, the administration, working with Republicans in Congress, rescinded CFPB rules and guidance that could have saved consumers up to \$15 million in overdraft fees and credit card late fees. Fourth, the report estimated that changes to the consumer complaint program cost consumers \$40 million in direct consumer relief.

Bite 1: The DOJ and Texas Settle with Private Land Developer

On February 10, 2026, the DOJ and Texas Attorney General's Office [filed](#) a settlement agreement and joint motion to dismiss claims against a Houston-based developer and its affiliates. The initial lawsuit brought by the CFPB, DOJ, and Texas AG during the Biden Administration focused on alleged discriminatory practices and high foreclosure rates. Under the Trump Administration, the DOJ and Texas shifted focus alleging that the company marketed easy financing to Hispanic consumers without requesting any documentation or determining their ability to repay the loan, and that the company made misrepresentations about utility access and flood risks. The settlement requires the developers to pay \$48 million to improve infrastructure, including \$18 million for improvements and maintenance to reduce and prevent flooding. The settlement also requires the developer to pay \$20 million to fund at least two police officers, build a law enforcement facility, and create a "peace officer" residency program. None of the money appears to go directly to borrowers.

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