

Consumer Financial Services Bites of the Month - October 15, 2025 - "October Road with the CFPB"

October 17, 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 October 2025 webinar.

Bite 13: CFPB Hires Attorney-Advisors

On October 10, 2025, media outlets reported that the CFPB is hiring attorneys to defend the CFPB in appellate litigation. The CFPB reportedly sent an internal email on October 1st that it had two job openings for attorney-advisors in the legal division of the CFPB's Office of Litigation. The timing of the hiring is interesting, given that the CFPB's union is currently litigating the CFPB's reduction in force. The jobs reportedly involve providing legal advice and guidance CFPB "clients on all relevant legal matters." It is estimated that roughly 90 attorneys have left the enforcement division, which has roughly 160 staffers, a 35% drop.

Bite 12: California Limits Scope of Consumer Arbitration Agreements

On October 6, 2025, California Governor Gavin Newsom signed a new law that limits the scope of so-called "infinite arbitration clauses." Senate Bill 82 adds language to the California Civil Code prohibiting dispute resolution terms and conditions in a consumer use agreement from applying beyond the use, payment, or provision of the good, service, money, or credit provided by that consumer use agreement. The term "consumer use agreement" is extremely broad. It includes any contract that allows a consumer to use, receive, or otherwise enjoy a good, service, money, or credit. Under the new law, dispute resolutions terms are not allowed to effect consumers' rights that are *unrelated to the contract* containing the terms. Any agreement that contains a waiver of the protections outlined in S.B. 82 is considered contrary to public policy and void. The law will be effective on January 1, 2026.

Bite 11: Kansas Finalizes Supervised Loan Licensee Regulation

On October 2, 2025, the Kansas Office of the State Bank Commissioner, Consumer and Mortgage Lending Division, published a final regulation amending Section 75-6-35 of the Kansas Administrative Regulations concerning net worth requirements for applicants for a supervised loan license and supervised loan licensees. Before the amendments, Section 75-6-35 required a specified net worth for supervised loan license applicants that

provide loans secured by real property or contracts for deed. Loans secured by real property moved from the Kansas Uniform Consumer Credit Code to the Kansas Mortgage Business Act on January 1, 2025. K.A.R. 75-6-35 now requires each supervised loan license applicant as well as a licensee to maintain a "positive net worth." The administrator may issue an exception to the positive net worth requirement. The amendments remove the requirement that supervised loan licensees make loans secured by an interest in real property or contracts for deed maintain a minimum net worth of \$250,000. The final regulation is effective on October 17, 2025.

Bite 10: 19 State AGs Issue Letters Opposing CFPB's Proposals

On September 22, 2025, nineteen state attorneys general issued four letters to the CFPB urging the CFPB to withdraw proposed rules that seek to redefine "larger participants" in the auto finance, consumer reporting, debt collection, and international money transfer services markets. The California Attorney General issued a press release about the letters and noted that the administration's proposals would limit the CFPB's oversight to as few as six consumer reporting companies, eleven debt collectors, four international money transfer providers, and five auto finance companies. The CFPB proposed to raise the larger participant threshold in the auto finance market from 10,000 annual loans to 1,050,000, and the letter argued that a 300,000 is the only acceptable alternative threshold. The states also argued that raising the threshold in the consumer reporting market from \$7 million to \$41 million in annual receipts would limit CFPB supervision to as few as six companies. The letter regarding the debt collection threshold said that the volume of debt collection related CFPB "complaints is skyrocketing." The states argued that the proposed threshold for international money transfer services would limit the CFPB's supervision to just four providers. The states argued under these proposals, most consumers in the impacted markets would be left without protection, undermining the CFPB's statutory mandate.

Bite 9: CFPB Drops Four Consent Orders

On September 22, 2025, media outlets reported that the CFPB dropped consent orders with a technology company, two banks, and a mortgage company, implemented under the prior administration. The technology company has already paid a \$25 million civil money penalty, and the bank paid a \$15 million penalty. The CFPB originally alleged that the technology company and another company violated consumer protection laws by allegedly mishandling credit card transaction disputes and misled consumers about whether some transactions were interest-free. The CFPB originally alleged that one of the banks blocked out-of-work consumers from accessing unemployment benefits during the pandemic. Both consent orders had required 5 years of compliance and cooperation. The other bank allegedly reported inaccurate data about its mortgage transactions for 2011 in violation of HMDA. The CFPB also dropped its consent order with a mortgage servicer that allegedly accepted payments for mortgage business referrals and improperly used credit reports for marketing purposes. All companies had compliance and monitoring requirements under their consent orders that they are no longer obligated to fulfill.

Bite 8: Democrats Urge Full D.C. Circuit to Hear CFPB Case

On October 6, 2025, media outlets reported that thirty-six Democratic lawmakers filed an amicus brief with the U.S. Court of Appeals for the D.C. Circuit asking the court to hear a case about the Trump Administration's efforts to fire almost all of the employees at the CFPB. The amicus brief argued that the attempt to shutter the CFPB is unconstitutional. The brief said, "A President, of course may disagree with Congress's choice" and when "that happens, the remedy is to participate in the political process and make a proposal to Congress, not to usurp legislative power and unilaterally dismantle an agency Congress created." The brief was signed by 36 democratic lawmakers led by the House Financial Services Committee ranking member Rep. Maxine Waters (D-CA), Senate Minority leader Chuck Schumer, (D-NY), and Senate Banking Committee ranking member Elizabeth Warren (D-Mass.). The Constitutional Accountability Center, a think tank and public interest law firm, also filed a separate amicus brief in support of the CFPB's union.

Bite 7: California Governor Signs CARS Act

On October 6, 2025, California Governor Newsom signed the California Combating Auto Retail Scams (CARS) Act. Earlier this year, the Fifth Circuit vacated the FTC's CARS Rule for procedural reasons. California's CARS Act imposes similar requirements to the now-vacated FTC CARS Rule, including: prohibiting misrepresentations of material information regarding the vehicle sale (costs, financing terms, benefits of voluntary protection products); clear and conspicuous disclosures, including the total price; prohibition on voluntary protection products that do not benefit the purchaser; and retention of documents for two years. The California CARS Act also includes a three-day right to cancel period on certain vehicles. The California CARS Act has an effective date of October 1, 2026.

Bite 6: CFPB Finalizes Deadline Extensions for 1071 Rule

On October 2, 2025, the CFPB finalized its deadline extension for the 1071 Rule, with the first new compliance date set for July 1, 2026 for "Tier 1 lenders." The 1071 Rule will require the collection and reporting of demographic information on small business lending applications, to help identify potential discrimination as mandated by the Dodd-Frank Act. The rulemaking classifies lenders in tiers, based on their volume of small business loan originations. The new compliance date for Tier 2 lenders will be January 1, 2027, and Tier 3 will be October 1, 2027. The rule is currently being litigated with financial institutions claiming the rule requires excessive data collection, that the rulemaking involved arbitrary and capricious cost-benefit analysis by the CFPB, and that the CFPB was unconstitutionally funded. Consumer groups are also challenging recent CFPB delays.

Bite 5: CFPB Rescinds Procedures for Supervisory Designation Proceedings

On September 25, 2025, the CFPB published a final rule that rescinds previous amendments to the Procedures for Supervisory Designation Proceedings, with the exception of some limited process adjustments. Section 1024(a)(1)(C) of the CFPA authorizes the CFPB to supervise a nonbank covered person that the CFPB 'has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity for such covered person to respond . . . is engaging, or has

engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services". In 2013, the CFPB issued procedures to govern these supervisory designation proceedings. Under the 2013 rule, information regarding the proceedings was treated as confidential supervisory information and not publicly disclosed. In April 2022, November 2022, and April 2024, the CFPB issued a series of rules that amended the 2013 Rule. Notably the new rules enabled the Director to publicly release the Director's final decisions and orders designating respondents for supervision. The CFPB issued a notice of proposed rulemaking in May 2025 that it planned to rescind the newer rules and restore the 2013 rule. The CFPB concluded that the harm from publication outweighed the benefits. The final rule will be effective on October 27, 2025.

Bite 4: SCOTUS Allows Trump to Fire FTC Commissioner (For Now)

On September 22, 2025, the Supreme Court in an unsigned order agreed to consider whether President Trump can fire an FTC commissioner. A federal judge had previously ordered the administration to allow Commissioner Slaughter to return to office while the litigation continued. However, the Supreme Court put that order on hold until they issue a ruling in the case, effectively allowing President Trump to move forward with firing Commissioner Slaughter. Justice Kagan dissented from the decision to pause the order, joined by Justices Sotomayor and Brown Jackson. Justice Kagan wrote that her colleagues in the majority had allowed President Trump to remove, contrary to federal law "any member he wishes, for any reason or no reason at all. And he may thereby extinguish" the FTC's "bipartisanship and independence." The Supreme Court will hear the case in December.

Bite 3: Appeals Court Upheld Default Judgment in CFPB Action

On October 8, 2025, a federal appeals court upheld a \$366 million default judgment against two bail bond service companies and their owners. The CFPB and three states alleged that the companies perpetrated a nationwide fraud scheme against immigrants who were held in custody by ICE. The district court found that from 2013 to 2022, the companies collected more than \$230 million from immigrants that had not been refunded. The appeals court held that the companies violated multiple court orders and failed to produce documents in discovery. The appeals court upheld the district court's monetary award of permanent injunctive relief totaling \$366.5 million, which includes \$230.9 million in restitution to immigrants, more than \$111 million in civil penalties to the CFPB, \$7.1 million to Virginia, \$3.4 million to Massachusetts, and \$13.9 million to New York.

Bite 2: FTC Takes Action Against Business Credit Report Service Provider

On September 29, 2025, the FTC settled a case with a business credit report service provider over allegations that the company violated a 2022 FTC order. The 2022 order alleged that the company engaged in unfair and deceptive practices by providing inaccurate information to its subscribers about its products and misrepresenting that fee-based products would improve their credit scores. The proposed complaint alleges that the company failed to accurately disclose their product's price list price before

automatically renewing, failed to prevent misrepresentations; and failed to retain recorded sales calls. The proposed order requires the company to pay a total of \$5.7 million, including \$3.7 million in consumer redress and over \$2 million in civil penalties. The proposed order also requires the company to modify the 2022 order to address the FTC's new allegations, including using a third-party quality assurance provider, maintaining a comprehensive compliance program, submitting annual certifications, and notifying the FTC of any noncompliance. The Director of the FTC's Bureau of Consumer Protection, Christopher Mufarrige, said the enforcement action "is another example of the Bureau's effort to reinvigorate its fraud program."

Bite 1: Takes Action Against Large Online Retailer

On September 25, 2025, the FTC announced a large action against an online retailer, imposing its largest ever civil penalty and second-highest restitution amount. The settlement resolved allegations that the company enrolled consumers in a subscription program without obtaining express informed consent and that the retailer failed to provide a simple cancellation mechanism. The consent order requires the company to pay a \$1 billion civil penalty and provide \$1.5 billion in consumer restitution. The FTC and the company came to a resolution mid-trial. The FTC specifically alleged violations of the FTC Act and the Restore Online Shoppers' Confidence Act ("ROSCA") claiming the retailer engaged in deceptive enrollment and cancellation practices. Under the proposed consent order, the retailer is prohibited from making misrepresentations about material terms in a transaction involving a negative option feature. The proposed consent order will remain in effect for ten years against the company, and for three years with respect to two individual executives who joined the settlement. The company is required to submit a compliance report one year following the settlement, among other things, detailing the activities of each negative option feature related to its service and whether and how it is in compliance with the settlement order.

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410.684.3200

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