The Daily Dish

Starving the CFPB

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The Consumer Financial Protection Bureau (CFPB), created by the Dodd-Frank Act in the aftermath of the financial crisis and Great Recession, has been a partisan controversy from the outset. With both houses of Congress under their control at the time of passage, Democrats adopted a unique approach to funding the CFPB designed to insulate it from partisan pressure. Instead of standard funding during the annual appropriations process, where the power of both parties changes over time, the CFPB is instead funded by the Federal Reserve. Each year, the director of the CFPB requests the funds needed to operate the CFPB from the "combined earnings of the Federal Reserve System" (subject to an inflation-adjusted limit).

The Trump Administration just blew the funding mechanism up.

AAF's Thomas Kingsley has the full story. Here are the highlights. In a court filing, the administration revealed a new opinion from the Department of Justice's (DOJ's) Office of Legal Counsel that the term "combined earnings" refers to profits and not revenues. "If the Federal Reserve has no profits, it cannot transfer money to the CFPB," according to the opinion. As it turns out, the Federal Reserve System (the Board of Governors, the Federal Open Market Committee, and the regional Federal Reserve Banks) has been running losses since 2022.

No moolah for you, CFPB.

CFPB Acting Director Russell Vought (also the head of the Office of Management and Budget) had previously informed the White House and Congress that he would not request funds from the Fed and the CFPB will have to cease operation in early 2026. Of course, Congress could appropriate funding for the CFPB, including changing the funding mechanism, but there is no reason to expect those actions to pass muster with the House, Senate, and president. In all likelihood, it will go the way of USAID – two agencies shuttered wholesale by the executive branch while Congress stands by, apparently helplessly.

And that’s the problem. Over the years, Eakinomics has spared no criticism of the CFPB, which operated on these principles: there is no such thing as overreach; it’s fine if there are all costs and no benefits; and every financial services entity is guilty and can never be proven innocent. It deserved every harsh word.

But the solution is not death at the hand of the executive branch. That leaves no agency prepared to handle the consumer protection portfolio, and there is a genuine need for this as part of financial regulation. If Congress wants to wind down the CFPB and hand over its portfolio to other regulators, fine. If it wants to reform the CFPB, fine. But Congress created the CFPB and Congress should determine its future.