

# Considerations As Trump Admin Continues To Curtail CFPB

By **Jeffrey Alberts and Aaron Wiltse** (March 12, 2025)

Since early February, the sweeping moves made by the new leadership of the Consumer Financial Protection Bureau have signaled a major shift in the agency's trajectory.

Communications reported in the media have revealed that Scott Bessent, acting director of the CFPB from Jan. 31 through Feb. 7, and Russell Vought, current acting director, took steps to stop the CFPB's ongoing activities, terminate hundreds of employees, and cease its funding draw, bringing the CFPB's recent efforts to expand its authority to a screeching halt.

On Feb. 11, President Donald Trump nominated Jonathan McKernan to be the new director of the CFPB, and a Senate panel advanced his nomination on March 6.

Only time will tell whether and how McKernan will pursue Trump's efforts to curtail the CFPB's regulatory and enforcement reach following years of increasing supervisory activity under the Biden administration.

Vought has denied that these actions are intended to eliminate the CFPB, and instead are intended to create a "more streamlined and efficient" CFPB, but whatever steps McKernan takes, regulated entities appear likely to face severely diminished enforcement by the CFPB and, at least in the near term, significant regulatory uncertainty.

## Key Administration Moves

### ***CFPB Operations Halted***

Bessent instructed CFPB staff to suspend all rulemaking, litigation, public communications and enforcement actions. Vought made a similar instruction once he became acting director, telling staff "not [to] perform any work tasks."

He also shuttered the CFPB's headquarters in Washington, and fired almost 200 probationary and fixed-term CFPB employees.

In the National Treasury Employees Union lawsuit described further below, the administration has characterized many of its actions as simply an example of "Presidents of both parties [who] have routinely issued directives that pause policy related decision-making to allow the reevaluation of those policies that were under consideration or under development but not finalized by the prior administration."

### ***Foregone Budget Draw***

Vought posted on X, formerly known as Twitter, that he had "notified the Federal Reserve that CFPB will not be taking its next draw of unappropriated funding because it is not 'reasonably necessary' to carry out its duties."



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## ***DOGE***

Staffers from the newly created Department of Government Efficiency, overseen by Elon Musk, were given access to the CFPB's headquarters and sensitive CFPB data, including internal staff records, competitive industry data and personally identifiable consumer information.

## ***Regulatory Freezes***

Trump issued a presidential memorandum the day of his inauguration directing agencies to "consider postponing" the effective dates of rules already published in the Federal Register, and Bessent subsequently ordered the CFPB to do so.

This includes major regulatory measures such as the prohibition on including medical debt in consumer credit reports and the controversial \$5 cap on overdraft fees, although Congress itself is taking aim at the overdraft rule.

## ***Litigation and Enforcement Actions Paused***

Enforcement investigations and settlements also have been put on hold.

Initially, the CFPB's involvement in pending litigation appeared to be limited to seeking continuances, as demonstrated in *Texas Bankers Association v. CFPB* in the U.S. Court of Appeals for the Fifth Circuit.

On Feb. 3 — the same day Bessent issued his pause order and the same day oral argument had been scheduled — CFPB attorneys filed an "emergency notice" stating that the CFPB attorneys were unable to participate because "[t]he President removed the prior Director of the CFPB" and they were subsequently "instructed not to make any appearances in litigation except to seek a pause in proceedings."

Not every court has approved the CFPB's requests for stays. The CFPB has also dropped several enforcement actions.

## ***Public Communications and Agreements Stopped***

The CFPB has ceased issuing research papers, press statements and other forms of public communication.

The CFPB's account on X has been deleted, and for a period of time the home page on the agency's website displayed a "404: Page not found" graphic (although much of the website's content was still accessible).

## ***Court Proceedings***

Lawsuits swiftly followed, and the agency has agreed to a pause on at least a few of these moves.

## ***Baltimore***

The city of Baltimore brought a lawsuit — *Mayor and City Council of Baltimore et al. v. Vought* in the U.S. District Court for the District of Maryland — challenging Vought's plan to effectively defund the CFPB as arbitrary and capricious under the Administrative Procedure

Act.

On Feb. 13, the CFPB agreed in a joint scheduling motion that, at least until Feb. 28, it would not

[t]ransfer money from the Bureau's reserve funds, other than to satisfy the ordinary operating obligations of the Bureau; [r]elinquish control or ownership of the Bureau's reserve funds nor grant control or ownership of the Bureau's reserve funds to any other entity; [r]eturn any money from the Bureau's reserve funds to the Federal Reserve or the Department of Treasury; or [o]therwise take steps to reduce the amount of money available to the Bureau below the amount available as of February 13, 2025 other than to satisfy the ordinary operating obligations of the Bureau."

A hearing was held on the plaintiffs' motion for preliminary injunction on Feb. 26, and the stipulation has been extended until March 14.

### ***National Treasury Employees Union***

A labor union representing CFPB employees also filed two suits — both called National Treasury Employees Union v. Vought — in the U.S. District Court for the District of Columbia.

One suit seeks to block DOGE from accessing private CFPB employee information, and the other seeks to block many of Vought's directives under a separation-of-powers theory.

On Feb. 14, Judge Amy Berman Jackson, overseeing the lawsuit seeking to block Vought's actions, entered a consent order imposing restrictions on the CFPB's fundings similar to those in the Baltimore case, and also ordering it not to "delete or remove agency data from any database or information system," nor to "terminate any CFPB employee, except for cause related to the specific employee's performance or conduct."

The court held a hearing on the union's preliminary injunction motion on March 3, and ordered an evidentiary hearing at which Adam Martinez, the CFPB's chief operating officer, would testify.

Martinez had submitted a declaration in support of the administration's briefing, characterizing the administration's actions as "a common practice at the beginning of a new administration and/or during the transition of a new head of agency."

In the lead-up to that evidentiary hearing, the parties each filed copies of internal CFPB emails that showed how the directions from leadership had come down and how agency staff were navigating those directions.

In particular, they show that CFPB leadership has sometimes taken the view that Vought and Bessent's directives do not mean that CFPB employees should cease performing "functions required by law."

The evidentiary hearing was held on March 10. Martinez testified that the CFPB had originally intended to fire more than 1,000 of its 1,700 employees, though that projected number has been lowered.

He also testified that although certain of the CFPB's statutorily required duties were ceased due to Vought's order, other CFPB leadership had authorized employees to perform certain

of those duties again.

Judge Jackson did not rule on the motion for a preliminary injunction, and the hearing continued on March 11.

### **A Stark Contrast to Prior CFPB Activity**

This abrupt halt marks a dramatic shift from the CFPB's aggressive posture in recent years. Under former Director Rohit Chopra, the agency significantly expanded its oversight and enforcement efforts, particularly in fintech and digital payments:

- The CFPB introduced a nonbank order registry aimed at increasing oversight over fintech firms and other nonbank entities.
- The CFPB sought expanded authority over large digital payment platforms, signaling a regulatory push into emerging financial technologies.
- The agency restricted companies' abilities to challenge supervisory and enforcement decisions by limiting intra-agency appeal rights.

### **What's Next**

It remains to be seen in what form, if any, the CFPB will operate during the Trump administration, and whether the agency's examiners will continue oversight activities or if additional restrictions will follow.

The broader implications for regulated entities are profound in both the near and long term.

### ***Regulatory Uncertainty***

Firms that were preparing to comply with imminent CFPB rules may now face delays or a complete rollback of certain requirements.

And if regulations are removed wholesale, regulated entities may be left without any guidance on how to comply with laws that the CFPB is tasked with enforcing.

### ***Paused Investigations***

Entities facing CFPB enforcement scrutiny may see cases stall, although the manner in which they will do so is uncertain.

For example, it is unclear what this means for targets of investigations that have been served with civil investigative demands, but recipients of CIDs may seek to negotiate withdrawals of previously served CIDs.

### ***Increased Role of Other Agencies and State Regulators***

If the administration moves forward with efforts to end or dramatically reduce enforcement activity by the CFPB, as some reports suggest, financial institutions may face a regulatory landscape increasingly shaped by state or other federal regulators.

Additionally, state attorneys general and financial regulators like the New York State Department of Financial Services could step up enforcement activity in areas over which

they have jurisdiction.

## **Conclusion**

The CFPB's abrupt operational freeze marks one of the most significant regulatory shifts in recent years, underscoring the Trump administration's intent to curb the agency's power.

Regulated entities should prepare for continued regulatory uncertainty and monitor further developments closely.

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