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Playing Politics with the Consumer Financial Protection Bureau

By Eric J. Mogilnicki and Lucy C. Bartholomew*

In this article, the authors explain that there is a version of the Consumer Financial Protection Bureau, grounded in the Dodd-Frank Wall Street Reform and Consumer Protection Act, that vigorously enforces existing law and thoughtfully regulates and supervises financial institutions. They emphasize, however, that building that Bureau will require leadership that is focused on the Bureau's core mission, and not on exploring how much they can diminish or expand the Bureau's authority.

INTRODUCTION

The Consumer Financial Protection Bureau (CFPB) is in disarray. Congress has cut its funding by about half, the Supreme Court has reduced its independence, and its Acting Director has plans to lay off almost 90% of its workforce. Indeed, Acting CFPB Director Russell Vought initially instructed employees to "stand down from performing any work task," and another Trump official said that the Bureau would be reduced to "five men and phone."[1] Supervision paused for at least nine months, and the few Bureau enforcement and regulatory employees with authorization to work have been largely occupied in reversing the enforcement and regulatory efforts of the prior administration.

This diminishment of an independent agency is not a unique story from the second Trump administration. However, the severity of the cuts to the CFPB's staff and footprint are in stark contrast to a more business-as-usual approach to other agencies that regulate financial services. Unfortunately, this administration's approach to the CFPB is not a surprise but simply the latest swing of an ideological pendulum that has characterized the Bureau for more than a decade. Too often, CFPB leaders have razed—rather than built upon, or even around—the accomplishments of their predecessors.[2] To make matters worse,

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[1] Stacy Cowley, Left for Dead, the CFPB Inches Back to Life, N.Y. Times (Mar. 15, 2025), https://www.nytimes.com/2025/03/15/business/trump-cfpb.html; see also Ken Sweet, Employees at the Nation's Consumer Financial Watchdog Say It Has Become Toothless Under Trump, L.A. Times (July 15, 2025), https://www.latimes.com/business/story/2025-07-15/employees-at-the-nations-consumer-financial-watchdog-say-its-become-toothless-under-trump.

[2] See generally Eric J. Mogilnicki & Lucy C. Bartholomew, A Decade at the Consumer

this ideological pendulum has accelerated over time: Director Rohit Chopra ran a CFPB that was to the left of his Democratic predecessor, Director Richard Cordray, and the Trump Administration is staking out an approach to the CFPB that is far to the right of both Acting Director Mick Mulvaney and Director Kathy Kraninger, the only prior Republican Directors.

This back and forth is vexing to financial institutions that seek to comply with the law, only to have the law defined and redefined by successive CFPB administrations. On issues ranging from "abusiveness" to Reg Z, the CFPB has failed to state and enforce the law consistently – even though consistent enforcement is one of the goals set for the Bureau by statute.[3] But while this inconsistency has consequences for business and consumers, its ultimate victim may be the Bureau itself.

If the Bureau survives this administration, it will have another chance to slow down these wide ideological swings. Doing so will require leadership—from both parties—that values continuity and consensus, rather than confrontation. There is a version of the Bureau, grounded in the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act or Act), that vigorously enforces existing law and thoughtfully regulates and supervises financial institutions. Building that Bureau will require leadership that is focused on the core mission of the CFPB, and not on exploring how much they can diminish or expand the Bureau's authority.

THE MISSION AND STRUCTURE OF THE CFPB

The continuing controversy over the CFPB does not inhere in the Bureau's mission. The Bureau was created by the Dodd-Frank Act, which had bipartisan support. While the Act included some new substantive law, the central responsibilities of the Bureau were to enforce and interpret eighteen longstanding federal statutes formerly enforced by seven different agencies.[4] The rationale for this consolidation, in the wake of the mortgage crisis, was to ensure that the

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Financial Protection Bureau, 77 The Business Lawyer 2 (Spring 2022) (identifying ways that the Bureau's policies have shifted between administrations).

[3] See id., citing 12 U.S.C. § 5511(a) (2018).

[4] See Consumer Fin. Prot. Bureau, Testimony of Elizabeth Warren Before the House Financial Services Committee (Mar. 16, 2011), available at https://www.consumerfinance.gov/about-us/newsroom/testimony-of-elizabeth-warren-before-the-house-financial-services-committee/ ("The tangle of seven agencies failed to create effective rules and left gaping holes in oversight," and, to solve for these issues, the "CFPB [would] be directly responsible to the public for performing those core functions."). This origin sharply contrasts with the origins of the Federal Trade Commission (FTC) and Securities and Exchange Commission (SEC), both of which enforced and interpreted new broad substantive federal law.

agencies with responsibility for banks' safety and soundness were not also the primary protectors of banks' consumers.[5] With regard to nonbanks, the Act was based on the relatively noncontroversial position that nonbanks engaging in the same kinds of financial transactions as banks should be regulated in a manner consistent with banks.[6] This modest charter, in different hands, might have been exercised in a way that garnered the same broad acceptance as the FTC or SEC.

In addition to this nonpartisan mission, Congress created special safeguards designed to protect the Bureau from political influence. For example, the Dodd-Frank Act allowed the President to appoint a CFPB director for a five-year term (which would inevitably extend beyond the President's term) and to remove the director only for "inefficiency, neglect of duty, or malfeasance in office."[7] Similarly, as another safeguard against political influence, Congress allowed the CFPB to requisition funding directly from the Federal Reserve's earnings, rather than participate in the annual appropriations process.[8] In theory, both of these provisions should have sheltered the CFPB from sudden shifts in the political winds.

CFPB LEADERSHIP: THE INSTITUTIONALISTS

The CFPB's mission and structure provided its leadership with an opportunity to grow the new agency into a sturdy part of the regulatory firmament. The Bureau's first two permanent Directors recognized this opportunity, and while neither escaped criticism, their leadership demonstrated that the core of the Bureau's consumer protection mission could be nonpartisan.

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[5] See S. Rep. No. 111-176, at 11–12 (2010) (explaining that "consumer protection should not be compromised by concerns about the profitability of financial institutions" and that consolidating authority in the CFPB would "eliminate gaps and overlaps" among agencies).

[6] 12 U.S.C. § 5511 ("The Bureau shall seek to implement and, where applicable, enforce Federal consumer financial law consistently. . . .").

[7] 12 U.S.C. §§ 5491(b)(2), 5491(c)(1)(3) (2018).

[8] Indeed, Republicans have long argued that this funding mechanism renders the Bureau too independent and unaccountable to Congress. During the 2010 floor debates on the Dodd-Frank Act, then-Representative Jeb Hensarling warned that funding the CFPB through the Federal Reserve rather than annual appropriations would make it "the most powerful and least accountable agency in the history of our republic." Opening Statement of Chairman Jeb Hensarling, Hearing on the CFPB, U.S. House Comm. on Financial Services (Feb. X, 2015) (statement of Chairman Jeb Hensarling), in Oversight Hearing on CFPB, 114th Cong. (2015) (testimony before the U.S. House Financial Services Committee).

Director Richard Cordray

The first CFPB Director, Richard Cordray, described "building a great institution" as one of the defining goals of his administration,[9] which extended from January 2012 to November 2017. His leadership team had broad and diverse experience, including in providing financial services.[10] Director Cordray also appointed a Consumer Advisory Board that included both consumer advocates and senior bank officials.[11] He also launched a series of initiatives, dubbed Project Catalyst, to assist innovation in consumer financial services.[12] He observed caution in interpreting the new prohibition on "abusive" conduct, noting that it can require that the Bureau investigate the facts "consumer by consumer,"[13] and that it should reach only defendants who "know what they are doing is probably wrong, and they do it anyway."[14] While his enforcement agenda drew criticism,[15] the more recent history of the CFPB makes the Cordray administration's agenda seem moderate in hindsight.

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[9] Prepared Remarks of CFPB Director Richard Cordray at the Consumer Advisory Board Meeting (Feb. 25, 2016), available at https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-cfpb-director-richard-cordray-at-the-consumer-advisory-board-meeting-20160225/.

[10] Cordray's Deputy Director had a background in providing financial services, and Director Cordray later appointed a General Counsel who had served administrations of both parties in the State Department. See Press Release, Consumer Fin. Prot. Bureau, Raj Date Named Deputy Director of the Consumer Financial Protection Bureau (Jan. 4, 2012), https://www.consumerfinance.gov/about-us/newsroom/raj-date-named-deputy-director-of-the-consumer-financial-protection-bureau/; Press Release, Consumer Fin. Prot. Bureau, CFPB Announces New General Counsel (Dec. 16, 2015), https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-new-general-counsel/.

[11] Consumer Fin. Prot. Bureau, CFPB Announces Consumer Advisory Board Members (Sept. 12, 2012), https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-announces-consumer-advisory-board-members/.

[12] CFPB Launches Project Catalyst to Spur Consumer-Friendly Innovation (Nov. 14, 2012), available at https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-launches-project-catalyst-to-spur-consumer-friendly-innovation/.

[13] Transcript, House Committee on Financial Services, The Semi-Annual Report of the Consumer Financial Protection Bureau, 112th Cong. (Mar. 29, 2012) at 14-18.

[14] The Semi-Annual Report of the Consumer Financial Protection Bureau: Hearing Before the H. Fin. Servs. Comm., 112th Cong. at 27 (Mar. 29, 2012) (testimony of CFPB Director Richard Cordray), https://financialservices.house.gov/uploadedfiles/112-114.pdf.

[15] See, e.g., Jeff Bater, Cop on the Beat or Rogue Agency? CFPB Enforcement Under Cordray, BLOOMBERG LAW (Nov. 15, 2017), https://news.bloomberglaw.com/banking-law/cop-on-the-beat-or-rogue-agency-cfpb-enforcement-under-cordray.

Director Kathy Kraninger

The same is true of the tenure of the only full-time Republican Director of the CFPB, Kathy Kraninger. Kraninger served from December 2018 to January 2021. Appointed to replace a controversial Acting Director, she looked for opportunities to compromise, and found some. For example, instead of repealing the Cordray administration's payday lending rule, she advanced some of its provisions while ending others.[16] Instead of discarding Project Catalyst, she built on it.[17] She issued a policy statement on "abusive" conduct that, like Director Cordray's Congressional testimony, sought to isolate "abusive" conduct from unfairness and deception—and she did so only after convening a symposium on the subject that included a wide range of stakeholders.[18] Director Kraninger also met with current and former members of the Bureau's various advisory committees, and expanded their role in advising the CFPB.[19] She also built a substantial enforcement record, rivalling the Cordray administration in the volume of new actions.[20] Most of these Kraninger era cases involved clearly illegal conduct that preyed on the vulnerable,[21] and so provide a template for enforcement that can build broad support for the CFPB. While there was partisan criticism at the time, it was aimed at seeking still more

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[16] Consumer Fin. Prot. Bureau, Consumer Financial Protection Bureau Releases Notices of Proposed Rulemaking on Payday Lending (Feb. 6, 2019), https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-releases-notices-proposed-rulemaking-payday-lending/.

[17] Director Kraninger's Speech at Innovation Policies Launch Event (Sept. 10, 2019), https://www.consumerfinance.gov/about-us/newsroom/director-kraningers-speech-innovation-policies-launch-event/.

[18] Consumer Fin. Prot. Bureau, CFPB Announces Policy Regarding Prohibition on Abusive Acts or Practices (Jan. 24, 2020), https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-policy-regarding-prohibition-abusive-acts-practices/.

[19] Consumer Fin. Prot. Bureau, CFPB Announces Enhancements to Advisory Committees and Opening of Member Applications (Mar. 21, 2019), https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-enhancements-advisory-committees-and-opening-member-applications/ (Director Kraninger noting, "I've seen firsthand how the Bureau benefits from the valuable input provided by committee members").

[20] See, e.g., Jon Hill, CFPB Enforcement Sees Highest New Case Volume In 5 Years, Law 360 (Oct. 14, 2020).

[21] See Consumer Fin. Prot. Bureau, Kraninger Marks Second Year as Director of the Consumer Financial Protection Bureau (Dec. 11, 2020), https://www.consumerfinance.gov/about-us/newsroom/kraninger-marks-second-year-director-consumer-financial-protection-bureau/. For example, the Bureau "[e]ngaged in a sweep of investigations of multiple mortgage companies that used deceptive mailers to advertise VA-guaranteed mortgages" to servicemembers. Id.

enforcement, and did not quarrel with the cases actually brought by the CFPB.[22] In sum, Director Kraninger's focus on redirecting rather than repudiating the work of Director Cordray stands in stark contrast to more partisan approaches to leading the Bureau.[23]

CFPB LEADERSHIP: THE PARTISANS

In contrast to Director Cordray and Director Kraninger, the CFPB has also been led by partisans pursuing ideological goals that either imposed artificial limits on, or exceeded limits to, the Bureau's authority.

Acting Director Mick Mulvaney

In a precursor to the current state of affairs, the first Trump administration featured an Office of Management and Budget (OMB) Director who served as the Acting Director of the CFPB for over a year. Acting Director Mick Mulvaney led the Bureau from November 2017 to December 2018, in the gap between Director Cordray and Director Kraninger. Mulvaney had declared the agency a "joke" in "a sad sick way,"[24] and immediately set to reduce the scope of the Bureau's activities. For example, he noted that the Dodd-Frank Act required the CFPB to facilitate a centralized collection of consumer complaints, but added that "I don't see anything in here that says that I have to make all of those public."[25] Acting Director Mulvaney similarly parsed words to inform the Senate Banking, Housing, and Urban Affairs Committee that "[w]hile I have to be here by statute, I don't think I have to answer your questions" because the Dodd-Frank Act requires only that the Acting Director "appear" before Congressional committees.[26]

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[22] See, e.g., Senator Warren Questions CFPB Director Kraninger About Lack of Enforcement Action (Mar. 12, 2019), https://www.warren.senate.gov/newsroom/press-releases/senator-warren-questions-cfpb-director-kraninger-about-lack-of-enforcement-action.

[23] During the Kraninger administration, the CFPB lost one part of its insulation from partisanship. As part of a series of Supreme Court rulings consolidating power in the President, the Court held in June 2020 that the limitation on the President's authority to fire the CFPB Director was unconstitutional. Seila Law LLC v. Consumer Financial Protection Bureau 140 S. Ct. 2183, 2197 (2020). The Supreme Court declined to invalidate the CFPB as a whole, instead severing the removal restriction from the Consumer Financial Protection Act. Id.

[24] Nicholas Confessore, Mick Mulvaney's Master Class in Destroying a Bureaucracy from Within, NEW YORK TIMES (Apr. 16, 2019), https://www.nytimes.com/2019/04/16/magazine/consumer-financial-protection-bureau-trump.html [hereinafter Master Class].

[25] Remarks by Mick Mulvaney, Acting Director, Consumer Financial Protection Bureau, American Bankers Association Annual Conference, Washington DC (Apr. 24, 2018), at 5.

[26] Max Greenwood, Mulvaney in Senate Testimony: I'm Required To Be Here, But Not To Answer Your Questions, The Hill (Apr. 12, 2018). Acting Director likewise told the House

Acting Director Mulvaney also decided that each career official leading the Bureau's various divisions would be paired with a "policy assistant director" who would ensure that Bureau staff were following the Acting Director's lead.[27] He moved the Office of Fair Lending out of the Bureau's Enforcement Division and into the Director's office—a move similar to moving a recalcitrant student to a desk in the front of the classroom—and eliminated the student-loan ombudsman's office.[28] Acting Director Mulvaney also put a freeze on hiring and all new regulations, guidance, and civil penalty payments,[29] and took steps to substantially revise the Cordray era payday lending rule, arguing in court that there may be "no rule at all" after further Bureau consideration.[30] Acting Director Mulvaney also repeatedly cancelled meetings with the CFPB's Consumer Advisory Board, and later terminated all of its members.[31] He even took aim at the name of his agency, ruling that the CFPB should be the "Bureau of Consumer Financial Protection," the "BCFP," and created a seal and signage to reflect the new name.[32]

However, Acting Director Mulvaney acknowledged limitations on his remaking of the Bureau. He repeatedly made clear that—as much as he'd like to eliminate the Bureau—he had no plans to "set the place on fire or blow it up or lock the doors."[33] He also advanced proposals for legislative reforms—such as funding the CFPB through annual appropriations and requiring congressional approval for major rules—that reflected his view that transforming the CFPB required congressional action.[34]

Financial Services Committee "it would be my statutory right to just sit here and twiddle my thumbs while you all ask questions." Id. He did in fact answer questions posed by both Committees. Id.

[27] See Master Class, supra note 24.

[28] Id.

[29] Andrew Restuccia, Mulvaney Imposes Temporary Hiring, Regulations Freeze on CFPB, Politico (Nov. 27, 2017), https://www.politico.com/story/2017/11/27/mulvaney-hiring-freeze-consumer-protections-192306.

[30] Id.

[31] Renae Merle, Mick Mulvaney Fires All 25 Members of Consumer Watchdog's Advisory Board, Washington Post (June 6, 2018), https://www.washingtonpost.com/news/business/wp/2018/06/06/mick-mulvaney-fires-members-of-cfpb-advisory-board/.

[32] What's in a Name? Consumer Bureau to Find Out, NYT (June 12, 2018), https://www.nytimes.com/2018/06/12/business/consumer-protection-bureau-mulvaney.html.

[33] See supra n. 29. Mulvaney explained that "[i]f the law allowed this place not to exist, I'd sit down with the president to try to make the case that other agencies can do this job well if not more effectively."

[34] Id.

In time, Acting Director Mulvaney lifted the enforcement freeze, and although enforcement activity slowed,[35] he was reportedly instrumental in the CFPB obtaining a $1 billion civil money penalty against a large bank halfway through his tenure.[36] He was succeeded by a Senate-confirmed Director, Kathy Kraninger who served until the Biden administration took office in 2021.

Acting Director David Uejio

On his first day in office, President Biden nominated FTC Commissioner Rohit Chopra to serve as the Director of the CFPB. As a stopgap measure, President Biden subsequently appointed a long-time CFPB employee, David Uejio, to serve as the Bureau's Acting Director. Uejio served as Acting Director from January to October of 2021. Like Acting Director Mulvaney before him, Acting Director Uejio did not hesitate to withdraw guidance provided by the prior administration, including the guidance on the "abusive" standard painstakingly issued by Director Kraninger.[37] Republicans on the House Financial Services Committee responded with concern that a mere Acting Director would undertake "actions that would traditionally be reserved for a Senate-confirmed Director," including "delaying the implementation date of multiple major rulemakings . . . [and] reversing and rescinding policy statements and guidance."[38] Acting Director Uejio also followed in Acting Director Mulvaney's footsteps by remaking the Bureau's Consumer Advisory Board, adding thirteen new members.[39]

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[35] Id.

[36] Francine McKenna, Mulvaney's First Fine at CFPB Is Second-Largest in History of Agency, MarketWatch (Apr. 21, 2018), https://www.marketwatch.com/story/mulvaneys-first-fine-at-cfpb-is-second-largest-in-history-of-agency-2018-04-20?gaa_at=eafs&gaa_n=AWEtsqd0OkuRSkOw8lZCKDUWoQ6sN_4kZLnbhwS-LCE022uAccsgS8Binuig&gaa_ts=695be36e&gaa_sig=l3Sc6y7P3aeEzhzyXa6oBYMsLv_hdASxWoSuFH4GHL4QbFnPE5LlNFIOi00gkannOue9jhpYt6Nk13MJD2udBw%3D%3D.

[37] Consumer Fin. Prot. Bureau, Consumer Fin. Prot. Bureau Rescinds Abusiveness Policy Statement to Better Protect Consumers (Mar. 11, 2021), https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-rescinds-abusiveness-policy-statement-to-better-protect-consumers/. The accompanying announcement did not offer a detailed explanation of why the Bureau was taking this action, nor any alternative guidance on how the new administration would interpret the standard.

[38] Letter from Members of Congress to Acting Dir. Dave Uejio, Consumer Fin. Prot. Bureau (July 15, 2021), https://financialservices.house.gov/uploadedfiles/2021-07-15_pmc_letter_to_cfpb_re_policy_signed.pdf.

[39] Consumer Fin. Prot. Bureau, Consumer Financial Protection Bureau Announces New Advisory Committee Members (Sept. 22, 2021), https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-new-advisory-committee-members/.

Director Rohit Chopra

Director Chopra took the reins of the CFPB in October 2021, and began to run the CFPB much like Acting Director Mulvaney—and then some. To start, Director Chopra shared and broadened Acting Director Mulvaney's disdain for the work of his predecessors. Director Chopra explained he "viewed financial regulators as clueless and often corrupt," and his criticisms encompassed the SEC, the Department of Justice, and the FTC on which he had served.[40]

While Acting Director Mulvaney had installed political minders to sit beside Bureau leaders, Director Chopra simply installed political hires into leadership positions. For example, Director Chopra selected a former CFPB colleague to serve as the Bureau's General Counsel.[41] This position had previously been non-political: the CFPB General Counsel appointed by Director Cordray had continued in that role under both Acting Director Mulvaney and Director Kraninger.[42] He also followed Acting Director Mulvaney in rebranding the agency, repeatedly describing the CFPB as "a unit of the Federal Reserve System."[43]

While Acting Director Mulvaney had imposed a freeze on all regulations and guidance, Director Chopra withdrew guidance provided by prior administra-

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[40] Rohit Chopra, Reining in Repeat Offenders, Distinguished Lecture on Regulation, Univ. of Pa. L. Sch. (Mar. 28, 2022), https://www.consumerfinance.gov/about-us/newsroom/reining-in-repeat-offenders-2022-distinguished-lecture-on-regulation-university-of-pennsylvania-law-school/. Director Chopra explained that he had this view while he attended business school—but he nowhere suggests his view ever changed.

[41] Chopra served as the CFPB's Assistant Director and Student Loan Ombudsman from 2011 to 2015. The person he appointed to serve as CFPB General Counsel, Seth Frotman, had joined the CFPB in 2011 and later became Deputy Assistant Director for the Office of Students and Student Loan Ombudsman. See About Rohit Chopra, HUD Archives (PAVE), CFPB Student Loan Ombudsman (2011–2015), https://archives.hud.gov/pave.hud.gov/rohitchopra.cfm; Seth Frotman Biography, Nat'l Consumer Law Ctr., https://www.nclc.org/about-us/staff/seth-frotman/ (last visited Jan. 5, 2026); see also Seth Frotman, Prepared Remarks, The Federal General Counsel, Law, and Our Democracy at a Crossroads (Jan. 7, 2025) ("I owe a debt of gratitude to CFPB Director Rohit Chopra for many things, but almost certainly at the top of that list is the way he thought differently about what kind of lawyer should be General Counsel.").

[42] CFPB Announces New General Counsel, Consumer Financial Protection Bureau (Dec. 16, 2015), https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-new-general-counsel/; Transition Briefing Book, Consumer Financial Protection Bureau 14 (November 2020), https://files.consumerfinance.gov/f/documents/cfpb_transition-briefing-book-november-2020_2021-03.pdf.

[43] See, e.g., Rohit Chopra, Director, Consumer Financial Protection Bureau, Hearing on the CFPB Semi Annual Report before the House Committee on Financial Services, 118th Cong. 2 (June 13, 2024).

tions of both parties. For example, the innovation policies created under Director Cordray's Project Catalyst, and extended by Director Kraninger, were summarily rescinded in May 2022, with the terse explanation that "the initiatives proved ineffective."[44] The CFPB also rescinded existing Compliance Sandbox approvals[45] and No-Action Letters, including one that had been granted by Director Cordray and extended by Director Kraninger.[46] The Bureau's innovation policies were not replaced until January 2025, in the waning days of Director Chopra's tenure, and the new policies included a long list of "Conditions to Promote Innovation, Competition, Ethics and Transparency" that would have served to actively discourage innovation.[47]

Similarly, Director Chopra waited two years to replace the "abusive" guidance issued by Director Kraninger and rescinded by Acting Director Uejio. When he did take action, Director Chopra provided no opportunity for public comment or discussion, and issued a Policy Statement that was so broad that it suggested *every* instance of deceptive or unfair conduct was also abusive.[48] Director Chopra's guidance explicitly rejected Director Cordray's position that abusive conduct involves defendants who "know what they are doing is probably wrong, and they do it anyway."[49]

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[44] CFPB Launches New Effort to Promote Competition and Innovation in Consumer Finance, Consumer Fin. Prot. Bureau (May 24, 2022), https://www.consumerfinance.gov/about-us/newsroom/cfpb-lauches-new-effort-to-promote-competition-and-innovation-in-consumer-finance/. Director Chopra replaced the CFPB the Office of Innovation with an Office of Competition and Innovation to "support a broader initiative by the CFPB to analyze obstacles to open markets, better understand how big players are squeezing out smaller players, host incubation events, and, in general, make it easier for people to switch financial providers." Id. However, the Office held no public events and issued no public reports or policies. When the CFPB described the process that led to its rule on data sharing, it made no mention of any input to its Office of Competition and Innovation.

[45] CFPB Rescinds Special Regulatory Treatment for Payactiv, Consumer Fin. Prot. Bureau (Dec. 16, 2022), https://www.consumerfinance.gov/about-us/newsroom/cfpb-rescinds-special-regulatory-treatment-for-payactiv/.

[46] CFPB Issues Order to Terminate Upstart No-Action Letter, Consumer Fin. Prot. Bureau (June 8, 2022), https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-order-to-terminate-upstart-no-action-letter/.

[47] Consumer Fin. Prot. Bureau, Project Catalyst Report (Oct. 20, 2016), https://files.consumerfinance.gov/f/documents/102016_cfpb_Project_Catalyst_Report.pdf. These conditions included the publication of NAL applications, affirmative efforts to invite competitors to seek similar NAL relief, and a ban on applications filed by former CFPB attorneys. Id.

[48] See Eric J. Mogilnicki, The Consumer Financial Protection Bureau's Abusive Policy Statement, 140 Banking L.J. 377 (Sept. 2023).

[49] Id. at 385.

With regard to enforcement, Director Chopra criticized prior regulators for seeing their role as "to strong arm small firms into settlements,"[50] and ended the steady stream of cases against fraudsters that had been a hallmark of Director Kraninger's tenure. Instead, and despite the broad charter of the CFPB, Director Chopra had "a laser-focus" on big technology companies offering financial products and services.[51] The result of that limited focus was that the Bureau brought far fewer enforcement cases under Director Chopra than it had under Director Cordray or Director Kraninger.[52]

Between the 2024 election and President Trump's inauguration, Director Chopra gave the ideological pendulum a final shove. In the last month of the Biden administration, the Bureau took eleven enforcement actions—compared to the two actions it had filed in the same period in each of the prior years.[53] After the election, the CFPB also finalized rulemakings on overdraft fees,[54] medical debt,[55] supervision of digital payment apps,[56] and solar panel loans;[57]

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[50] Kate Berry, Q&A with CFPB Director Rohit Chopra, American Banker (July 27, 2022), https://www.americanbanker.com/news/q-a-with-cfpb-director-rohit-chopra.

[51] Kate Berry, CFPB's Chopra on Late Fees, Big Tech and a Looming Supreme Court Case, American Banker (July 20, 2023), https://www.americanbanker.com/list/cfpbs-chopra-on-late-fees-big-tech-and-a-looming-supreme-court-case.

[52] Kate Berry, CFPB Enforcement Actions Plummet Under Chopra, American Banker (June 5, 2023), https://www.americanbanker.com/news/cfpb-enforcement-actions-plummet-under-chopra.

[53] See Consumer Financial Protection Bureau, Enforcement Actions, https://www.consumerfinance.gov/enforcement/actions/ (last visited Jan. 13, 2026).

[54] CFPB Closes Overdraft Loophole to Save Americans Billions in Fees, Consumer Financial Protection Bureau (Dec. 12, 2024), https://www.consumerfinance.gov/about-us/newsroom/cfpb-closes-overdraft-loophole-to-save-americans-billions-in-fees/.

[55] CFPB Finalizes Rule to Remove Medical Bills from Credit Reports, Consumer Financial Protection Bureau (Jan. 7, 2025), https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-to-remove-medical-bills-from-credit-reports/.

[56] CFPB Finalizes Rule on Federal Oversight of Popular Digital Payment Apps to Protect Personal Data, Reduce Fraud, and Stop Illegal "Debanking," Consumer Financial Protection Bureau (Nov. 21, 2024), https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-on-federal-oversight-of-popular-digital-payment-apps-to-protect-personal-data-reduce-fraud-and-stop-illegal-debanking/.

[57] CFPB Finalizes Rule to Protect Homeowners on Solar Panel Loans and Other Home Improvement Loans Paid Back Through Property Taxes, Consumer Financial Protection Bureau (Dec. 17, 2024), https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-to-protect-homeowners-on-solar-panel-loans-and-other-home-improvement-loans-paid-back-through-property-taxes/.

proposed new rules on consumer contracts and on data brokers;[58] gave new guidance on credit card fees and rewards programs;[59] and issued the new innovation guidance described above.[60]

Acting Director Russell Vought

Acting CFPB Director Russell Vought has taken the tactics of the past partisan Directors and applied them with additional vigor.[61] While Acting Director Mulvaney had criticized the CFPB, and Director Chopra had criticized financial regulators more generally, Acting Director Vought's criticism encompassed all government workers: "We want the bureaucrats to be traumatically affected," he explained, "[w]hen they wake up in the morning, we want them to not want to go to work because they are increasingly viewed as the villains."[62] While Acting Director Mulvaney and Director Chopra had increasingly installed loyalists at the Bureau, Acting Director Vought has simply detailed his OMB Staff to the Bureau.[63]

While prior Directors had frozen or pruned the regulatory work of their predecessors, Acting Director Vought rescinded 67 different guidance documents all at once, including guidance issued by Director Cordray that had

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[58] CFPB Proposes Rule to Ban Contract Clauses that Strip Away Fundamental Freedoms, Consumer Financial Protection Bureau (Jan. 13, 2025), https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-ban-contract-clauses-that-strip-away-fundamental-freedoms/; CFPB Proposes Rule to Stop Data Brokers from Selling Sensitive Personal Data to Scammers, Stalkers, and Spies, Consumer Financial Protection Bureau (Dec. 3, 2024), https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-stop-data-brokers-from-selling-sensitive-personal-data-to-scammers-stalkers-and-spies/.

[59] CFPB Takes Action on Bait-and-Switch Credit Card Rewards Tactics, Consumer Financial Protection Bureau (Dec. 18, 2024), https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-on-bait-and-switch-credit-card-rewards-tactics/.

[60] See supra n. 12 and accompanying text.

[61] Cf., MacBeth, by William Shakespeare, Act 1, Scene 7 (MacBeth worries that "[b]loody instructions, which, being taught, return to plague th'inventor").

[62] Molly Redden and Andy Kroll, and Nick Surgey, Put Them in Trauma": Inside a Key MAGA Leader's Plans for a New Trump Agenda, Pro Publica (Oct. 28, 2024).

[63] The administration "embedded" several members from Elon Musk's newly formed Department of Government Efficiency (DOGE)—a division under the OMB—directly into the CFPB. Bloomberg Law noted that DOGE personnel were "authorized to gain access as though they are a detailee assigned to us or one of our own employees." Evan Weinberger, Musk's DOGE Descends on CFPB With Eyes on Shutting It Down, Bloomberg Law (Feb. 7, 2025), https://news.bloomberglaw.com/banking-law/musks-doge-descends-on-consumer-financial-protection-bureau.

survived the first Trump administration.[64] On issues like innovation and the "abusive" standard, Acting Director Vought has not only rescinded the guidance issued by Director Chopra, but has not taken any steps to replace that guidance with, for example, the guidance that Director Kraninger issued on those subjects. Similarly, while Director Kraninger had expanded the Bureau's Consumer Advisory Board, Acting Director Vought terminated most of the Board and did not attend its meetings.[65]

While prior directors sought to redirect the Bureau's enforcement machinery, Acting Director Vought has placed it in reverse. The Bureau has withdrawn at least 21 enforcement actions filed by the Chopra administration,[66] and brought only one new action in its first ten months.[67] Moreover, Acting Director Vought has terminated at least five consent orders issued under the prior administration, thereby withdrawing injunctive relief designed to prevent future misconduct.[68] While rejecting Director Chopra's focus on big tech, Acting Director Vought has announced his own narrow set of enforcement priorities.[69]

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[64] Consumer Fin. Prot. Bureau, Interpretive Rules, Policy Statements, and Advisory Opinions; Withdrawal, 90 Fed. Reg. 20,084 (May 12, 2025).

[65] The two Advisory Committee meetings in 2025—both held on December 10, 2025—featured the national anthem, a prayer opening a meeting "in Jesus' name," and long presentations by CFPB Staff and industry. Consumer Advisory Board, Consumer Fin. Prot. Bureau, https://www.consumerfinance.gov/about-us/advisory-groups/consumer-advisory-board/ (last visited Dec. 10, 2025). The Board members were invited to speak only about two thirds of the way into the meetings, and their remarks took issue with the presentations, the meeting topics, the meeting scheduling, and the "destruction of the CFPB" under the new administration. Id.

[66] See Consumer Fed'n of Am. & Student Borrower Prot. Ctr., Consumer Groups Sound Alarm as the Trump/Vought CFPB Dismisses or Terminates Enforcement Actions, Leaving Harmed Consumers High and Dry (May 27, 2025), https://consumerfed.org/press_release/consumer-groups-sound-alarm-as-the-trump-vought-cfpb-dismisses-or-terminates-enforcement-actions-leaving-harmed-consumers-high-and-dry/ (reporting that the "Trump Vought CFPB has quietly dismissed at least 21 public enforcement actions").

[67] Consumer Financial Protection Bureau, Press Release**,** CFPB Reaches Settlement with FirstCash, Inc. and Its Subsidiaries for Military Lending Act Violations (July 11, 2025), https://www.consumerfinance.gov/about-us/newsroom/cfpb-reaches-settlement-with-firstcash-inc-and-its-subsidiaries-for-military-lending-act-violations/.

[68] See, e.g., Nathan Place, CFPB Drops Enforcement Actions against Two More Lenders, American Banker (Sept. 29, 2025).

[69] Mark R. Paoletta, Memorandum to CFPB Staff, 2025 Supervision and Enforcement Priorities (Apr. 16, 2025), https://www.consumerfinanceandfintechblog.com/wp-content/uploads/sites/58/2025/04/CFPB-Memo.pdf (criticizing the prior administration's focus on nonbanks).

Similarly, the Bureau's regulatory apparatus has been focused on undoing the work of the prior administration. The Bureau refused to defend the credit card late fee rule in court;[70] declared its intention to rewrite or revoke regulations, including the open banking,[71] nonbank registry,[72] and the small business lending rules;[73] and has proposed new regulations designed to retreat from prior administrations' priorities, such as using disparate impact analysis to bring discrimination lawsuits.[74]

These efforts have been aided and abetted by the President and Congress. The CFPB was one of several formerly independent agencies affected by the administration's February 2025 executive order that requires the submission of "significant regulations" by all agencies to the OMB's Office of Information and Regulatory Affairs (OIRA) for review before they are published.[75] The order also states that all authoritative interpretations of law must be issued by the President or Attorney General, and that CFPB employees cannot advance any interpretations that are contrary to these interpretations.[76] In addition, the Republican majorities in the House and Senate passed a Reconciliation Act that

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[70] Chamber of Commerce v. CFPB, No. 4:24 cv 00213 (N.D. Tex.), Joint Mot. for Consent J. & Vacatur 1–2 (filed Apr. 14, 2025) (CFPB agreeing "to abandon a rule imposing an $8 limit on credit card late fees, rather than defend" it).

[71] Personal Financial Data Rights Reconsideration, 90 Fed. Reg. 40,986 (Aug. 22, 2025), https://www.govinfo.gov/content/pkg/FR-2025-08-22/pdf/2025-16139.pdf (CFPB seeking targeted comment "to inform its consideration of" implementing the Section 1033 open-banking rule).

[72] Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders; Rescission, 90 Fed. Reg. 48,760 (Oct. 29, 2025), https://www.govinfo.gov/content/pkg/FR-2025-10-29/pdf/2025-19689.pdf.

[73] Small Business Lending Under the Equal Credit Opportunity Act (Regulation B),90 Fed. Reg. 50,952 (Nov. 13, 2025), https://www.federalregister.gov/documents/2025/11/13/2025-19865/small-business-lending-under-the-equal-credit-opportunity-act-regulation-b.

[74] See Equal Credit Opportunity Act (Regulation B), 90 Fed. Reg. 50,901 (Nov. 13, 2025), https://www.govinfo.gov/content/pkg/FR-2025-11-13/pdf/2025-19864.pdf.

[75] Exec. Order No. 14,215, Ensuring Accountability for All Agencies (Feb. 18, 2025); Interim Guidance Implementing Section 3 of Executive Order 14215, "Ensuring Accountability for All Agencies," OMB Mem. M-25-24 (Apr. 17, 2025). This requirement applies to both proposed and final rulemakings. Id. The executive order also empowered the OMB to establish performance standards and management objectives for agency leadership, review actions to ensure alignment with presidential priorities, and adjust budget apportionments by activity, function, or project. Id. In addition, pursuant to the order, there are now White House liaisons across agencies, including the CFPB, and agency strategic plans must be submitted to the OMB for clearance before they are finalized. Id.

[76] Id.

reduced the cap on the CFPB's Federal Reserve Funding from 12% to 6.5% of the Federal Reserve's earnings, thereby effectuating a deep cut in the otherwise independent CFPB funding.[77] When combined with the Supreme Court's decision in *Seila Law*—which held that the CFPB Director must be removable by the President at will[78]—the Bureau's insulation from politics has worn thin.

However, Acting Director Vought's plans for the CFPB appear to extend beyond placing the agency under the thumb of the President.[79] Ongoing litigation between the National Treasury Employees Union (NTEU) (representing CFPB Staff) and the administration reflects contrasting views of the Acting Director's plans. While Acting Director Vought has maintained that he has always intended for the Bureau to meet its statutory duties, the district court has found that he and the administration seek nothing less than to shutter the agency.[80]

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[77] The CFPB Director may now request up to $445 million in fiscal year 2025 rather than the $823 million that would have been available under the Dodd-Frank Act. The original bill would have zeroed out the CFPB's budget, but the Senate parliamentarian balked—apparently on the grounds that zero funding amounted to the kind of substantive legislation that is prohibited under the Sente rules that allow budget bills to pass with a mere majority. See SIL25700 76C, Title III—Committee on Banking, Housing, and Urban Affairs, Sec. 30001, https://www.banking.senate.gov/imo/media/doc/obbb_-_banking_textpdf.pdf.

[78] See supra at n. 23.

[79] It appears that the administration intends to stretch the term of Acting Director Vought well beyond the 13 months served by Acting Director Mulvaney, or the nine months served by Acting Director Uejio at the start of the Biden administration. In his second term, President Trump made and withdrew one nomination for CFPB Director, and reportedly has made a second nomination solely to provide Acting Director Vought with "more time to close the agency." Daniel Gillison, White House Move Gives Budget Director More Time to Eliminate Consumer Finance Agency, Reuters (Nov. 19, 2025), https://www.reuters.com/legal/government/trump-administration-nominates-levenbach-cfpb-director-2025-11-19/. The House Republicans who were concerned that Acting Director Uejio was taking actions "that would traditionally be reserved for a Senate-confirmed Director" have not opposed Acting Director Vought's leadership of the CFPB. See supra, n. 34.

[80] Judge Amy Berman Jackson issued a preliminary injunction in February 2025 that was aimed to prevent the CFPB from being "choked out of its very existence" following leadership's decision "to shut down the Bureau." See NTEU v. Vought, No. 1:25-0381 (D.D.C. Mar. 28, 2025) (Jackson, J.) (prelim. injunction). More recently, Judge Jackson clarified that order and sharply criticized Acting Director Vought's decision not to request any further funding for the CFPB as part of a continued effort to completely close the Bureau. See NTEU v. Vought, No. 1:25-cv-00345 (D.D.C. Dec. 30, 2025) (Jackson, J.), Document 167. In contrast, Acting Director Mulvaney had emailed the entire CFPB Staff that "I ha[ve] no intention of shutting down the Bureau. Indeed, the law doesn't allow that, and as members of the Executive Branch, we are charged with faithfully executing the laws." Email from Acting Dir. Mick Mulvaney to

In sum, while many agencies have lost funding and personnel in this second Trump term, the CFPB has been singled out for rougher treatment. This administration has not sought to shut down other consumer protection agencies, such as the FTC and SEC. Nor has the administration sought to eliminate other banking agencies, such as the Office of the Comptroller of the Currency or the Federal Deposit Insurance Corporation. The CFPB is now being treated like a partisan tool, rather than a mainstream regulator, in part because its directors have treated it as a partisan tool.

CFPB LEADERSHIP IN THE FUTURE

With the CFPB's insulation from politics in tatters, its budget tight, and its director's office empty, the Bureau's leadership—in this and the following administrations—should rethink their approach to providing protection to consumers of financial services and products. The structure of the Bureau has allowed each Director to treat the Bureau as their petty fiefdom. Giving in to this temptation has created to a vicious cycle, in which the party out of power derides the Director's rule by diktat and then itself rules by diktat when it is their turn to run the Bureau. Directors of both parties have reflexively and immediately disposed of the work of prior administrations; provided little or no explanation for such actions; provided little or no opportunity for public input on those changes; burrowed political operatives deeper and deeper into the Bureau's decision-making; and played favorites among types of regulated entities. The result has been regulatory whiplash for banks and nonbanks that provide financial services, and inconsistent protection for consumers of those services. Preserving the Bureau for the long term requires that leadership from both parties abandon these tactics for a more moderate course.

There are many ways that a future Bureau Director could slow the swing of the ideological pendulum at the Bureau. With regard to staffing, future Directors can and should ensure that they hear from diverse perspectives through Bureau leadership, the career staff, and Bureau advisory committees. As the history of the CFPB demonstrates, a Director who appoints and governs through a small set of acolytes, rather than seeking out broad consensus, is likely to have their accomplishments disappear with the next election.

With regard to enforcement, a less partisan Bureau would enforce the law fairly and vigorously. Bureau Directors would deploy new enforcement priorities and strategies without abandoning those of their predecessors. The Bureau's ample funding does not require that its enforcement efforts focus on

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CFPB Staff (Jan. 23, 2018), https://embed.documentcloud.org/documents/4357880-Mulvaney-Memo/.

only certain types of products, conduct, institutions or consumers. With regard to regulation, a Bureau that wanted to command broad support would announce their interpretations of the law before bringing enforcement actions on the basis of those interpretations. Notice-and-comment rulemaking would be used whenever possible, and the Bureau would in all cases seek some type of public input before issuing (or repealing) guidance.

The Bureau's near-death experience in 2025 should be a lesson to future Bureau Directors. The way they run the Bureau matters to the long-term health of the agency. Partisan leadership that reflexively rejects and replaces prior Bureau initiatives will ensure that the Bureau lacks the public, political, and financial resources it needs to survive in the long run. Bureau leadership that seeks to conserve past Bureau accomplishments, and then adds its own achievements, will build an agency that is sturdier when the political winds change yet again.

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