



CFPB Bites of the Month – October Top 10

October 30th, 2020 | [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 CFPB to be considered by financial services providers. In this first article in the series, we share our top “bites” covered during our monthly webinar. We hope you can take this article “to-go” and dive in for another bite later.

So what happened at the Consumer Financial Protection Bureau (CFPB) this month?

Bite #10 – Revised FAQs on marketing service agreements

The CFPB published guidance in the form of FAQs on the Real Estate Settlement Procedures Act (RESPA) Section 8 topics, which provides an overview of the provisions of RESPA Section 8 and Regulation X sections and addresses the application of certain provisions to common scenarios described in CFPB inquiries involving gifts and promotional activities, and marketing services agreements (MSAs). The CFPB also determined that Compliance Bulletin 2015-05 (RESPA Compliance and Marketing Services Agreements) did not provide the regulatory clarity needed on how to comply with RESPA and Regulation X and rescinded it. The rescission of the Bulletin does not mean that MSAs are *per se* or presumptively legal; whether a particular MSA violates RESPA Section 8 will depend on specific facts and circumstances, including the details of how the MSA is structured and implemented.

Bite #9 – Hosted a virtual town hall focusing on managing money during COVID-19

CFPB Director Kathleen Kraninger and Brandon Copeland, a pro-football linebacker and University of Pennsylvania Professor, hosted a virtual town hall to discuss how people can better manage their money during tough times. The event, titled “Pressure Creates Diamonds: Money Management During Coronavirus,” took place on Tuesday, Oct. 27, 2020. The virtual town hall featured discussions on managing and protecting your finances during difficult times, financial planning, and building savings. Director Kraninger and Mr. Copeland also discussed free resources available to help people facing financial difficulties due to the pandemic, including information on mortgage forbearance, economic impact payments, and student loans. Following the town hall discussion, participants had the opportunity to have their finance questions answered by Director Kraninger and Mr. Copeland. Resources can be found by following the links the CFPB provided, [here](#).

Bite #8 – Released assessment of TRID rule

The CFPB published an assessment of the Truth in Lending Act and Real Estate Settlement Procedures Act Integrated Disclosure Rule (TRID Rule). The assessment found that the TRID Rule

made progress towards several of its goals. The assessment indicates that the TRID Rule improved consumers' ability to locate key information, compare terms and costs between initial disclosures and final disclosures, and compare terms and costs across mortgage offers. The assessment also found that the TRID Rule resulted in sizeable implementation costs for companies.

Bite #7 – Issued policy statement on applications for early termination of administrative Consent Orders

The policy statement outlines the early termination application process for entities subject to a Consent Order and the standards that the CFPB intends to use when evaluating applications. CFPB staff will review applications and make recommendations to the Director about whether to terminate a Consent Order. Under the policy, the sole authority to terminate a Consent Order remains with the CFPB's Director and the termination decision is at his/her discretion.

Bite #6 – Issued report on college credit cards

The Credit Card Accountability, Responsibility, and Disclosure Act (CARD Act) requires credit card issuers to submit to the CFPB an annual report of information on their agreements with institutions of higher education, or certain organizations affiliated with such institutions. It also requires the CFPB to submit to Congress, and to make available to the public, an annual report that lists that information. The report found that in 2019 the number of total agreements in effect, as well as the number of accounts open under the agreements, continues a general trend of decline. Overall, between 2009 and 2019, the number of agreements in effect, year-end open accounts, and payments by issuers all declined by more than two-thirds. Agreements with alumni associations continue to represent the large majority of agreements, accounts, and payments by issuers.

Bite #5 – Settled with auto finance company

The CFPB issued a consent order with an auto finance company that services auto loans and leases, claiming that the company: wrongfully repossessed vehicles; kept personal property in consumers' repossessed vehicles until consumers paid a storage fee; deprived consumers paying by phone of the ability to select payment options with significantly lower fees; and, in its loan extension agreements, made a deceptive statement that appeared to limit consumers' bankruptcy protections. These actions allegedly violated the Consumer Financial Protection Act's (CFPA) prohibition against unfair and deceptive acts and practices. The company denies wrongdoing, but to settle the matter will provide up to \$1 million of cash redress to consumers subject to a wrongful repossession, credit any outstanding account charges associated with a wrongful repossession, and to pay a civil money penalty of \$4 million. The order also imposes certain requirements to prevent future violations and remediate consumers whose vehicles are wrongfully repossessed going forward.

Bite #4 – Settled with debt collectors and debt buyers

The CFPB settled with a company and its subsidiaries for violating a 2015 consent order for violations of the Consumer Financial Protection Act (CFPA), Fair Debt Collection Practices Act (FDCPA), and Fair Credit Reporting Act (FCRA). The CFPB alleged that the companies violated the consent order, the CFPA, and/or the FDCPA by:

- suing consumers without possessing required documentation;
- using law firms and an internal legal department to engage in collection efforts without providing

- required disclosures;
- failing to provide consumers with required loan documentation after consumers requested it;
 - attempting to collect on debts for which the statutes of limitations had run without providing required disclosures;
 - suing consumers to collect debts even though the statutes of limitations had run on those debts;
- and
- failing to disclose possible international-transaction fees to consumers, thereby effectively denying consumers an opportunity to make informed choices of their preferred payment methods.

The companies will pay \$79,308.81 in redress to consumers and a \$15 million civil money penalty. The companies must also make various material disclosures to consumers, refrain from the collection of time-barred debt absent certain disclosures to consumers and abide by certain conduct provisions in the 2015 consent order for five more years.

Bite #3 – Issued final rule on GSE Patch

The CFPB issued a final rule to extend the Government-Sponsored Enterprise (GSE) Patch until the mandatory compliance date of a final rule amending the General Qualified Mortgage (QM) loan definition in Regulation Z. The GSE Patch was scheduled to expire on January 10, 2021. In 2013, the CFPB issued the Ability-to-Repay/Qualified Mortgage (ATR/QM) rule, which established a general QM standard for loans where the consumer’s debt-to-income (DTI) ratio is 43% or less and that meet various other requirements. The ATR/QM Rule also created the GSE Patch as a temporary QM definition. The GSE Patch provides QM status to certain mortgage loans eligible for purchase or guarantee by either of the GSEs. GSE Patch loans are eligible for QM status even if the DTI ratio exceeds 43%. The CFPB is not amending the provision in Regulation Z stating that the GSE Patch will expire if the GSEs (Fannie Mae and Freddie Mac) exit conservatorship.

Bite #2 – Settled with auto-lender

The CFPB settled with an auto-loan servicer to resolve allegations of unfair practices related to a loss damage waiver (LDW) product. The order requires the servicer to pay over \$1.3 million in consumer redress to approximately 4,000 harmed consumers and a \$100,000 civil money penalty. The order also prohibits the servicer from failing to provide consumers with LDW coverage or similar products or services for which it has charged consumers. It also prohibits charging consumers fees that are not authorized by its LDW contracts.

Bite #1 – Announced nationwide debt collection crackdown

The CFPB, along with the FTC and more than 50 federal and state law enforcement partners, announced “Operation Corrupt Collector,” a nationwide law enforcement and outreach initiative to protect consumers from phantom debt collection and abusive and threatening debt collection practices. In addition to law enforcement actions, state and local consumer protection agencies are joining the FTC in rolling out new information to help consumers know their rights when it comes to debt collection and what steps to take if they receive a call trying to collect on a debt that they do not recognize.

Tune in each month for our [CFPB Bites of the Month webinars](#) and keep an eye out for the Top 10 roundups that follow.