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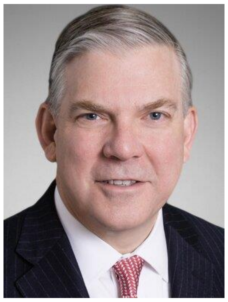
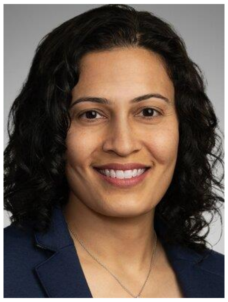
Funding Haze And Deregulatory Pursuits: The CFPB In 2026

By **Eric Mogilnicki, Jehan Patterson and David Stein** (January 2, 2026, 9:55 AM EST)



Eric Mogilnicki



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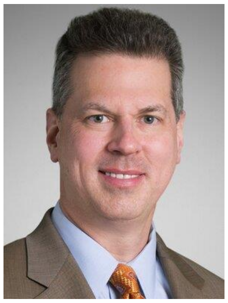

David Stein

Although a change in administrations always portends a directional shift for federal agencies, the Consumer Financial Protection Bureau had a more tumultuous 2025 than any other financial services regulator.

The bureau's new leadership has fired scores of employees and attempted to fire hundreds more. The CFPB has abandoned some public enforcement matters, closed nonpublic investigations and halted open investigations.

Going forward, the bureau's leadership has pledged to reduce supervisory examinations and to deprioritize its attention to a host of financial products and services.

At the same time, there is activity at the CFPB heading into this year. The bureau's leadership has begun to implement its ambitious plan to rescind or revise many regulations, and has taken steps toward resuming both enforcement and supervision — though under very new conditions.

Accordingly, 2026 will be a year in which bureau leadership will be forced to reconcile its impulse to dramatically reduce the bureau's activities with its statutory responsibilities and the pursuit of its deregulatory goals.

Ongoing Litigation

For almost as long as the bureau's current leadership has been in office, the union representing CFPB employees has been in court trying to prevent large-scale layoffs.

An en banc U.S. Court of Appeals for the D.C. Circuit panel will hear oral arguments in National Treasury Employees Union v. Vought in February on a preliminary injunction that blocked mass firings,[1] but bureau leadership has already identified another path to the same end.

In November, the bureau filed a notice, also in the union litigation, informing the U.S. District Court for the District of Columbia that it anticipated running out of funds to continue operations by the end of the year.[2]

Consistent with this shortfall, the bureau plans to transfer its remaining litigation docket to the U.S.

Department of Justice.[3]

The decision by CFPB leadership not to seek additional funding from the Federal Reserve has been challenged by the union in a motion to clarify the preliminary injunction, by former Federal Reserve officials in an amicus brief, and by consumer groups in a separate lawsuit, Rise Economy v. Vought in the U.S. District Court for the Northern District of California.[4]

However, regardless of the litigation, bureau leadership will continue to control bureau output. If leadership is committed to allowing the bureau to do no more in 2026 than the bare minimum required by law, they may accomplish that goal with or without a large budget and staff.

The Bureau's 2026 Budget

Bureau leadership determined that the bureau needs approximately $279.5 million to fund its operations through Sept. 30, 2026,[5] which is less than half of the bureau's budget over each of the past four years and substantially less than the budgets under prior Republican directors.[6]

Accordingly, we expect diminished bureau enforcement and supervisory activity in 2026 — particularly if the bureau reallocates resources to rewrite and rescind regulations. The same report asserted the bureau would require approximately $677 million in funding to comply with the district court's preliminary injunction preventing mass terminations.[7]

That number may be lower, however, if CFPB employees continue to leave the agency. The bureau's headcount declined from 1,700 to approximately 1,300 as of early December.[8]

Rulemaking

For most of 2025, the CFPB's regulatory agenda focused on rescinding, withdrawing, refusing to defend or reopening bureau regulations and guidance.

This year, the focus will be on proposing and finalizing substantive rules that align with the administration's priorities. The CFPB's dwindling operating funds and staffing, however, raise questions about its capacity to advance its rulemaking agenda. We also expect legal challenges to any new regulations the bureau promulgates.

The bureau's unified agenda provides a road map for 2026's regulatory priorities.[9]

The top priorities are revising: (1) Regulation B, which implements the Equal Credit Opportunity Act; (2) the Section 1071 small business data collection rule; and (3) the final Section 1033 personal financial data rights rule.

First, the bureau likely intends to finalize early in 2026 its proposed rule under ECOA and Regulation B, published on Nov. 13, 2025.[10] If adopted as proposed, the rule would:

- Eliminate disparate impact liability under ECOA by disclaiming the applicability of the so-called effects test;
- Revise and narrow what constitutes unlawful discouragement; and

- Prohibit for-profit organizations from establishing special purpose credit programs using eligibility criteria based on race, color, national origin or sex.

Second, the bureau is likely to finalize proposed revisions to the small business data collection rule, published on Nov. 13.[11]

The statute and regulation require the collection and reporting of bank data on small business loan applications for use in evaluating fair lending compliance. If finalized as proposed, the revised rule would:

- Reduce the number of financial institutions required to collect and report;

- Reduce the small business revenue size threshold triggering collection obligations from $5 million to $1 million or less;

- Exclude merchant cash advances, agricultural lending, and small-dollar business credit of $1,000 or less;

- Eliminate the collection of certain data points, including LGBTQ+ status;

- Eliminate antidiscouragement provisions; and

- Extend the compliance date until Jan. 1, 2028.

Third, the personal financial data rule pits banks against nonbank fintechs in a fight over third-party access to consumers' bank account and credit card data.

Key issues include whether banks can charge fees for such access and/or deny access based on security concerns and whether the statute only requires access to fiduciaries. Although the bureau sided with the banks in Forcht Bank NA v. CFPB, a legal challenge to the rule in the U.S. District Court for the Eastern District of Kentucky,[12] the ultimate outcome of the rulemaking is difficult to predict because nonbank fintechs have strong support within the administration.

At this point, the CFPB has issued an advance notice of proposed rulemaking, receiving almost 14,000 comments from interested parties, and represented in a court filing that it "will undertake efforts to issue an interim final 1033 rule" before it expects to run out of funding.[13]

Fourth, the bureau is considering: (1) proposing a rule to address the prohibition on unfair, deceptive, or abusive acts or practices focusing on defining what constitutes "abusiveness"; (2) rescinding the loan originator compensation rule under Regulation Z, i.e., the Truth in Lending Act, and amending or rescinding certain discretionary mortgage servicing rules under Regulations Z and X (the Real Estate Settlement Procedures Act); and (3) reconsidering, or rescinding, the remaining provisions of the payday lending rule.[14]

The bureau may also bring closure this year to procedural rules limiting the number of nonbank firms supervised as larger participants in the auto financing, consumer debt collection, consumer reporting and international money transfer markets;[15] and restrict the circumstances under which the bureau will designate a specific nonbank for supervision.[16]

Enforcement

The bureau's stated enforcement priority is to bring cases based on "actual fraud" with "measurable consumer damages," and not "based on the Bureau's perception that consumers made 'wrong' choices" or "based on novel legal theories."[17]

While the bureau had a sparse enforcement docket in 2025, there have been recent stirrings of activity. In November, then-Principal Deputy Enforcement Director Michael Salemi reportedly informed staffers that the bureau intended to restart investigations.[18]

Salemi submitted his resignation shortly thereafter, reportedly stating that "there is no path to an effective future enforcement program at the Bureau."[19]

We expect enforcement in 2026 to continue reducing the docket through early termination of consent orders. In the short run, we expect minimal enforcement activity.

The administration has shown little interest in following through on investigations initiated by prior leadership, and new investigations take time to develop. If more robust enforcement activity arises later in 2026, we expect it to reflect the bureau's stated priority to ferret out fraudulent practices that materially injure consumers, similar to its focus under former Director Kathleen Kraninger.

Supervision

Bureau leadership has announced new supervisory priorities, promising fewer examination, a focus on large banks rather than nondepository institutions,[20] deprioritizing participation in multistate exams, and deferring to state and other federal financial regulators.[21]

There were dramatically fewer examinations in 2025, and the bureau's new leadership has yet to publish an edition of "Supervisory Highlights," compared to at least four editions published in the last year of the Biden administration.[22] Moreover, the CFPB has reportedly closed out virtually all matters requiring attention identified by prior examinations.[23]

However, bureau leadership may resume examinations, as indicated by its recent announcement that CFPB examiners will be required to read a "humility pledge" to supervised entities at the beginning of each examination.

In that pledge, examiners will promise to "work collaboratively" with the institution and focus on "pattern and practice violations of law where there is tangible and identifiable consumer harm."[24]

Under this new approach, supervisory examinations will be less frequent and less burdensome. Financial institutions may choose to disclose issues in light of the bureau's less confrontational approach.

Indeed, the bureau is "encouraging self-reporting and resolving issues in Supervision, where feasible, instead of via Enforcement."[25]

Finally, we expect that supervised entities will seek — and may obtain — relief from examinations by appealing directly to bureau leadership. The humility pledge encourages such reporting if "your experience ... of examination is inconsistent with these principles."[26]

Conclusion

Most of the steps taken by the CFPB in 2025 were designed to unwind the legacy of former bureau leadership. We expect 2026 to bring further efforts to rescind or rewrite bureau regulations, and a reduced scope and changed tone to the CFPB's enforcement and supervision efforts.

While the courts will ultimately decide whether and how the bureau may be funded, the bureau's leadership will ultimately decide whether and how any funding is spent, giving the Trump administration the opportunity to largely mothball — or reinvent — the CFPB.

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[1] Jared Foretek, DC Circ. Grants En Banc Hearing on CFPB Layoff Plan, Law360 (Dec. 17, 2025), https://www.law360.com/publicpolicy/articles/2423448.

[2] See Notice of Section 5497(e) Report, NTEU v. Vought, No. 1:25-cv-00381-ABJ (D.D.C. Nov. 11, 2025), ECF 147.

[3] Evan Weinberger, CFPB Transfers Active Litigation to DOJ as Funding Dwindles, Bloomberg (Nov. 20, 2025), https://news.bloomberglaw.com/banking-law/cfpb-transfers-active-litigation-to-doj-as-its-funding-dwindles.

[4] See Kate Berry, CFPB Court Battle with Union Continues With No End In Sight, American Banker (Dec. 1, 2025), CFPB court battle with union continues with no end in sight | American Banker; Jon Hill, Fed Can Fund CFPB Under Trump Admin's Terms, Court Told, Law360 (Dec. 5, 2025), https://www.law360.com/articles/2418993/fed-can-fund-cfpb-under-trump-admin-s-terms-court-told; Jon Hill, CFPB's Vought Faces New Funding Suit, Hearing Demand, Law360 (Dec. 8, 2025), https://www.law360.com/banking/articles/2419324/cfpb-s-vought-faces-new-funding-suit-hearing-demand?about=banking.

[5] See Exhibit A to Notice of Section 5497(e) Report, NTEU v. Vought, No. 1:25-cv-00381-ABJ (D.D.C. Nov. 11, 2025), ECF No. 147-1.

[6] See, e.g., CFPB Report at 6 (discussing FY 2023 budget and FY 2024 and 2025 estimates); Fiscal Year 2019: BCFP annual performance plan and report, and budget overview at 7 (discussing FY 2018 budget and FY 2019 and FY 2020 estimates).

[7] See Exhibit A to Notice of Section 5497(e) Report, NTEU v. Vought, No. 1:25-cv-00381-ABJ (D.D.C.

Nov. 11, 2025), ECF No. 147-1.

[8] Dylan Tokar, A Financial Watchdog's Fate Is In Limbo, Wall Street Journal (Dec. 7, 2025), https://www.wsj.com/finance/regulation/inside-the-federal-consumer-watchdog-trump-is-trying-to-dismantle-352e6cb2.

[9] CFPB Unified Agenda, Agency Rule List – Spring 2025 (Sept. 5, 2025).

[10] 90 Fed. Reg. 50901 (Nov. 13, 2025).

[11] 90 Fed. Reg. 50952 (Nov. 13, 2025).

[12] Forcht Bank, N.A. v. CFPB, Defendants' Motion for Summary Judgment, Case 5:24-cv-00304-DCR (E.D. Ky. May 30, 2025).

[13] 90 Fed. Reg. 40986 (Aug. 22, 2025); Forcht Bank, N.A. v. CFPB, Joint Status Report at 2, Case 5:24-cv-00304-DCR (E.D. Ky. Dec. 9, 2025).

[14] CFPB Unified Agenda, Agency Rule List – Spring 2025 (Sept. 5, 2025).

[15] 90 Fed. Reg. 38409 (Aug. 8, 2024).

[16] 90 Fed. Reg. 41520 (Aug. 26, 2025).

[17] CFPB-Memo.pdf.

[18] Evan Weinberger, CFPB to Restart Investigations After Transferring Litigation, Bloomberg (Nov. 25, 2025), https://news.bloomberglaw.com/banking-law/cfpb-to-restart-investigations-after-transferring-litigation.

[19] Evan Weinberger, CFPB Top Enforcer Resigns Over Trump's Bid to Close Probes, Bloomberg (Dec. 4, 2025), https://news.bloomberglaw.com/banking-law/cfpb-top-enforcer-resigns-over-trumps-bid-to-shut-down-probes.

[20] CFPB-Memo.pdf.

[21] Id.

[22] Supervisory Highlights | Consumer Financial Protection Bureau.

[23] Evan Weinberger, CFPB Closing Out Hundreds of Exam Red Flags as Firings Loom, Bloomberg Law (Aug. 22, 2025), https://news.bloomberglaw.com/banking-law/cfpb-closing-out-hundreds-of-bank-exam-red-flags-as-firings-loom.

[24] CFPB's Supervision Division Releases New 'Humility Pledge' | Consumer Financial Protection Bureau.

[25] Id.

[26] Id.