



## Insight

# The CFPB: The Beginning of the End?

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### Executive Summary

- The Consumer Financial Protection Bureau (CFPB) was created in 2008 as a centralized home for consumer protection in the wake of the financial crisis.
- It has been dogged by its unusual, and perhaps unconstitutional, governance and funding structure, but despite this shaky foundation, the CFPB has significantly expanded the scope of its role and responsibilities, leading to significant criticism from industry and conservatives.
- The first Trump Administration had simply hamstrung the CFPB, but the new Trump Administration has stopped its operations with surprising speed and severity.
- The unique funding structure designed for the CFPB to insulate it from political pressures has proven its undoing.

### The History of the CFPB

In the wake of the financial crisis of 2008, the federal government created new regulatory bodies to oversee aspects of the financial services industry, perhaps most notably the Consumer Financial Protection Bureau (CFPB). Tasked with regulating the consumer finance industry, the CFPB was designed to increase and improve transparency, accountability, and consumer protections. From inception, scholars have questioned the [constitutionality of the agency](#), as it was designed to be significantly insulated from traditional oversight.

Hoping to isolate the CFPB from political pressures, Congress designed it to be led by a single director. Under this system, the director is given near unilateral powers and can be

removed by the president only for cause [in cases of](#) “inefficiency, neglect of duty or malfeasance in office.” This structure is quite unlike that of other financial regulators such as the Securities and Exchange Commission or Commodity Futures Trading Commission, which have five-person bipartisan boards. Congress also determined that the CFPB be funded outside the traditional budgetary process, instead requesting funding from the Federal Reserve.

At inception, the CFPB created few if any new protections for consumers, instead replicating and duplicating a wide array of consumer-focused protections spread over other regulators, centralizing them in one place. Over time, many of the regulators that previously had consumer protection briefs have since shuttered these operations to make way for a highly active CFPB. In the two decades since its creation, the CFPB has led the development of its own portfolio, and under Democratic administrations has [vastly expanded the scope](#) of its powers, authorities, and responsibilities. To its defenders, the CFPB is the only regulatory body focused on protecting consumers from the excesses of Wall Street. To its detractors, the CFPB is an unconstitutional, self-aggrandizing set of weights around the neck of U.S. industry and progress.

### **The Constitutionality of the CFPB**

In June 2020, the Supreme Court [found the CFPB structure unconstitutional](#), given the inability of the president to fire the CFPB director at will, although the Supreme Court preserved the agency by severing the removal clause from the law. In May 2024, the Supreme Court ruled that the CFPB’s funding structure was constitutional. When the CFPB was founded in 2010, Congress authorized it to request desired funding from the Federal Reserve, up to an (inflation-adjusted) cap of \$785.4 million. The plaintiffs in the case argued this was unconstitutional because of the Article I clause providing that money could be drawn from the Treasury only [“in Consequence of Appropriations made by Law”](#) - seemingly implying the need for an appropriations act. Justice Clarence Thomas, writing the opinion for a 7-2 majority, said that Congress has wide discretion in structuring the way federal agencies are funded.

While these decisions seem to preserve the existence of the CFPB (or at least would make it difficult for any administration to “delete” the bureau without the assistance of Congress), the CFPB funding mechanism remains both nonsensical and a vulnerability. A first principle of budgeting is that all demands for funding be on a level playing field. Exempting CFPB from the appropriations process provides a favored status superior to that of the other financial regulators. There is no compelling reason for that preference, and it should be eliminated. A second principle is that Congress should use its oversight powers to ensure that agencies are using funds in the pursuit of their legislated missions and as efficiently as

feasible.

## **The Agency Shuttered**

The first Trump CFPB director, Kathy Kraninger, essentially neutered the agency, pausing rulemaking, reducing enforcement, and refraining from publishing “guidance.” It was reasonable to expect more of the same. Instead, the CFPB has been unraveled fundamentally and with the astonishing speed characteristic of the second Trump presidency. In just four days, Trump’s Office of Management and Budget chief, Russ Vought, became the CFPB’s acting director, the Department of Government Efficiency identified the CFPB as its next target, agency enforcement and supervisory staff were hit with a stop-work order, the CFPB’s X and home page were closed, and staff were prohibited from entering the building.

Perhaps most important, however, Acting Director Vought noted that in light of the \$700 million the CFPB currently possesses in reserve, further funding for the bank is not “necessary” and “excessive in the current fiscal environment.” The CFPB acting director has at last managed what decades of legal wrangling and the Supreme Court could not - and in insulating the CFPB from political pressures, the CFPB as designed must request its own funding. Any CFPB director can simply not request any funding at all - and the first Trump Administration used this tactic under Acting Director Mick Mulvaney.

## **Conclusions**

For years Republicans and industry have railed against an activist CFPB ever expanding its own powers and responsibilities. The CFPB can and should be unwound, but moving fast and breaking things necessarily entails breaking things. Over the past two decades, the CFPB has supplanted a significant body of existing consumer protections at other federal regulators. Halting operations at the CFPB without a plan for replacing these protections is not without risks to both consumers and the administration.