

Wither CFPB, Will States Step In?

By Matthew Biben and Camilla Akbari

APRIL 7, 2025

The Consumer Financial Protection Bureau (CFPB) has entered a period of significant change under the Trump administration, with recent directives dramatically altering its operations and enforcement priorities. This decline in federal oversight raises the question of whether increased state-level enforcement of consumer protection laws is likely to follow, creating a new and potentially more complex regulatory landscape for financial institutions and businesses.

The CFPB's Operational Shift

On Feb. 7, 2025, President Trump appointed Office of Management and Budget (OMB) Director Russell Vought as the acting director of the CFPB. This appointment marked a significant change in the agency's leadership and direction. Acting Director Vought swiftly issued directives that fundamentally altered the CFPB's operations, including:

- Ceasing all supervision and examination activities
- Pausing pending investigations
- Halting enforcement actions
- Suspending public communications



By **Matthew Biben**



And **Camilla Akbari**

• Freezing rulemaking activities

These changes represent a dramatic departure from the CFPB's previous operational model and signal a clear intent to reduce the agency's regulatory and enforcement footprint.

In addition to these operational changes, Vought announced that the CFPB would not draw its next round of funding from the Federal Reserve, citing the agency's current reserves of \$711.6 million as "excessive."

This decision raises questions about the CFPB's future financial capacity and independence, potentially further limiting its ability to carry out its statutory mandate.

On Feb. 13, 2025, Trump appointed Jonathan McKernan to lead the CFPB on a full-time basis. Although confirmation hearings await, it is expected that McKernan will follow the path that Vought has set out on.

Legal Status of the CFPB and the CFPA

Despite these significant operational changes, it is crucial to understand that the legal foundation of the CFPB and the Consumer Financial Protection Act (CFPA) remains intact. The Supreme Court ruled last year that the CFPB's funding structure is constitutional, affirming the agency's legal basis even as its operations are curtailed. See *CFPB v. Cmty. Fin. Servs. Ass'n of Am., Ltd.*, 601 U.S. 416 (2024).

Moreover, the CFPA itself remains valid law. The administration's actions do not nullify or

While the Consumer Financial Protection Act remains valid law, the reduction in federal enforcement is likely to lead to increased state-level activity. This shift presents both challenges and opportunities for financial institutions and businesses.

amend the statute. This means that while the CFPB's enforcement activities may be significantly reduced, the underlying legal framework for consumer financial protection remains in place and financial institutions need to continue to carefully evaluate their compliance responsibilities.

It is also important to note that while the administration can significantly impact the CFPB's operations, it cannot unilaterally eliminate the agency without congressional approval. This limitation preserves the CFPB's statutory existence, even if its activities are substantially reduced.

Expected Reduction in Federal Enforcement

The recent directives from Acting Director Vought suggest a more dramatic reduction in enforcement activities compared to previous administrations.

Under the first Trump administration, the CFPB issued an average of 29 enforcement actions per year, which was actually higher than the nearly 24 per year under Biden (although Director Chopra's aggressive and expansive view of the Bureau's jurisdiction and supervisory reach far exceeded anything before it).

However, the current freeze on enforcement activities indicates a more severe curtailment of the agency's oversight role.

This reduction in federal enforcement is likely to impact several key areas of consumer financial protection:

- Consumer complaints handling
- Investigations into unfair or deceptive practices
- Enforcement of existing regulations
- Development and implementation of new rules

The freeze on enforcement activities also raises questions about the status of ongoing investigations and pending cases. It is unclear how these matters will be resolved or if they will be pursued to completion.

The Rise of State Enforcement Actions

As federal enforcement through the CFPB recedes, state attorneys general and regulators are expected to step into the breach. Some states have already announced initiatives to increase their consumer protection efforts.

For example, Michigan's Attorney General has reaffirmed its commitment to enforcing the state's Consumer Protection Act, and New York's Department of Financial Services has proposed new regulations on overdraft fees.

Importantly, states have the express authority to enforce the CFPA, including provisions making it unlawful for covered persons or service providers to violate any federal consumer financial protection law. See 12 U.S.C. §5552.

States can also bring actions to enforce regulations issued by the CFPB under federal consumer financial laws, including, e.g., the CFPA, TILA, EFTA, FDCPA, and GLBA. Additionally, most states have enacted their own consumer protection laws, often referred to as “Little FTC Acts” or Unfair and Deceptive Acts and Practices (UDAP) laws. These laws generally prohibit deceptive practices in consumer transactions and, in many states, also prohibit unfair or unconscionable practices.

State attorneys general are typically empowered to enforce these laws through various means, including investigations, civil litigation, seeking injunctive relief, imposing civil penalties, and obtaining restitution for consumers.

Notably, states can pursue claims and actions against a broader range of entities than the CFPB, and state enforcement actions are not halted by CFPB actions. This broader scope of authority may lead to more comprehensive consumer protection efforts at the state level.

As we have seen in the past, Attorneys General often carry out their consumer protection duties on a multistate basis. This coordination is one way states can counter the CFPB’s significant advantages in resources, funding, personnel and to some extent expertise, and allows for enforcement actions that can address issues across multiple jurisdictions.

Implications for Financial Institutions and Businesses

The shift from federal to state enforcement creates several significant implications for financial institutions and businesses operating in the consumer financial services space:

- **Compliance Challenges:** Companies may face a more complex regulatory landscape, necessitating a state-by-state compliance approach. This could increase compliance costs

and complexity, particularly for businesses operating across multiple states.

- **Potential for Increased Litigation:** The reduction in federal enforcement may lead to an increase in private litigation and state-level enforcement actions, potentially exposing businesses to greater legal risks.

- **Regulatory Uncertainty:** The rapid changes in the CFPB’s operations and the potential for varying state approaches create a period of regulatory uncertainty. This uncertainty may impact business planning and risk management strategies.

Long-Term CFPB Enforcement Risk

Although federal enforcement efforts are expected to decline over the next four years, financial institutions and businesses remain subject to long-term enforcement risks for actions taken during the Trump administration. CFPB enforcement actions are typically governed by a three-year statute of limitations. See 12 U.S.C. §5564(g)(1).

However, this period runs from the date the violation is discovered, not when it occurred. Moreover, courts have held that the discovery of an earlier violation does not preclude claims alleging later violations, even if both stem from the same ongoing conduct. See, e.g., *CFPB v. MoneyGram Int’l, Inc.*, 2025 WL 297389, at *13 (S.D.N.Y. Jan. 24, 2025).

Further, the CFPA includes no limitations period governing the issuance of a civil investigative demand.

Thus, if the CFPB eventually reverts to the more aggressive approach observed under the Biden administration, businesses may face enforcement actions and investigations for activities taken over the next four years.

Strategies for Navigating the New Landscape

To navigate this evolving regulatory environment, financial institutions and businesses should consider the following strategies:

- **Maintaining Robust Compliance Programs:** Despite the current reduction in federal enforcement, businesses should maintain strong compliance programs to address both federal and state consumer protection laws. This includes regular review and updating of policies and procedures to ensure they meet the requirements of various state laws.

- **Monitoring State-Level Developments:** Companies should closely monitor state-level consumer protection initiatives and enforcement priorities. This may involve dedicating resources to tracking legislative and regulatory changes across multiple states.

It is also important to note that while the administration can significantly impact the CFPB's operations, it cannot unilaterally eliminate the agency without congressional approval. This limitation preserves the CFPB's statutory existence, even if its activities are substantially reduced.

- **Engaging with State Regulators:** Proactive engagement with state attorneys general and regulatory bodies may help businesses navigate the shifting enforcement landscape. This could include participating in stakeholder meetings, providing input on proposed regulations, and maintaining open lines of communication with state regulators.

- **Conducting Regular Risk Assessments:** Given the changing regulatory landscape, businesses should conduct regular risk assessments to identify potential areas of vulnerability

under both federal and state consumer protection laws.

- **Enhancing Consumer Complaint Handling:** With the CFPB's reduced role in handling consumer complaints, businesses may need to enhance their internal complaint handling processes to address consumer issues effectively and prevent escalation to state regulators.

Conclusion

The CFPB's retreat from active enforcement under the Trump administration marks a significant shift in the consumer financial protection landscape. While the CFPA remains valid law, the reduction in federal enforcement is likely to lead to increased state-level activity. This shift presents both challenges and opportunities for financial institutions and businesses.

Companies must remain vigilant in their compliance efforts, adapting to a more complex regulatory environment where state attorneys general and regulators play an increasingly prominent role.

By maintaining robust compliance programs, monitoring state-level developments, and proactively engaging with regulators, businesses can navigate this new era of consumer financial protection enforcement effectively.

As this situation continues to evolve, it will be crucial for companies to stay informed about regulatory changes at both the federal and state levels.

The coming months and years are likely to see further developments in this area, potentially reshaping the consumer financial protection landscape for years to come.