

Understanding the CFPB's Shifting Regulatory and Enforcement Efforts

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Background

- On February 1, 2025, President Trump dismissed the previous director of the CFPB, Rohit Chopra
- President Trump named Office of Management and Budget Director Russell Vought as the CFPB's acting director
- Vought immediately ordered the CFPB to stop all supervision and examination activity, stop all work on proposed rules, suspend the effective dates on any rules that were finalized but not yet effective, stop any current investigative work, and refrain from beginning any new investigations.

CFPB's Supervision and Enforcement Priorities

April 16, 2025 CFPB released a memo to its staff outlining its supervision and enforcement priorities for 2025:

- Eliminate duplicative supervision with other agencies
- Minimize duplicative enforcement with state regulators
- Shift resources away from supervision and enforcement that can be done by states
- Avoid novel legal theories and focus on clearly defined statutory authority
- Rescinded all prior enforcement and supervision priority documents

CFPB's Supervision and Enforcement Priorities

- 50% decrease in examinations
- Shift its focus back to depository institutions
 - 2012: 70% of CFPB supervision focused on such institutions
 - Since then: over 60% of the CFPB supervision focused on non-depository institutions
- Specifically noted areas of de-prioritization:
 - Medical debt
 - Peer-to-peer platforms
 - Student loans
 - Digital payments

CFPB's Supervision and Enforcement Priorities

- Focus on “tangible harms” and “actual fraud” against consumers where there are “measurable” consumer damages and identifiable victims; Key areas of focus:
 - Mortgages
 - Fair Credit Reporting Act
 - Fair Debt Collection Practices Act (“FDCPA”)
 - Fraudulent overcharges and fees
 - Inadequate information control that yields “actual loss” to consumers
- Focus on providing redress to service members, and their families, as well as veterans

CFPB's Supervision and Enforcement Priorities

- Consumer protection laws not specifically identified will take a backseat, *e.g.*:
 - Telephone Consumer Protection Act
 - Electronic Funds Transfer Act
- The FDCPA was specifically identified as a key area of focus
 - Two other priorities affect the FDCPA focus:
 - Shift of focus to depository institutions
 - Focus on “tangible” and “measurable” harm
 - The CFPB remains obligated to submit an annual report to Congress regarding the FDCPA and regulation of the debt collection industry

CFPB's Regulatory Agenda

- August 2025: CFPB released its Spring 2025 Unified Agenda
- It identifies 24 regulatory items covering consumer finance issues
- Includes pre-rule, proposed rule, and final rule stages
- The CFPB stated that these matters are under consideration between June 2025 and May 2026

CFPB's Regulatory Agenda

Final Rule Stage

- “Streamlining Mortgage Servicing for Borrowers Experiencing Payment Difficulties (Regulation X)”
 - “The proposed amendments would streamline existing requirements when borrowers seek payment assistance in times of distress, add safeguards when borrowers seek help, and revise existing requirements with respect to borrower assistance”
- “Financial Data Transparency Act”
 - Department of the Treasury, Federal Reserve Board, OCC, CFPB, SEC, FDIC, FHFA, and the NCUA coordinated on a rule to create standards to achieve interoperability of financial data across agencies
- “Remittance Transfers Under the Electronic Fund Transfer Act (Regulation E)”
 - Amendment “to certain remittance transfer disclosure requirements” “so that, rather than stating that the sender can contact the State licensing agency of the remittance transfer provider and the CFPB with questions or complaints about the remittance transfer provider, the revised disclosure statement would state that the sender can contact the State licensing agency and the CFPB if the sender has unresolved problems with the remittance transfer or complaints about the remittance transfer provider”
- “Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X, Rescission”
 - Interim Final Rule effective on July 15, 2025
- “Rescission of State Official Notification Rules”
 - CFPB withdrew, on July 21, 2025, its rule to eliminate notification requirements for state officials enforcing the CFPA

CFPB's Regulatory Agenda

Proposed Rule Stage

- “Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders; Proposed Rescission”
 - Rescind rule requiring reporting of agency and court orders
 - Became final and effective on October 29, 2025
- “Rules of Practice for Adjudication Proceedings; Rescission”
 - Rescind amendments from 2022 and 2023 regarding deposition process, amendment of deadlines, bifurcation of proceedings, dispositive motions, and issue exhaustion
 - Became final and effective on October 29, 2025
- “Payday, Vehicle, Title, and Certain High-Cost Installment Loans Reconsideration”
 - Reconsider remaining provisions of 2017 rule that was already rescinded in part
- “Equal Credit Opportunity Act (Regulation B)”
 - Proposed on November 12, 2025
 - Removes “disparate impact” liability for discrimination under the ECOA
- “Personal Financial Data Rights Reconsideration”
 - Reconsideration of a November 2024 rule regarding the following:
 - The proper understanding of who can serve as a “representative” making a request on behalf of the consumer
 - The optimal approach to the assessment of fees to defray the costs incurred by a “covered person” in responding to a customer driven request
 - The threat and cost-benefit pictures for data security associated with section 1033 compliance
 - The threat picture for data privacy associated with section 1033 compliance

CFPB's Regulatory Agenda

Proposed Rule Stage

- “Small Business Lending Data Collection Under the Equal Credit Opportunity Act Reconsideration”
 - Reconsideration of a May 2023 rule; proposed rule issued on November 13, 2025
 - CFPB believes “proposed changes would streamline the rule, reduce complexity for lenders, and improve data quality, advancing the purposes of section 1071 and complying with recent executive directives”
- “Procedures for Guidance Documents”
 - Implementation of Executive Order requiring agencies to issue regulations regarding the issuance of guidance documents
- “Procedures for Periodic Review of Bureau Regulations”
 - Would require periodic reviews of CFPB regulations “to ensure alignment with current market dynamics, technological developments, and other aspects of the evolution of the financial products and services markets”
- “Procedures for Supervisory Designation Proceedings”
 - Rescind amendments from 2022 and 2024 that CFPB says puts pressure on entities to consent to supervisory designation
- “Legal Standard Applicable to Supervisory Designation Proceedings”
 - Adopt a standard definition that would bind CFPB in designation of nonbank covered persons for CFPB supervision

CFPB's Regulatory Agenda Prerule Stage

- “Unfair, Deceptive, or Abusive Acts and Practices ”
 - Considering a rule to clarify statutory language regarding what constitutes an “unfair, deceptive, or abusive” act or practice
- “Identity Theft and Coerced Debt (Regulation V)”
 - Considering a rule to address “information furnished to credit bureaus and other consumer reporting agencies concerning coerced debt”
- “Loan Originator Compensation Requirements Under the Truth in Lending Act (Regulation Z); Rescission”
 - Rescind all or parts of the discretionary compensation provisions of CFPB’s Loan Originator Compensation requirements under TILA (Regulation Z)
- “Discretionary Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z) ”
 - Considering amendment or rescission of TILA implementing rules that impose mandates on the form and substance of certain information provided to consumers, such as certain requirements relating to interest rate adjustment notices for variable-rate transactions.
- “Discretionary Servicing Rules under the Real Estate Settlement Procedures Act (Regulation X)”
 - CFPB had previously adopted discretionary provisions relating to servicer policies and procedures, early intervention with delinquent borrowers, continuity of contact, and procedures for evaluating and responding to loss mitigation applications
 - Considering amending or rescinding those provisions

CFPB's Regulatory Agenda Prerule Stage

- “Defining Larger Participants of the Automobile Financing Market”
 - Considering a rule to amend the test to define larger participants in the automobile financing market
- “Defining Larger Participants of the Consumer Debt Collection Market”
 - Considering a rule to amend the test to define larger participants in the consumer debt collection market
- “Defining Larger Participants of the Consumer Reporting Market 2025”
 - Considering a rule to amend the test to define larger participants in the consumer reporting market
- “Defining Larger Participants of the International Money Transfer Market”
 - Considering a rule to amend the test to define larger participants in the international money transfer market

CFPB's Regulatory Agenda

Interpretive Rules

- Rescission of Interpretive Rule regarding state enforcement
 - Effective May 15, 2025
 - Rescinded previous interpretive rule that allowed states to enforce all federal consumer financial laws
 - States retain the right to enforce the provisions of the CFPA
 - CFPA's restriction on authority as to merchants, retailers, and other sellers of nonfinancial goods or services and auto dealers applies to States as well as the federal government
 - States may not pursue concurrent enforcement actions
- “Fair Credit Reporting Act; Preemption of State Laws”
 - Applicable as of October 28, 2025
 - “[T]o clarify that the Fair Credit Reporting Act (FCRA) generally preempts State laws that touch on broad areas of credit reporting, consistent with Congress's intent to create national standards for the credit reporting system”

Status of CFPB - RIF

- In April 2025, CFPB also announced a reduction in force of nearly 90%
 - Cutting Supervision Division examiners and staff from over 400 to 50
 - Cutting Enforcement Division attorneys and staff from nearly 200 to 50
 - In total, about 1,500 layoffs leaving 200 remaining employees
- The U.S. District Court for the District of Columbia initially blocked such layoffs by issuing a preliminary injunction
- In August 2025, the U.S. Court of Appeals for the D.C. Circuit vacated the District Court's injunction
 - The D.C. Circuit is currently deciding whether it will rehear argument on the issue, and while it does so, the injunction remains in place and the Circuit Court's ruling has not taken effect
- November 2025 it was reported that CFPB intends to furlough more than 100 of its staff, including enforcement personnel

Status of CFPB - Funding

- July 4, 2025: Big Beautiful Bill became law, reducing the CFPB's cap on funding from 12% to 6.5% of the Federal Reserve's total operating expenses for FY 2026, adjusted for inflation
- In October 2025, Director Vought stated that he intended to close down the agency and believed that would be accomplished within the next few months
 - In litigation regarding the CFPB's ability to lay off its employees, the Administration had suggested that it did not intend to fully close down the agency
- In November 2025, Director Vought formally advised the President that "the sums available to the [CFPB] ... will not be sufficient to carry out the authorities of the [CFPB] ... for Fiscal Year 2026," that it will run out of funds in early 2026, and that, based on the conclusion of the Office of Legal Counsel within the DOJ, "there are not funds legally available for the [CFPB] to request from the Federal Reserve"

Status of CFPB - Funding

- The Consumer Financial Protection Act requires the Board of Governors of the Federal Reserve System to, on a yearly or quarterly basis, “transfer to the Bureau **from the combined earnings** of the Federal Reserve System, the amount determined by the Director to be reasonably necessary to carry out the authorities of the Bureau under Federal consumer financial law” 12 U.S.C. § 5497
- The OLC has determined that “combined earnings” means the profits of the Federal Reserve System
- The OLC has also reported that the Federal Reserve System generated a profit every years since its founding in 1914 until 2022, which its costs exceeded its revenue
- According to the OLC, without profits, the Fed cannot transfer funds to the CFPB, but the CFPB can request appropriation from Congress

Status of CFPB - Funding

- Under the Biden Administration, defendants to CFPB-initiated litigation raised the same interpretation of the CFPB's funding statute as a defense
 - *CFPB v. Active Network, LLC*, No. 4:22-cv-00898 (E.D. Tex. Oct. 7, 2024)
 - *Texas v. Colony Ridge, Inc.*, No. 4:24-00941 (S.D. Tex. Oct. 11, 2024)
 - *CFPB v. SoLo Funds, Inc.*, No. 2:24-cv-4108 (C.D. Cal. Oct. 17, 2024)
- None of those arguments were successful; but not for any reason applicable to the continued function of CFPB
 - In *Active Network*, various bases to dismiss were presented to the Court – none of which were addressed in the Court's 3-page. CFPB dismissed the action in April 2025.
 - In *Colony Ridge*, Texas brought claims under the CFPA, which the defendants argued the court lacked jurisdiction to hear because the CFPB was unconstitutionally funded, and therefore, could not receive the required pre-suit notice. The court rejected the argument because the pre-suit notice requirement does not require any action by the CFPB that it was required to (illegally) take, rendering the argument irrelevant.
 - In *SoLo*, the court declined to rule on the argument because it was not convinced that the funding issue was grounds for dismissal.

Status of CFPB - Funding

- This funding argument arose in the context of the case concerning whether CFPB could lay off its staff
- In that matter, the union plaintiffs have asked the District Court to clarify that CFPB's failure to request more funds from the Federal Reserve cannot justify a violation of the injunction precluding CFPB from firing its employees
- On Nov. 24, the District Court ordered briefing on the issue
- CFPB opposed such clarification to the extent that the court could modify its existing injunction to include a mandate that CFPB request additional funds from the Federal Reserve
- On Dec. 10, a group of 5 former Fed official filed an amicus brief arguing against the CFPB's and OLC's interpretation of CFPB's funding statute

Status of CFPB - Litigation

- One adversary proceeding initiated since Vought took over
- Cases retained:
 - Clear demonstrable fraud
 - Direct harm to identifiable consumers
 - Core subject areas: mortgages, consumer credit, debt collection
- Cases dropped:
 - Indirect or speculative consumer injury
 - Duplicative state or federal regulatory efforts

Status of CFPB - Litigation

- Discontinued 2025-Initiated Matters
 - *CFPB v. Draper & Kramer Mortgage Corp.*, No. 1:25-cv-00605 (N.D. Ill. Jan. 17, 2025)
 - Alleged violations of the ECOA and CFPA
 - Consent Order entered on Jan. 24, 2025
 - May 15, 2025 CFPB issued no-action letter ceasing monitoring compliance with the Consent Order
 - CFPB notes that this matter did not involve “direct evidence of overt racial discrimination and identified victims”
 - *CFPB v. Capital One, N.A.*, No. 1:25-cv-00061 (E.D. Va. Jan 14, 2025)
 - Alleged misrepresentations to consumers regarding the interest yield on certain accounts
 - Dismissed with prejudice on Feb. 27, 2025

Status of CFPB - Litigation

- Currently surviving lawsuit: *CFPB v. Manseth et al*, No. 1:22-cv-00029 (W.D.N.Y. Jan 10, 2022)
- Defendants are debt buyers and collectors
- Alleged violations of the CFPA & FDCPA:
 - False threats about lawsuits and arrests
 - False statements about credit reporting
 - Placement and sale of debts with debt collector that made false threats of lawsuits and arrests and false statements about credit reporting
- Discovery to close in May 2026, Dispositive motions due in January 2027

Status of CFPB - Litigation

- Currently surviving lawsuit: *CFPB v. Experian Information Solutions, Inc.*, No. 8:25-cv-00024 (C.D. Cal. Jan 07, 2025)
- Alleged violations of the FCRA:
 - Failure to conduct reasonable re-investigation within required timeframe
 - Failure to provide furnishers with all relevant information received from a consumer dispute
 - Unreasonably relied on furnishers' responses in circumstances that warranted further investigation
 - Failure to disclose results of reinvestigations
 - Failure to investigate disputes regarding hard inquiries
- Amended Answer filed in late November

Status of CFPB - Litigation

- Stipulated Judgment entered on Nov. 24, 2025 in *CFPB v. MoneyLion Technologies Inc. et al*, No. 1:22-cv-08308 (S.D.N.Y. Sep 29, 2022)
- Terms of the Stipulated Judgment:
- Defendants are prohibited from:
 - Extending credit where the military annual percentage rate exceeds 36 percent, which shall include application, finance, and insurance charges or fees
 - Preventing cancelation of memberships regardless of loan status
 - Telling members that they must pay off, become current, or pay past or future membership fees prior to cancellation
 - Collecting membership fees for periods where membership was suspended
 - Precluding payment of loans in full or membership fees from Credit Reserve Accounts
 - Furnishing negative consumer reporting information based on membership fees
- Defendants must:
 - Correct any negative reporting based on membership fees
 - Distribute \$1.72 MM *pro rata* of membership fees paid

Status of CFPB - Litigation

- Newly initiated adversary proceeding filed on August 21, 2025 – *CFPB v. Synapse Financial Technologies, Inc.*, No. 1:25-ap-01052 (Bankr. C.D. Cal. Aug. 21, 2025)
- Filed in a pending bankruptcy matter filed by Synapse
- CFPB alleged that Synapse violated the CFPA by:
 - failing to maintain adequate records of the location of consumers' funds and
 - failing to ensure those records matched the records maintained by its partnering banks, causing consumers to lose access to their funds
 - Synapse records reflected \$60-90 MM more than the partnering banks showed
- Stipulated judgment entered on Sep. 12, 2025
 - Injunctive relief; \$1 in penalty to enable CFPB access to civil penalty fund

Status of CFPB - Litigation

- In late November 2025, the CFPB began transferring all of its active litigation to the Justice Department
 - DOJ has dissolved its “Consumer Protection Branch”
 - DOJ has established an “Enforcement and Affirmative Litigation Branch” within its Civil Division that appears intended to replace the Consumer Protection Branch
- This includes enforcement actions and appellate matters

Status of CFPB – Examinations & Investigations

- Nov. 21 “Humility Pledge” Press Release
 - All examiners are required to read the pledge to a supervised entity at the beginning of the examination
 - “the Bureau will focus its supervision resources on pressing threats to consumers, particularly service members and their families, and veterans, and in the areas that are clearly within the Bureau’s statutory authority. The Bureau will also avoid, where possible, duplication of supervision, where States or other regulators are already doing that job.”
 - Supervised entities will receive advance notice of examinations
 - Requests related to exams will hew to the defined scope of the exam without venturing into other areas
 - The scope will be on identified priority markets and findings will focus on pattern and practice violations with tangible and identifiable consumer harm
 - “Matters Requiring Attention” will be similarly focused
 - CFPB will not ask for expansive data sets or information unrelated to an examination
 - Examination times will be reduced
 - Examiners will be encouraged and incentivized to complete the work promptly and under budget

Status of CFPB – Examinations & Investigations

- Late November 2025 – Internal Email
 - Advising enforcement staff that Director Vought had authorized many investigations to restart, but did not state which or how many

Status of CFPB

- Pres. Trump nominated a new director, but nothing seems to have been done to advance that nomination
- Some actions seem to be aimed at new investigations and an aggressive regulatory agenda
- Other actions seem to be aimed at shuttering the agency

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