

The Status of The CFPB: A Year-End Review

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Nearly eight months after acting Bureau Director Russell Vought sent an email memorandum to Bureau personnel to stop all work, the Bureau remains largely dormant. Despite several suggestions that the Bureau will resume its supervisory duties in a limited capacity, there has been little activity as 2025 comes to a close. See Pete Schroeder, “US consumer bureau shifts to limited oversight instead of dismantling agency,” Reuters (Nov. 21, 2025); Consumer Fin. Prot. Bureau, “CFPB Humility in Supervisions Pledge” (Nov. 21, 2025) (publishing the “pledge” that Bureau employees will read to supervised entities prior to all examinations in 2026). As the Trump administration heads into its first year’s final months, it is valuable to take stock of the few signals we have of the Bureau’s status and future.

ONGOING UNCERTAINTY WITH BUREAU LEADERSHIP

In February, President Trump nominated Jonathan McKernan, then-member of the Federal Deposit Insurance Corporation Board of Directors, for the position of Bureau Director. White House, “Nomination Sent to the Senate” (Feb. 12, 2025). But the administration changed its tune in May, instead announcing that McKernan would be nominated to be Undersecretary of Domestic Finance at the Department of the Treasury. Press Release, Dep’t of Treasury, “United States Department of the Treasury Announces New Appointment” (May 9, 2025).

At the time of McKernan’s nomination, many thought that his likely confirmation would result in the Bureau resuming operations in some capacity consistent with the new administration. Of course, this outcome did not bear out. On November 18, Geof Gradler, a former lobbyist who joined the Bureau in August, announced on LinkedIn that he is now serving as deputy director. Jon Hill, “CFPB’s Gradler Takes Deputy Post Amid Agency Uncertainty,” Law360 (Nov. 1, 2025). This move positions Gradler as a potential successor to acting Bureau Director Vought as the Bureau faces layoffs, reduced oversight, and a looming funding crisis. The Bureau has yet to confirm the change. While Dodd-Frank names the next deputy in line, Vought’s appointment and the timing requirements of the Federal Vacancies Reform Act leave the Bureau’s leadership succession shrouded in uncertainty.

LIMITED RULEMAKING ACTIVITY

Despite its broad dormancy, the Bureau has engaged in some rulemaking activity in the past months. First, on August 22, the Bureau published an Advance Notice of Proposed Rulemaking (“ANPR”) stating its intent to revisit its regulations implementing Section 1033 of Dodd-Frank, which requires the Bureau to implement rules requiring certain entities to provide consumers and authorized third parties access to consumers’ financial data. 90 Fed. Reg. 40986;

12 U.S.C. § 5533. The ANPR signals further revisions to the Final Rule released on November 18, 2024, that had been years in the making and the ongoing subject of litigation. 89 Fed. Reg. 90838; *Forcht Bank, N.A. v. Consumer Fin. Prot. Bureau*, No. 24-304-DCR (W.D. Ky.).

Importantly, the ANPR requested comment on a discrete set of topics, such as (1) the scope of who may make a request for data on a consumer's behalf; (2) whether covered financial institutions should be able to assess fees for accessing data; and (3) whether the current Final Rule sufficiently accounts for security and privacy concerns related to the sharing of consumer data. These areas suggest the Bureau's potential interest in limiting the scope of the 1033 rulemaking. 90 Fed. Reg. 40986, 40987–88 (Aug. 22, 2025). The comment period ended on October 21, so those interested can await the Bureau's responses and proposed changes to the 1033 Rule.

Second, on August 26, the Bureau published a proposed rule relating to its supervisory authority over nonbank entities. See *generally* 90 Fed. Reg. 41520. Under the CFPB, the Bureau has the authority to supervise nonbank covered persons whom it reasonably believes engage in "conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services." 12 U.S.C. § 5514(a)(1)(C). The proposed rule would explicitly define such conduct as conduct that both "presents a high likelihood of significant harm to consumers" and "is directly connected to the offering or provision of a consumer financial product or service." 90 Fed. Reg. 41520, 41521. The proposal explicitly notes that the Bureau expects "it will be less likely to designate any particular entity for supervision" under this definition, *id.*, making this rulemaking consistent with the general downtrend in Bureau activity under this administration.

There is a possibility that more Bureau rulemaking activity could be on the horizon. On August 15, the Bureau briefly released its semiannual Unified Rulemaking Agenda. Most of the Bureau's action items suggested a continued trend toward limiting the agency's authority and scope, such as the rescission of the Bureau's authority over certain nonbank covered persons. Notably, the agenda stated the Bureau's intent to issue a regulation formally defining "unfair, deceptive, and abusive acts and practices" ("UDAAP"). Such a regulation would run counter to the Bureau's historical reluctance to define UDAAP, providing new regulatory clarity to the amorphous concept the Bureau has often interpreted broadly.

This Unified Rulemaking Agenda has since been pulled down from the Bureau's website, so it remains to be seen what actions the Bureau ultimately chooses to prioritize in the agenda's next edition.

THE BUREAU'S DEBANKING PROBE

On September 26, an internal email directed Bureau enforcement attorneys to review both current and past investigations wherein the Bureau collected information about why an entity refused to open accounts, froze accounts, or closed accounts. Evan Weinberger, "CFPB Opens 'Debanking' Probe Even as Employees Remain Sidelined," *Bloomberg Law* (Oct. 1, 2025). The email further instructed its enforcement attorneys to report by October 3 any investigations that produced information and documents about policies and practices related to opening, freezing, or closing accounts in the last five years, with a particular emphasis on any evidence that a financial institution made decisions related to account openings or closures "on the basis of religion, political beliefs, or lawful business activities." This latest action from the otherwise nearly dormant Bureau highlights the Trump administration's continued emphasis on debanking. See Exec. Order. 14,331, "Guaranteeing Fair Banking for All Americans" 90 Fed. Reg. 38929 (Aug. 7, 2025).

While Bureau personnel were directed to comb their past investigations, the current state of the Bureau renders it unlikely that the agency will be spearheading any debanking investigations under this administration. On November 20, sources reported that the Bureau sought to transfer all of its remaining cases to the Department of Justice. Douglas Gillison, "US consumer watchdog seeks to transfer cases to DOJ, citing funding, sources say," *Reuters* (Nov. 20, 2025). This shift signals that the DOJ will likely take the lead on any enforcement actions that traditionally fell within the Bureau's purview.

FUNDING CHALLENGES MAY PORTEND A SHUTTERED BUREAU

On October 15, acting Bureau Director Vought, remarked that he hopes to permanently shutter the agency "within the next two or three months." Nandita Bose, Doina Chiacu & Douglas Gillison, "White House budget director plans to

shut US consumer finance watchdog within months,” Reuters (Oct. 15, 2025). On November 11, Vought seemingly inched closer to this goal, notifying the court in *NTEU v. Vought* that, based on a binding opinion from the Department of Justice Office of Legal Counsel (“OLC”), it cannot request funds from the Federal Reserve under Dodd-Frank. The OLC determined the Federal Reserve currently has no “combined earnings” available for the Bureau to draw upon. At this time, it is difficult to reconcile acting Bureau Director Vought’s stated intentions to shutter the Bureau and reject all funding with his simultaneous suggestions that it will resume some supervision and examination activity in 2026.

The administration’s ability to refuse to fund the agency will remain a source of discussion as the legal debate for the Bureau’s existence continues. For now, the Bureau expects to have enough funds to operate through the end of the year.

5 Min Read

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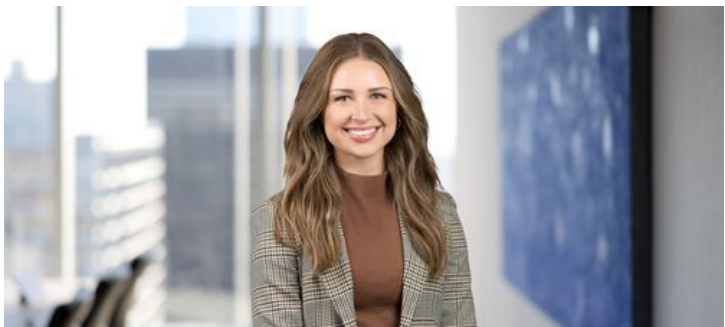
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