



Consumer Financial Services Bites of the Month – “The CFPB in the End of May”

June 10th, 2025 | [Eric L. Johnson](#), [Justin B. Hosie](#) and [Kristen Yarows](#)

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In this month’s article, we share some of our top “bites” covered during the May 2025 webinar.

Bite 19: Study Releases Data on the CFPB’s Complaint Database

On May 7, 2025, authors from SMU’s Cox School of Business and Arizona State’s W.P. Carey School of Business [published](#) a paper addressing the CFPB’s consumer complaint portal and restitution. The paper analyzed nearly two million consumer complaints filed on the CFPB’s complaint portal since 2014. The authors concluded that the complaints led to an average payout of \$1,470 per successful complaint. In the study, the authors found that product complexity and consumer engagement play key roles in the amount of restitution. The authors concluded that consumers with higher income and education are more likely to explicitly request refunds, claim fraud, and submit supporting documentation, making companies more responsive. The authors looked to previously unexamined CFPB monitoring reviews, in which the CFPB systematically screened company responses and issued confidential reports highlighting deficiencies. The research showed that regulatory scrutiny increases restitution, but it disproportionately benefits consumers with higher income and education.

Bite 18: FTC Delays Implementation of Click to Cancel Rule for 60 Days

On May 9, 2025, it was [announced](#) that the FTC is delaying implementation of its “click-to-cancel” rule that will require sellers to make it as easy for consumers to cancel their enrollment as it was to sign up. The FTC finalized the rule in October 2024, and it was set to go into effect on May 14th. The FTC announced that it will begin enforcing it on July 14th. The rule will provide a consistent legal framework by prohibiting sellers from: (1) misrepresenting any material fact made while marketing goods or services with a negative option feature; (2) failing to clearly and conspicuously disclose material terms prior to obtaining a consumer’s billing information in connection with a negative option feature; (3) failing to obtain a consumer’s express informed consent to the negative option feature before charging the consumer; and (4) failing to provide a simple mechanism to cancel the negative option feature and immediately halt charges. An industry group representing cable and internet providers filed a lawsuit in October 2024 to block the rule.

Bite 17: CFPB Withdraws Regulation E Guidance in Litigation

A few weeks ago, the CFPB [filed](#) a motion to withdraw its statement of interest in a lawsuit

involving application of the Electronic Funds Transfer Act and Regulation E to wire transfers. For background, last year the prior CFPB had filed a Statement of Interest in that suit against a bank. The statement of interest claimed that online initiated wire transfers may be covered by the EFTA and Regulation E when they are consumer facing transfers, rather than bank to bank transfers. In filing this motion to withdraw the Statement of Interest, the new CFPB reversed course. According to the new administration, the prior interpretation was not supported by case law and the CFPB's longstanding position. The new administration also noted that procedurally, the new interpretation did not involve notice and comment process under the Administrative Procedures Act.

Bite 16: FTC Rule on Unfair or Deceptive Fees to Take Effect

On May 5, 2025, the FTC [announced](#) that its rule on unfair and deceptive fees would be going into effect on May 12. The rule focuses on businesses selling live-event tickets and short-term lodging. The FTC has published FAQs to provide guidance on what types of businesses are covered by the rule, its requirements, mandatory fees or charges that must be included in the total price, how businesses can disclose pricing information clearly and conspicuously, and examples of misrepresentations that may violate the rule. The FAQs serve as the small entity compliance guide under the Small Business Enforcement Fairness Act and the FTC has indicated represents the staff's view of the rule's requirements. The rule requires the total price to be disclosed up front and allows for some charges to be excluded from the total price (such as taxes, shipping, and charges for optional goods and services) as long as it discloses them before asking for payment. The rule requires the business to display the total price prominently. The FTC described the rule as furthering President Trump's Executive Order on Combating Unfair Practices in the Live Entertainment Market, that he issued in March 2025, by ensuring price transparency during the live-event ticket-purchase process.

Bite 15: CFPB Announces it Won't Prioritize BNPL Enforcement

On May 6, 2025, the CFPB [announced](#) that it will not prioritize enforcement actions taken on the basis of its Buy Now, Pay Later interpretive rule. The CFPB wrote that it will, "instead keep its enforcement and supervision resources focused on pressing threats to consumers, particularly servicemen and veterans." The CFPB also wrote that it is considering taking appropriate action to rescind the Buy Now, Pay Later rule. The interpretive rule was issued in May 2024 and became effective July 30, 2024. The interpretive rule laid out the prior CFPB's view that Buy Now, Pay Later, pay-later firms qualified as credit card providers under the Truth in Lending Act. Based on the interpretive rule, many Buy Now, Pay Later providers would be subject to many of Regulation Z's open-end credit provisions. On March 26, 2025, the CFPB disclosed its decision to rescind the guidance in a joint status report filed in litigation over the interpretative rule.

Bite 14: CFPB Rescinds Procedure for Supervisory Designation Proceedings

On May 13, 2025, the CFPB [published](#) its proposal to rescind 2022 and 2024 amendments to its procedures for supervisory designation proceedings. The rules made changes to the CFPB's procedures for designating nonbank covered persons for supervision when the CFPB determines that the company poses risks for consumers and allowed for public release of the final decisions and orders. Under the procedures, if the company consented to supervisory designation, the CFPB did not publish an order or decision. However, if a company contested the supervisory designation, that choice could result in a public order. The Federal Register notice included that this "procedural disparity may put inappropriate pressure on entities to consent to designation, even when they have

good arguments that designation is unwarranted.” The CFPB is seeking comments on its proposal to rescind the rules in full.

Bite 13: CFPB Withdraws Interpretive Rule and Three Proposed Rules

On May 15, 2025, the CFPB announced that it plans to rescind three proposed rules and one interpretive rule that were published during the Biden administration. The CFPB [published](#) an interpretive rule indicating that it is rescinding its May 2022 interpretive rule regarding the scope of state enforcement under the CFPA. The CFPB also announced that it is rescinding three proposed rules. [First](#), is the proposed interpretive rule that was intended to assist companies, investors, and other market participants evaluating existing statutory and regulatory requirements governing electronic fund transfers. [Second](#), is a proposed rule that would have prohibited certain contractual provisions in agreements for consumer financial products or services. The CFPB wrote in the Federal Register notice that the proposed rule is largely duplicative of the FTC’s Credit Practices Rule. [Third](#), is the proposed rule that sought to treat data brokers as consumer reporting agencies under the Fair Credit Reporting Act.

Bite 12: President Trump Signs Repeal of Overdraft and Digital Payment Rules

On May 9, 2025, President Trump [signed](#) a repeal of overdraft and digital payment rules pursuant to the Congressional Review Act. Congress passed the measures under the CRA, allowing the administration and Congress to repeal rules finalized at the end of a previous administration. The overdraft rule would have generally required banks and credit unions with at least \$10 billion in assets to cap fees at \$5 when customers overdraw their accounts. The digital payment oversight rule would have allowed CFPB examiners to determine whether digital payment providers processing at least 50 million transactions each year complied with federal consumer protection laws. Both rules were the subject of ongoing litigation by trade groups.

Bite 11: House Committee Votes to Reduce CFPB Funding

On April 30, 2025, the House financial services committee [voted](#) to reduce the amount of annual funding allocated to the CFPB by more than half. The CFPB’s funding comes directly from the Federal Reserve based on a request from the CFPB’s director. Currently, annual transfers to the CFPB may not exceed an amount equal to 12% of the Fed’s operating budget, and the budget resolution would reduce that amount to 5%. The committee voted largely along party lines, and the vote was part of a larger budget resolution package under consideration by Congress. The resolution also included provisions to eliminate the Public Company Accounting Oversight Board and transfer its duties to the SEC, and eliminate the HUD’s Green and Resilient Program for multifamily housing.

Bite 10: 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.

Bite 9: CFPB Withdraws from Lawsuit Against Indirect Auto Company

On April 24, 2025, the CFPB [filed](#) a motion to withdraw from a lawsuit it brought with the New York Office of the Attorney General against an indirect auto company. The CFPB and New York Office of the Attorney General sued the indirect auto company in January 2023. If the CFPB's unopposed motion to withdraw from the lawsuit is granted, the New York AG would be the only remaining plaintiff. The complaint alleged that the company hid the true cost of credit and incentivized dealerships to manipulate the prices of vehicles sold through their business model. The complaint also alleged that the company set up consumers to fail by providing credit without regard to whether consumers could afford to pay them. The company previously filed a motion to dismiss that is currently pending before the court. The motion to dismiss argued that the lawsuit seeks to create new law through litigation and asserts legal theories that conflict with established statutes.

Bite 8: CFPB Dismisses its Lawsuit Against Large Retail Corporation

On May 13, 2025, the CFPB [announced](#) that it was dismissing its lawsuit against a large retailer, which it had sued along with a fintech, over its delivery driver program. The CFPB had initiated the lawsuit in December of 2024, alleging that the retailer forced its delivery drivers to use costly deposit accounts to get paid and deceived the drivers about how they could access their earnings, alleging violations of the CFPA, Truth in Savings Act, Regulation DD, the Electronic Funds Transfer Act, and Regulation E. The notice requested that the case be dismissed with prejudice.

Bite 7: CFPB Amends Consent Order with Remittance Company

On May 15, 2025, the CFPB [announced](#) it had amended a consent order with a remittance company, significantly reducing the Company's fine. Back in January of 2025, the CFPB entered into a consent order with an international remittance company over claims that it allegedly advertised inaccurate fees and failed to disclose exchange rates and other costs. The January 2025 consent order required the company to: (1) pay approximately \$450,000 to allegedly harmed consumers to resolve claims, including that the company's prepaid card violations resulted in at least 16,000 consumers being overcharged; and (2) pay a \$2.025 million fine. On May 15, the CFPB amended the consent order that lowers the company's fine to \$45,000. The May 15 amended consent order supersedes the previous one.

Bite 6: CFPB Withdraws from Lawsuit Against Indirect Auto Company

On April 23, 2025, the CFPB voluntarily [dismissed](#) its lawsuit against a company and its owner over its membership card. The prior CFPB had filed the lawsuit in September of 2024, alleging that the company charged high membership fees for its membership card and failed to inform consumers about the membership card's limitations, including that it could only be used to purchase goods from the company's online store. In the lawsuit, the CFPB alleged that 93% of these consumers never used any of the company's products but accounted for over \$45 million in fees. The lawsuit alleged violations of the Consumer Financial Protection Act and the Truth in Lending Act. The CFPB voluntarily dismissed the lawsuit with prejudice and did not provide a reason for the dismissal. Judge Robert J. Colville signed the dismissal on the same day.

Bite 5: New York AG Takes Action Against Two Earned Wage Access Companies for Alleged Payday Loans

On April 14, 2025, the New York Attorney General [sued](#) two earned wage access companies, alleging they make payday loans, use deceptive advertising, and that their charges are usurious interest. The New York Attorney General alleges that one company advertised interest-free advances and financial benefits, while collecting fees on approximately 90% of its transactions. The New York Attorney General alleges that one of the companies asks for tips on top of its fees and sets an artificial limit of \$100 per transaction, forcing workers to take out repeat transactions and pay additional fees to receive the \$500 that the company promises in its advertisements. The New York Attorney general alleges that the other company contractually requires employers to send their workers' paycheck directly to the company, in violation of New York's prohibition on wage assignment. The lawsuits alleges violations of New York law as well as deceptive and abusive conduct in violation of the Consumer Financial Protection Act. The lawsuits seek to end both companies' practices in New York, obtain restitution, and impose civil penalties and costs.

Bite 4: New York AG Takes Action Against Bank

In February, the CFPB dropped its lawsuit against a large bank for allegedly deceiving consumers about the interest rates on their savings accounts. On May 14, the New York Office of Attorney General [filed](#) a similar lawsuit against the bank. The complaint alleged that the bank promised depositors one of the country's highest interest rates on their savings accounts, but froze their rate at just 0.30% even as interest rates rose nationally. The lawsuit also alleged that the bank kept depositors in the dark when it launched new savings accounts that had interest rates of up to 4.35%. A representative for the bank released a statement that it disagrees "with the attorney general's claims and will vigorously defend" itself in court. The New York Attorney General, Letitia James, said the lawsuit seeks to ensure that the bank "does not escape accountability" after the CFPB dropped its case.

Bite 3: CFPB Terminates Consent Order with Auto Indirect Company

On May 12, 2025, the CFPB [terminated](#) a consent order that it entered into in 2023 with an auto indirect company. Under the order, the company was required to pay \$12 million penalty, provide \$48 million in consumer redress, stop its alleged unlawful practices, and stop incentive-based employee compensation or performance measurements in relation to add-on products. The CFPB alleged that the company made it unreasonably difficult for consumers to cancel unwanted add-on products, failed to provide refunds for unearned GAP and Credit Life and Accidental Health premiums when consumers paid off their transactions early, and failed to provide accurate refunds to consumers who canceled their vehicle service agreements. The consent order was supposed to remain in place for at least five years for compliance monitoring. The termination of the consent order waived any alleged non-compliance with the order. The CFPB did not say how much the company has paid in consumer redress. The termination did not give a reason and was signed by Acting Director Russell Vought.

Bite 2: Trump Signals Dropping McKernan's Nomination for CFPB Director

On May 9, 2025, the Secretary of the Treasury Scott Bessent [announced](#) President Trump's intent to nominate Jonathan McKernan to serve as the Undersecretary of Domestic Finance at the U.S. Department of the Treasury. McKernan has been awaiting Senate confirmation for the CFPB director position since March. McKernan's nomination for CFPB director was approved by the committee but had not yet been taken up by the full Senate. A White House representative reported to the New York Times that President Trump intends to rescind McKernan's nomination for CFPB

Director and instead have McKernan fill the treasury role. The Treasury's press release noted that McKernan has been an advisory at the Treasury Department while awaiting Senate confirmation to become CFPB director. The press release also said that, "McKernan has become an integral part of the Secretary's senior team" during the past few months while he's been awaiting Senate confirmation to become CFPB director.

Bite 1: CFPB Withdraws 67 Guidance Documents

On May 9, 2025, the CFPB [published](#) its withdrawal of 67 guidance documents in the Federal Register. Those guidance documents date way back to 2011, when the CFPB was in its infancy. This included: (a) 8 Policy Statements such as the 2023 Statement of Policy regarding Abusive Acts or Practices and others; (b) 7 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) 13 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) 39 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 67 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." According to the CFPB, leaving guidance documents in place during this review "risks imposing unnecessary and illegal compliance burdens in the interim." Note however that based on the Supreme Court's *Loper Bright* decision in 2024, courts could use their independent judgment in interpreting ambiguous statutes, and could adopt logic substantially similar to withdrawn guidance. The CFPB also issued a notice of proposed rulemaking, which proposes to rescind the amendments to its Rules of Practice for Adjudication Proceedings that the CFPB adopted in February 2022 and March 2023. The CFPB wrote that it has particular concerns about the provisions in the 2022 and 2023 amendments that transferred authority to decide dispositive motions from the hearing officer who is presiding over the proceeding (typically an Administrative Law Judge) to the Director.

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