

Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—Employees’ unions defend injunction against CFPB’s acting director’s ‘shutdown plan’, (May 12, 2025)

Banking and Finance Law Daily Wrap Up

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Vought’s standdown unlawfully closes congressionally created CFPB, triggers mass layoffs, and violates core separation of powers safeguards, consumer rights, employees’ unions argue.

The National Treasury Employees Union (NTEU) and allied consumer advocacy groups filed their [appellees’ brief](#), asking the U.S. Court of Appeals for the D.C. Circuit to affirm a district court order that stopped the Acting Director Russell Vought’s “concerted, expedited effort” to shutter the Consumer Financial Protection Bureau and fire nearly its entire staff. The brief, filed one week before the May 16 oral argument, contends that closing a congressionally created agency is unconstitutional, that the record “unequivocally” shows the defendants’ intent to dismantle the Bureau, and that the preliminary injunction is the narrowest means of preserving the status quo while the case proceeds.

Background of the dispute. Acting Director Russell Vought assumed leadership of the CFPB on February 7, 2025. Three days later, according to the brief, he issued a directive instructing all employees and contractors to “stand down from performing any work task,” a step that, witnesses later told the court, halted examinations, complaint processing, and other statutory duties. On February 11, the Bureau began cancelling numerous service contracts and dismissed every probationary employee. By February 13, an internal reduction in force (RIF) team had been told to prepare termination notices for roughly 1,200 permanent staff to be delivered the next morning.

That same afternoon, the National Treasury Employees Union and several other plaintiffs filed suit in the U.S. District Court for the District of Columbia. At a status conference the next day, the parties stipulated to a temporary order that stopped further terminations and barred deletion of agency data. After expedited discovery and a two-day evidentiary hearing on March 11, Judge Amy Berman Jackson issued a preliminary injunction on March 28. The order reinstated discharged employees, halted additional RIF actions, prevented final contract cancellations, and required the Bureau to keep its consumer response channels open (see [Banking and Finance Law Daily](#), Mar. 31, 2025).

Vought and the Bureau filed a notice of appeal on March 29. On April 11 a D.C. Circuit motions panel stayed the injunction in part, allowing layoffs supported by “particularized assessments.” During that partial stay the Bureau issued 1,408 RIF notices—about 90 percent of the remaining workforce—leading the district court on April 18 to re-enjoin the layoffs after finding scant evidence of individualized review. The Bureau then sought emergency relief, arguing that the district court had misinterpreted the appellate stay (see [Banking and Finance Law Daily](#), April 28, 2025). On May 9, appellees filed their brief.

Key arguments. The appellees first address the likelihood of success on the merits, asserting that an appellate court may overturn the district court’s factfinding only if it is “clearly erroneous,” a deferential standard. Pointing to the record, they list a blanket standdown order, widespread contract cancellations, and plans to dissolve whole divisions. Taken together, they say, these facts show that CFPB leadership had already decided, and started, to shut the agency. They add that D.C. Circuit precedent treats such shutdown directives as “final agency action,” even if additional steps remain, citing *Biden v. Texas* (597 U.S. 785 (2022)) and similar cases in which courts reviewed agency memoranda that set closure plans in motion.

The brief then develops three constitutional arguments. Invoking *Youngstown Sheet & Tube Co. v. Sawyer* (343 U.S. 579 (1952)), appellees argue that abolishing an agency without congressional authorization exceeds presidential power because the Executive’s authority “must stem either from an act of Congress or from the Constitution itself.” They add that a wholesale halt to statutory functions violates the “Take Care Clause” and that defunding operations already appropriated through the Bureau’s Federal Reserve funding mechanism offends Article I’s Appropriations Clause. Collectively, these arguments, as appellees argue, demonstrate a likelihood of prevailing on the merits independent of the Administrative Procedure Act.

Regarding jurisdiction and causes of action, the appellees assert that their structural separation of powers claim falls outside the Civil Service Reform Act’s exclusive review scheme. Relying on the Supreme Court’s decision in *Axon Enterprise, Inc. v. Federal Trade Commission* (598 U.S. 175 (2023)), they state that challenges to the very existence or structure of a federal agency may be filed directly in an Article III court and need not proceed through specialized civil service tribunals. They further note that the Merit Systems Protection Board and the Federal Labor Relations Authority are designed to resolve ordinary personnel disputes; these bodies neither possess statutory authority nor institutional competence to decide whether an agency may be abolished. As to standing, the appellees contend that concrete injuries exist on two fronts: the nonprofit organizations have diverted staff time and financial resources to compensate for the Bureau’s standdown, and the individual plaintiff’s effort to resolve his late wife’s student loan debt remains stalled in the Bureau’s absence.

Finally, the appellees turn to the equitable considerations. They note the district court’s finding that dispersing nearly the entire workforce and cancelling contracts vital to data security would cause irreparable harm to the CFPB’s statutory duties and to outside parties that depend on those functions. Once dismantled, they add, the Bureau could not quickly be rebuilt. The appellees recount that, during the eleven-day partial stay of the injunction, CFPB management issued 1,408 RIF notices, evidence, they say, that narrower relief would be ineffective and that the present order is “the narrowest administrable means” of preserving the status quo. They also respond to Director Vought’s charge of judicial overreach by emphasizing that the injunction still allows individualized personnel or contract decisions that comply with applicable law while preventing a blanket shutdown.

Relief sought. The appellees request complete affirmance of the March 28 injunction. They ask the panel to clarify that both constitutional and APA claims may proceed in district court and to reject any narrowing that would reinstate the April 11 experience in which large-scale RIF notices were issued during a partial stay. The hearing of oral arguments is scheduled on May 16, 2025.

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