CFPB Bites of the Month – January Top 10

January 24th, 2022 | 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" for the prior month covered during the December 15 webinar.

So, what happened at the CFPB in the past month?

Bite #10 – The CFPB called tech workers to act as whistleblowers.

The CFPB announced that it wants whistleblowers to report misconduct to the agency. After starting to collect whistleblower complaints 10 years ago, the CFPB has redesigned the whistleblower web page to include additional information about submitting information, the process once information is submitted, and the information sought by the CFPB. The CFPB welcomed information from current or former employees, contractors, vendors, and competitor companies.

Bite #9 – The CFPB opened an inquiry into "Buy Now, Pay Later" transactions.

The CFPB issued orders to five companies offering "buy now, pay later" (BNPL) transactions to collect information on the risks and benefits of these transactions. BNPL providers have touted their services as a safer and more widely available alternative to credit-card debt. The CFPB expressed concern about consumers accumulating debt, regulatory arbitrage, and data harvesting. As part of the CFPB's inquiry, the agency is working with other regulators in the U.S., plus international partners in Australia, Sweden, Germany, and the UK. The CFPB indicated it may ultimately publish insights learned from this inquiry.

Bite #8 – The CFPB took action against a structured settlement lender.

The CFPB took action against a structured settlement company and two executives for allegedly steering consumers to receive advice from an attorney they promised would be "independent," but actually received payment from the company. The attorney allegedly advised consumers that the transactions required very little scrutiny. Under a proposed order, the company and the two executives will pay $40,000 in disgorgement and a $10,000 civil penalty, and be banned from making certain referrals. The CFPB's action will make the company's alleged victims eligible to gain financial relief through the CFPB's Civil Penalty Fund.

Bite #7 – The CFPB and DOJ put landlords and mortgage servicers on notice about servicemembers' and veterans' rights.

The CFPB sent letters to landlords and mortgage companies about servicemembers' and veterans' rights. The letters reminded the recipients about important housing protections, inaccurate credit reporting, misleading communications to borrowers, and reinstatements.

Bite #6 – The CFPB shuttered lending by a small-dollar lender for violating an agency order.

The CFPB announced that a small-dollar lender agreed to stop lending and stop collecting on certain loans, plus pay a penalty. The action resulted from a September 2021 lawsuit alleging illegal and deceptive marketing and violating a 2016 CFPB order. The company allegedly also violated fair lending regulations and the Military Lending Act. The CFPB's Proposed Order prohibits the lender from making new loans, collecting on outstanding loans to harmed consumers, selling consumer information, and making or aiding in making misrepresentations. The proposed order would also impose a $100,000 civil money penalty based on the company's demonstrated inability to pay.

Bite #5 – The CFPB released a report addressing consumer complaint responses at the big three credit bureaus.

A new analysis by the CFPB addressed changes in complaint responses provided by nationwide consumer reporting companies. According to the CFPB, the changes allegedly resulted in fewer meaningful responses and less consumer relief. CFPB data indicates that in 2021, the three credit bureaus reported relief in response to less than 2% of covered complaints, down from nearly 25% of covered complaints in 2019. The CFPB alleged the three companies often failed to provide substantive responses, especially when the complaints were sent by third parties. According to the CFPB, the credit bureaus relied heavily on templates for complaint responses instead of providing thorough responses to consumers. The CFPB also indicated that two of the credit bureaus stopped providing substantive responses to consumers' complaints sent by third parties. In some cases, two of the credit bureaus also allegedly failed to provide outcomes of their investigations to the CFPB.

Bite #4 – The CFPB sued a debt collection group, its affiliates, and its owners for illegal debt collection practices.

The CFPB sued a debt collection group, its affiliates, and its owners for alleged illegal debt collection practices, claiming they used unlawful and deceptive collection tactics. According to the CFPB, the collectors allegedly made false statements about lawsuits and credit reporting. Consumers made hundreds of complaints that the collectors were threatening arrest, jail, or lawsuits. Despite the complaints and internal compliance audits finding significant violations, the companies continued to use these third-party collectors. The CFPB is seeking monetary relief for consumers, disgorgement of unjust gains, injunctive relief, and a civil money penalty.

Bite #3 – The CFPB issued a bulletin to prevent unlawful medical debt collection and credit reporting.

The CFPB released a bulletin reminding debt collectors and credit bureaus of their legal obligations under the No Surprises Act, which protects consumers from certain unexpected medical bills. According to the bulletin, companies may face significant legal liability for attempting to collect on medical bills that are prohibited by the No Surprises Act, the Fair Debt Collection Practices Act (FDCPA), and the Fair Credit Reporting Act (FCRA). The CFPB will be investigating claims and taking action against companies that violate these laws.

Bite #2 – The CFPB published a Civil Penalty Inflation Adjustments Rule in the Federal Register.

The CFPB announced that it adjusted the maximum amount of each civil penalty within the CFPB's jurisdiction, due to inflation. The new penalty amounts apply to civil penalties assessed after January 15, 2022. The final rule can be found on the Federal Register website.

Bite #1 – The CFPB banned a payment processor and its former CEO for allegedly supporting telemarketing scammers.

TheCFPB banned a payment processor and its former CEO for allegedly supporting telemarketing scammers.The CFPB alleges that a payment processor and its founder knowingly assisted companies profiting from fraudulent antivirus software. Many of the targeted consumers were older adults unaware of the scams.

According to the CFPB, the payment processor continued to process the companies' payments despite numerous consumer complaints, inquiries from police departments, banks communicating concerns, and high return rates. Under a proposed order, the company and its founder will be required to pay a civil penalty of $500,000 and will be permanently barred from payment processing, consumer lending, deposit-taking, and financial-advisory services. They would also be permanently barred from engaging in debt collection and telemarketing activities with respect to consumer financial products or services. The company ceased operations in March 2019.

Still hungry?

Join us for our next CFPB Bites of the Month: Super CFPB on February 16. If you missed any of our 2021 Bites, request a replay on our website.