CFPB Bites of the Month - May 2024 - CFPB: Light My Way, Virginia May

May 23, 2024 | Justin B. Hosie, Eric L. Johnson and Kristen Yarows

In this month's article, we share some of our top "bites" covered during the May 2024 webinar.

Bite 11: CFPB and Fed. Announce Inflation-Adjusted Dollar Amounts

On May 13, 2024, the CFPB and Federal Reserve Board ("FRB") jointly **announced** adjusted dollar amounts relating to the availability of customer funds. The inflation-adjusted changes in Regulation CC include for example the minimum amount of deposited funds that banks must make available for withdrawal for certain check deposits. In 2019, the CFPB and FRB finalized a rule that formally set a method for inflation adjustments which occur every five years. The agencies adjust the dollar thresholds based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The new thresholds are effective from July 1, 2025, for a five-year period.

Bite 10: CFPB Announces Decline in Overdraft Revenue

On April 24, 2024 the CFPB **published** a data spotlight on overdraft and non-sufficient funds (NSF) fee revenue and practices, analyzing the revenue these fees generated in 2023 and compared it to pre-pandemic levels and 2022. The CFPB reported that annual overdraft/NSF fee revenue has dropped by $6.1 billion since before the pandemic, a reduction of more than half, and claimed that the average household using overdrafts is paying $185 less in fees every year. The data spotlight also found that in 2023, overdraft/NSF fees were approximately $1.8 billion lower than in 2022, a decrease of 24%. Also, the CFPB claimed that financial institutions are generally not increasing other checking account fees to compensate for reduced overdraft/NSF revenue. The CFPB noted that banks appear to have stopped significantly reducing these fees, additional policy changes have slowed, and fee revenue remained flat across all four quarters of 2023 after five straight quarters of declining fees. The CFPB indicated that it will continue to focus on these fees.

Bite 9: CFPB Issues Data on Medical Bills on Credit Reports

On April 29, 2024, the CFPB **announced** that it issued an updated report on the state of medical collections on consumer credit records. Back in March 2022, the three nationwide credit reporting agencies voluntarily announced that they would no longer report certain medical collections on consumer reports. According to the CFPB's updated report, as of June 2023, the share of consumers with medical collections on their credit records decreased by approximately 5% and that's reportedly down from around 14% from March 2022. The collective amount in outstanding medical bills in collections fell from an estimated $88 billion in March 2022 to an estimated $49 billion in June 2023.

Bite 8: **CFPB Issues Report on Price Complexity**

On April 30, 2024, the CFPB **released** a report on price complexity.The report addressed the CFPB's research into how complex pricing options can impact consumer decision making.Participants in the experiments acted as buyers and sellers. The first experiment controlled how complex the sellers were allowed to make their prices, using one single number, up to eight sub-prices, and up to 16 sub-prices. The first experiment found that allowing more complex pricing resulted in buyers choosing a higher-priced offering, leading to higher overall average transaction prices. The second experiment investigated the effects of increased competition on market outcomes and it found that increased competition generally improved pricing, but did not entirely eliminate negative effects of price complexity. Overall, the CFPB found that more complex pricing led to worse outcomes for consumers such as higher sale and transaction prices.

Bite 7: **CFPB Publishes Analysis on Health Savings Accounts**

On May 1, 2024, the CFPB **issued** a report addressing the costs associated with health savings accounts ("HSAs"). HSAs are typically deposit accounts used along with high-deductible health insurance plans that provide tax benefits to consumers. The CFPB claimed that many HSAs have low interest rate yields and charge so-called "junk fees" to switch. The report indicated that over the past 10 years, the number of health savings accounts has grown from 11.8 million to 35 million accounts. According to the report, the amount of money in the accounts has grown to more than $116 billion, which is a 500% increase over the past decade. The CFPB's report noted that many accounts charge various fees, including monthly maintenance fees, paper statement fees, and exit fees like outbound transfer fees and account closure fees. The CFPB's report claims that most providers offer interest rates that are less than 1%. The CFPB claimed that these high costs and fees can erode any tax savings or benefits of having an HSA. Director Chopra released a related statement warning that the CFPB is "closely policing the intersection of health care and financial products."

Bite 6: **CFPB Issues Report on Credit Card Reward Programs**

On May 9, 2024, the CFPB **issued** a report addressing credit card reward programs noting that that they were the subject of numerous consumer complaints.The CFPB noted that it received over 1,200 complaints involving credit card rewards in 2023, which was more than a 70% increase over pre-pandemic levels. The report identified four themes underlying complaints that consumers did not receive promised rewards. First, consumers complained that the reward programs term and conditions did not match the marketing materials. Second, consumers complained that they lost benefits that they previously earned when providers devalued rewards. Third, consumers complained that they faced obstacles in receiving their preferred redemptions when companies failed to quickly resolve rewards-related issues. Fourth, consumers complained that they suddenly lost rewards when issuers unilaterally revoked previously earned balances.

Bite 5: **CFPB Issues New Spring 2024 Supervisory Highlights**

On April 24, 2024, the CFPB **released** its newest issue of the Supervisory Highlights. This issue focused on mortgage servicing.The CFPB's examiners indicated supervised mortgage servicers were charging illegal so-called "junk fees" among other violations, and that because homeowners cannot switch their mortgage service providers, the CFPB takes extra care to detect and deter violations of law. According to the CFPB, some servicers illegally charged or obscured prohibited fees, and charged homeowners fees during the pandemic that servicers should have waived. In addition, some servicers missed deadlines to pay property tax and home insurance, leading some borrowers to incur penalties. The CFPB also noted that some servicers deceived homeowners about their repayment options or the status of their accounts. In response to these findings, the CFPB indicated that mortgage servicers are taking corrective actions, including making changes to their practices and providing remediation for fee-related violations.

Bite 4: **CFPB Loses Appeal to Move Credit Card Fee Case**

On May 10, 2024 media outlets **reported** that Judge Pittman in the Northern District of Texas issued a preliminary injunction, ruling against the CFPB in the ongoing credit card fee litigation, staying the rulemaking indefinitely. Back in March of 2024, several organizations filed a lawsuit in the U.S. District Court for the Northern District of Texas challenging the CFPB's credit card late fee rule. The plaintiffs claimed that the new rule capping credit card late fees punishes customers who pay on time. The plaintiffs also asked the court to enjoin the CFPB from implementing the Final Rule which was granted. The CFPB argued that the venue in the Northern District of Texas is improper and asserted that the case should be moved to the U.S. District Court for the District of Columbia. The district court granted the CFPB's motion and ordered that the case be transferred to the U.S. District Court for the District of Columbia. On May 3, 2024, the Fifth Circuit denied the CFPB's petition reasoning that transferring the case while an appealable order was pending altered the status of the case as it rests before the Court of Appeals and therefore, the district court lacked jurisdiction to transfer the case.

Bite 3: **CFPB Takes Action Against Coding Boot Camp & CEO**

On April 17, 2024, the CFPB **announced** an action against a coding boot camp and its CEO, claiming the for profit school made false claims about job placement rates and the cost of "loans." The CFPB claims the school told students that the income share agreements they offered were not loans and that 86% of graduates received job offers. But, according to the CFPB, the income share agreements were loans and job placement rates ranged from 30-50%. The CFPB also alleges that the school failed to include a Holder Rule notice in its agreements that would've subjected the contract holder to claims the students had against the school. According to the CFPB, the school violated the federal ban on unfair, deceptive, or abusive acts or practices by using deceptive statements and taking unreasonable advantage of the students' reasonable reliance on the school to act in their interests. The school will pay $64,000 and the CEO will pay $100,000 to the CFPB's civil relief fund. In addition, the school must cease accepting certain payments and allow students to withdraw without penalty, and the order will amend the terms of the income share agreements.

Bite 2: **CFPB Takes Action Against Student Loan Securitization Company and Servicer**

On May 6, 2024, the CFPB **announced** that it issued an order against a student loan securitization company and servicer for allegedly failing to respond to borrowers seeking relief during the COVID-19 national emergency. The CFPB alleged that the companies violated the CFPA by failing to respond to borrowers' requests for information, failing to provide accurate information to borrowers, and incorrectly denying forbearance requests. The CFPB previously filed an enforcement action against the securitization company for allegedly bringing improper debt collection lawsuits for private student loan debt. The U.S. Court of Appeals for the Third Circuit ruled in March 2024 that the company is a covered person under the CFPA, and the case remains pending in federal court. The securitization company agreed to pay a $400,000 penalty and the servicer will pay a $1.75 million penalty. These penalties include the distribution of payments to borrowers who allegedly did not receive timely receive timely responses from the companies totaling nearly $3 million in redress.

Bite 1: **CFPB Takes Action Against Fintech Company**

On May 7, 2024, the CFPB **announced** an action claiming a fintech company withheld account closure refunds from consumers. The fintech company offers checking and savings accounts to consumers that are held by FDIC-insured partner banks. The CFPB issued an order against the fintech company for allegedly withholding account-closure refunds to its consumers beyond the 14-day window established in the company's agreements with account holders. The CFPB claimed that the alleged delays constituted an unfair act under the CFPA. Under the order, the fintech company will: pay $1.3 million in consumer redress to harmed consumers; pay a $3.25 million penalty into the civil relief fund; cease certain practices; and improve post-closure refund procedures.

Extra Bite: **CFPB Employees Got the Largest Raises in CFPB History**

On May 8, it was **reported** that the CFPB's labor union voted to ratify a pay agreement with CFPB leadership that governs bargaining unit employee compensation for the next three years (90.41% voted yes; 9.59% voted no). According to the labor union, CFPB employees "are getting the largest raises in the Bureau's history." As soon as administratively feasible in 2024, employees will get an increase in base pay of 5% - an increase to be completed within 4 months; plus, a bonus of 3% of their salary, plus $4,500. For 2025, employees will get a 4.8% raise, plus a bonus of 2% of their salary, plus $3,500, plus a 2% pay band adjustment. For 2026, employees will get an estimated 3.6% raise, plus a bonus of 2% of their salary, plus $3,000, plus a 2% pay band adjustment. Eligible employees will also receive an annual $1,000 "health and wellness" cash payment, plus an increased health insurance subsidy of up to $85 per pay period.

Still hungry? Please **join us** for our next CFPB Bites of the Month. If you missed any of our prior Bites, **request a replay** on our website.

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