

CFPB Bites of the Month - September Top 10: Happy Fall Y'all

September 30, 2022 | [Eric L. Johnson](#) and [Justin B. Hosie](#)

In this month's Top 10 article, we share some of our top "bites" for the prior month covered during the September 21, 2022 webinar.

So, what happened last month?

Extra Bite: CFPB comments on loan cancellation related to a for-profit college

On August 16th, Director Chopra made [remarks](#) about consumers allegedly defrauded by a now-closed college. Director Chopra commented that they are extremely pleased that the Department of Education and its Office of Federal Student Aid have taken the legal steps to cancel loans of those allegedly. He also said that the CFPB plans to continue to look into private loans pushed directly by schools -- to ensure that schools are not "strong arming" their students with illegal practices.

Bite #10: CFPB study addresses "Buy Now, Pay Later" transactions

On September 15th, the CFPB released a [report](#) regarding the Buy Here, Pay Here industry. The report, "Buy Now, Pay Later: Market trends and consumer impacts," cautioned that consumers "may receive uneven disclosures and protections." Director Chopra commented that "Buy Now, Pay Later is a rapidly growing type of loan that serves as a close substitute for credit cards," and that the CFPB "will be working to ensure that borrowers have similar protections, regardless of whether they use a credit card or a Buy Now, Pay Later loan." The CFPB also indicated that it will use interpretive guidance or rules to mandate BNPL providers comply with "many of the baseline protections" that Congress has established for credit cards. To reduced the risk of "overextension," the CFPB indicated that it will continue to address "appropriate and accurate credit reporting practices."

Bite #9: CFPB and Centers for Medicare and Medicaid Services address nursing home practices

On September 8th, the CFPB and the Centers for Medicare and Medicaid Services issued an [Issue Spotlight](#), [circular](#), and [joint letter](#) addressing requirements for nursing home admission and debt collection. The report noted that under the Nursing Home Reform Act, nursing care facilities may not require a third-party caregiver to personally guarantee payment as a condition of the resident's admission. It also noted that any attempts to collect debts from care givers may violate the Fair Debt Collection Practices Act and the Fair Credit Reporting Act.

Bite #8: CFPB issues a report on families living in rural areas

On September 1st, the CFPB issued its first [report](#), in a planned series of reports on families living in

rural areas. The report focused on 13 Appalachian states that the CFPB has labeled as "disproportionately rural." The report also indicated that "Appalachians" earn less than consumers in other rural areas and have higher rates of subprime credit. The CFPB indicated the report is meant to "start a conversation with stakeholders in the region" and that it would "monitor credit conditions" and use enforcement and other tools to "ensure" the market is fair, transparent, and competitive for rural Appalachians.

Bite #7: CFPB Annual Report reveals an end to the refinancing boom

On September 19th, the CFPB released its annual report on residential mortgage lending activity and trends. The report shows a shift from refinance loans in 2020 to home purchase loans in 2021, with a greater share of home purchase loans going to Asian, Black, and Hispanic white borrowers relative to the share of home purchase loans for non-Hispanic white borrowers. This year's analysis also included additional key findings of a decrease in mortgage lending institutions reporting HMDA data in 2021 and found that the increase in mortgage origination was driven by home purchase loans, as refinance loans fell.

Bite #6: CFPB Says furnishers have an obligation to investigate consumer disputes

On September 14th, the CFPB and FTC once again addressed furnishers' duty to investigate credit disputes. The two agencies jointly filed an amicus brief in the U.S. Court of Appeals for the Third Circuit noting that when a consumer submits a dispute to a credit reporting company and the dispute is passed along to the furnisher, the furnisher is required to investigate and report the results of its investigation back to the credit reporting company. The brief indicates that a furnisher can't avoid that obligation by claiming a dispute is "frivolous." Furnishers are required to inform consumers about additional information needed, rather than just ignoring potentially frivolous disputes.

Bite #5: CFPB unlikely to undertake consumer arbitration rulemaking in near future

On September 19th, Director Chopra appeared at a Public Justice event and discussed arbitration. According to media reports, Director Chopra indicated that the CFPB is considering options regarding arbitration, but that the Congressional Review Act prevents the CFPB from using its prior rulemaking to address the CFPB's concerns. In order to undertake new rulemaking, the CFPB would be required to conduct a new arbitration study, and Chopra suggested that undertaking new rulemaking on consumer arbitration appears unlikely at this time.

Bite #4: Republican Senators write to Director Chopra

In a September 12th letter to Director Chopra, 12 Republican Senators claimed the CFPB has abused its authority by using "name-and-shame tactics" to pressure companies into eliminating overdraft fees. Among various concerns, the Senators indicated the CFPB changed its rules so it can publish previously confidential information about financial institutions.

Bite #3: Consumer group and a bank trade association ask for more fintech regulation

On September 15th the Consumer Bankers Association and Center for Responsible Lending jointly petitioned the CFPB asking for a "larger participant rule" so that the CFPB could "schedule examinations" of organizations offering installment loans and lines of credit. The CRL and CBA called for rulemaking to cover fintech companies originating and servicing personal loans. In their joint letter the CRL and CBA

commented that fintechs and non-bank lenders making personal loans are not subject to regular oversight by the CFPB, which has "created an unlevel playing field and a large risk to consumers."

Bite #2: CFPB sends \$859,000 in payments to consumers for alleged harassment by a debt collector

On September 14th, the CFPB announced that more than 8,000 people will receive checks totaling over \$859,000 after allegedly being falsely threatened with legal action by a national debt collector. Checks are being sent by Rust Consulting, a class action and case settlement administrator. This distribution follows an April 2021 consent order against a debt collector and its former owner for allegedly violating both the Consumer Financial Protection Act and the Fair Debt Collection Practices Act. The consent order permanently banned both the collector and its owner from the debt collection business, plus ordered restitution and penalties.

Bite #1: CFPB issues payments for alleged victims of an auto loan payment company

On September 2nd, the CFPB also announced details about payments coming to consumers previously involved in certain auto loan payment transactions. In August 2022, the CFPB began mailing checks to eligible consumers who had previously enrolled in a program to accelerate their loan payments through an auto loan company. This distribution follows a November 2020 consent order against an auto loan payment company and its owner. The CFPB had alleged that the company misrepresented the amount consumers would save when using its payment platform, by not including the enrollment fee in the calculations presented to consumers. According to the CFPB, because of the enrollment fee, the program's costs ordinarily exceeded any savings. The CFPB also found that the company's advertising stated that they have helped hundreds of thousands of customers save millions of dollars in interest by participating in the program when they had no basis for making this claim. The CFPB ordered the company and its owner to pay \$9,300,000 in redress to more than 100,000 consumers. Checks for these payments are also being sent from class action and case settlement administrator, Rust Consulting.

Still Hungry?

Join us for our next CFPB Bites of the Month webinar: "Ghosts, Goblins & the Spooky CFPB on October 19th, 2022. If you missed any of our previous Bites, request a replay on our website.

Hudson Cook, LLP, provides articles, webinars and other content on its website from time to time provided both by attorneys with Hudson Cook, LLP, and by other outside authors, for information purposes only. Hudson Cook, LLP, does not warrant the accuracy or completeness of the content, and has no duty to correct or update information contained on its website. The views and opinions contained in the content provided on the Hudson Cook, LLP, website do not constitute the views and opinion of the firm. Such content does not constitute legal advice from such authors or from Hudson Cook, LLP. For legal advice on a matter, one should seek the advice of counsel.

SUBSCRIBE TO INSIGHTS

HUDSON COOK

Hudson Cook, LLP is a national law firm representing the financial services industry in compliance, privacy, litigation, regulatory and enforcement matters.

7037 Ridge Road, Suite 300, Hanover, Maryland 21076
410.684.3200

hudsoncook.com

© Hudson Cook, LLP. All rights reserved. Privacy Policy | Legal Notice
Attorney Advertising: Prior Results Do Not Guarantee a Similar Outcome

