

Consumer Financial Services Bites of the Month - March 19, 2025 - Melancholy March with the CFPB

March 31, 2025 | [Justin B. Hosie](#), [Eric L. Johnson](#) and [Kristen Yarows](#)

In this month's article, we share some of our top "bites" covered during the March 2025 webinar.

Bite 15: CFPB Extends Comment Period for Data Broker Rulemaking

On February 28, 2025, the CFPB extended the comment period for the Data Broker Rulemaking. The CFPB published its Notice of Proposed Rulemaking in the Federal Register on December 13, 2024. The CFPB requested comments on its proposal to amend Regulation V, which implements the Fair Credit Reporting Act ("FCRA"). The proposed rule would implement the FCRA's definitions of "consumer report" and "consumer reporting agency." It would also implement some of the FCRA's provisions governing when consumer reporting agencies can furnish, and when users can obtain, consumer reports. The comment period was originally set to expire on March 3, 2025, but the CFPB has extended the deadline until April 2, 2025, "to allow interested persons more time to consider and submit their comments."

Bite 14: CFPB Extends Comment Period for Identity Theft and Coerced Debt

On March 7, 2025, the CFPB extended the comment period for an Advance Notice of Proposed Rulemaking ("ANPR") that focuses on consumer protections against identity theft and coerced debt. The CFPB published the ANPR in December 2024, and the CFPB's press release said the rulemaking was meant to "address the harmful effects of inaccurate credit reporting affecting survivors of domestic violence, elder abuse, and other forms of financial abuse." The ANPR requested comments on the prevalence and extent of the harms to people with coerced debt, barriers to accessing existing protections under state or federal laws for survivors of economic abuse, and potential documentation or self-attestation requirements for showing that a person's debt was coerced. The comment period was set to end on March 7, 2025, but the CFPB extended the comment period until April 7, 2025, to allow interested persons more time to submit their comments.

Bite 13: CFPB Processes 80% Fewer Complaints Each Day

On February 25, 2025, a report issued by the minority staff of the U.S. Senate Committee on Banking, Housing, and Urban Affairs addressed processing of CFPB consumer

complaints. According to the report, the CFPB processed 80% fewer consumer complaints after the new administration initiated a stop work order on February 13, 2025. The report compared the number of complaints processed daily during the last three months of the Biden Administration with the daily average since February 13th. Committee ranking member Senator Elizabeth Warren said, that since "the CFPB is processing 80% fewer complaints . . . Thousands of Americans every day are not getting the help they need." Senator Warren and Senator Andy Kim wrote to CFPB Acting Director Vought to ask whether the CFPB still has the staff as well as the financial, technological, and other resources necessary to keep the complaint program operational.

Bite 12: 23 State AGs File Amicus Brief Supporting the CFPB

On February 21, 2025, twenty-three state attorneys general filed an amicus brief in support of the Mayor and City Council of Baltimore's motion for a preliminary injunction to prevent CFPB Acting Director Vought from taking steps that would "dismantle" the CFPB. In the brief, the AGs argue that the "actions to effectively shutter the CFPB go well beyond the normal shift in enforcement priorities that accompanies any change in presidential administration—they amount to a total dereliction of *all* mandatory statutory duties." The AGs argue that: (1) the CFPB has been providing statutorily mandated services that benefit the States' residents and support for the States' own enforcement efforts, (2) States have benefited from the CFPB's supervision of compliance with consumer-protection laws by very large banks, and (3) many States have benefited as well as from the CFPB's collaboration in a number of areas of joint supervision and enforcement. The AGs claim that the sudden withdrawal of these statutorily mandated services, supervision and collaborative assistance will inflict immediate harm on States and their residents. The AGs also argue that state-chartered banks will be unfairly disadvantaged by the CFPB's dormancy because there would be no federal regulator to examine the largest banks for their compliance with consumer financial protection laws and that the large banks may loosen their regulatory compliance.

Bite 11: State Attorneys General File Second Amicus Brief

On February 21, 2025, the same 23 state attorneys general filed another amicus brief in the National Treasury Employees Union's lawsuit against CFPB Acting Director Russell Vought. The amicus brief was substantially similar to the amicus brief that the state AGs filed in the City of Baltimore lawsuit. The amicus brief argued that the states will suffer irreparable harm if the CFPB is defunded. This brief expanded on the states' argument that state-charted banks will be unfairly disadvantaged if the CFPB stops supervising large banks. The brief argued that the other federal regulators are not positioned to "pick up the slack" of the CFPB. This second amicus brief also added in references to Minnesota, California, and North Carolina partnering with the CFPB to shut down a so-called student-loan debt relief scheme. The brief also added in a reference to Colorado's joint effort with the CFPB to conduct exams of student-loan servicers.

Bite 10: California Introduces its Own Version of the FTC's CARS Act

On February 21, 2025, Democratic Senator Benjamin Allen introduced Senate Bill 766, known as the California Combating Auto Retail Scams Act or the California CARS Act. The

California CARS Act has many similarities to the FTC's CARS Rule that was vacated on procedural grounds by a Fifth Circuit decision. The California CARS Act prohibits the following misrepresentations about material information: (1) the costs or terms of the financing, purchasing, or leasing of a vehicle; (2) the costs or benefit of any add-on product; (3) whether the transaction is a purchase or a lease; (4) and the availability of vehicles at an advertised price. The California CARS Act also prohibits dealers from charging for add-on products or services that don't benefit the consumer and requires that the dealers make clear and conspicuous disclosures. Dealers are required to provide consumers with a 10-day right to cancel the purchase or lease and the dealers must retain their records for 7 years. The California CARS Act also prohibits consumers from waiving any protections of the act.

Bite 9: FDIC Withdraws from Colorado DIDMCA Case

On February 24, 2025, the FDIC withdrew an amicus brief that the prior administration filed last year in support of a Colorado state law that allows state authorities to cap interest on loans taken out by its residents from out-of-state lenders. Trade groups filed a lawsuit over the state law that opts Colorado out of a clause in the Depository Institutions Deregulation and Monetary Control Act ("DIDMCA") that allows state-chartered banks to follow interest rates set by their home state when lending across state lines. In the FDIC's now-rescinded April 2024 amicus brief, it asserted that a loan is "made" in a state if either the borrower or lender enters into the transactions from the confines of the state borders. In the now-rescinded brief, the FDIC argued that if a Colorado borrower finalized a loan while physically present in Colorado, the loan falls under Colorado's opt-out law. In June 2024, the district court sided with the trade groups, ruling that a loan is made where the lender performs its loan-making functions rather than where the borrower is located.

Bite 8: CFPB Small Business Rule Upheld by Magistrate Judge

On February 17, 2025, a magistrate judge in the U.S. District Court for the Southern District of Florida, recommended upholding the CFPB's Small Business Rule, rejecting arguments in a lawsuit that merchant cash advance providers should not be regulated as credit transactions. The magistrate judge recommended that the CFPB be granted summary judgment because the CFPB did not exceed its authority under the Administrative Procedure Act. A Florida trade group brought the lawsuit seeking to have merchant cash advances excluded from the rule. The magistrate's report rejected the trade group's arguments and wrote that an "extension of credit" means "the granting of credit in any form." The Florida magistrate judge issued the recommendation about a week after a three-judge panel in the 5th Circuit granted a partial stay to two Texas banks and four bank trade groups that sued the CFPB to stop the data collection on small business loan applicants from going into effect. The small business lending data collection rule went into effect in August 2023.

Bite 7: Senate Votes to Abolish Digital Payment Larger Participant Rule

On March 5, 2025, it was reported that the Senate voted 51-47 to overturn the CFPB's rule that gave the CFPB authority to supervise and examine "larger participants" in the

general-use digital consumer payment applications market. These entities include payment apps, digital wallets, peer-to-peer payment apps, and other entities. The Senate resolution was not subject to a filibuster. As you may remember, the CFPB finalized this larger participant rule in November 2024 under former-Director Chopra and it was effective on January 9, 2025. Senator Pete Ricketts (R-NE) and Representative Mike Flood (R-NE) introduced the bicameral Congressional Review Act resolution to overturn the CFPB's rule. The Senate vote was along party lines, with Republicans supporting the resolution and Democrats opposing it, with the exception of Republican Senator Josh Hawley voting against the resolution. *Next up* - the House of Representatives will need to vote on a companion resolution. If adopted, it would then go to President Trump for his signature.

Bite 6: President Trump Issues EO on Independent Regulatory Agencies

On February 18, 2025, President Trump issued an executive order on independent regulatory agencies, requiring independent agencies to submit all proposed and final significant regulatory actions for review by the Office of Information and Regulatory Affairs (OIRA) within the Executive Office of the President before publication in the Federal Register. The Executive Order requires the Director of the White House's Office of Management and Budget ("OMB") to "establish performance standards and management objectives for independent agency heads." The Executive Order prohibits employees of independent agencies from advancing an interpretation of the law in regulations or litigation "that contravenes the President or the Attorney General's opinion."

Bite 5: FTC Takes Action Against Debt Collection Scheme

On February 24, 2025, the FTC filed a lawsuit in District Court for the Central District of California against what it called a "debt collection scheme" and its operators, alleging that the debt collectors sent consumers deceptive letters or called the consumers, claiming that consumers owed a debt and threatening to take action if the consumer did not pay. The complaint alleges that the debts described in the letters and phone calls never existed and that the defendants had no basis in making legal threats towards the customers. The complaint alleged that the letters often contained the consumer's sensitive personal information, including the last four digits of their Social Security number. The complaint also alleged that the scheme operated under a wide variety of names, including names of unaffiliated existing businesses and law firms, in violation of the FTC's Rule on Impersonating Government and Businesses. The complaint also alleged violations of the Fair Debt Collection Practices Act. On February 27, 2025, a federal court issued a temporary restraining order that freezes the companies' and their owners' assets, appoints a receiver and granted other equitable relief.

Bite 4: Union Litigation over CFPB Stop Work Order Continues

On March 2, 2025, it was reported that the CFPB's top legal officer sent an email to the supervisory staff claiming that he instructed all legally required supervisory work to resume. That email was sent almost one month after a stop work order sent to CFPB employees on February 8th. The email communications are being used in the ongoing litigation involving the *National Treasury Employees Union vs. CFPB and Acting Director*

Vought. Additionally, it was reported that CFPB examiners and supervisory staff who have been placed on administrative leave have reported that the CFPB's credit cards used to facilitate travel have either been cut off or reduced to \$1. On March 3, District Court Judge Amy Berman Jackson held a hearing in which she questioned Trump Administration lawyers about whether statutorily required work was being performed at the CFPB. Judge Berman Jackson also ordered the government and union to submit all internal emails and text messages in connection with the ongoing operations of the CFPB by March 4th. After two days of testimony, Judge Jackson said she's "leaning" toward issuing a preliminary injunction, so stay tuned.

Bite 3: McKernan's Nomination Passes Senate Committee Vote

On March 6, 2025, the Senate Banking Committee voted to advance Jonathan McKernan's nomination for CFPB Director by a vote of 13-11 along party lines. McKernan's nomination proceeds to the full Senate. In his opening statement for his confirmation hearing, McKernan said, "If confirmed, I will fully execute the law." McKernan also testified, "Under my watch, the CFPB will take all steps necessary to implement and enforce the federal consumer financial laws and perform each of its other statutorily assigned functions. But the CFPB will do this by centering its regulation on real risks and by focusing its enforcement on bad actors." In response to a question about job cuts at the CFPB, McKernan responded, "If confirmed, I will review and otherwise assess the extent to which the CFPB's staffing levels are sufficient to ensure that the CFPB fulfills its statutory obligations."

Bite 2: CRA Resolutions Filed on CFPB's Medical Debt Rule

On March 11, 2025, republican lawmakers moved to strike the CFPB's medical debt rule. Senator Mike Rounds filed a joint resolution under the Congressional Review Act, which allows Congress to nullify any rule that's been finalized within 60 legislative days by a simple-majority vote. Senator Rounds said that the CFPB's medical debt rule is a "clear example of regulatory overreach" and that "The CFPB is going beyond their statutory authority to eliminate all medical debt from credit reports is irresponsible." Senate Banking Committee Chairman Tim Scott and other republican senators have co-sponsored the CRA resolution. Representative Norman Ralph introduced a companion joint resolution in the House. When the CFPB issued the medical debt rule, two trade associations immediately filed a lawsuit claiming that it exceeded the CFPB's authority under the FCRA. The judge in that litigation delayed the rule's implementation until June 15, 2025, unless Congress or the CFPB eliminate it first.

Bite 1: CFPB Dismisses Several Lawsuits

During the past month or so, the CFPB has filed dismissals in seven lawsuits against financial services companies that the CFPB accused of wrongdoing under the Biden administration. The CFPB dropped its lawsuits against a large national bank, a student loan servicer, two mortgage lenders, a peer-to-peer lender, and an installment lender. The CFPB's lawsuit against the large national bank was filed in January of 2025. After the CFPB dropped its complaint against the peer-to-peer lender, Acting CFPB Director Vought wrote on X (formerly Twitter) that the company came up with an "innovative solution" to

help working class Americans and that "the CFPB tried to destroy this company." He also wrote that the "weaponization of consumer protection must end." As of February 27, 2025, court records showed that fewer than twenty pending CFPB enforcement actions remained, and of those, another six were either paused or likely to be paused in light of the new administration. On March 4, 2025, the CFPB dismissed its lawsuit against three large banks that alleged the banks failed to prevent fraud on their money transfer network. With the CFPB also having canceled its contracts with expert witnesses, these may not be the last cases dismissed by the CFPB.

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