

Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—D.D.C.: Plaintiffs challenging CFPB dismantlement propose preliminary injunction amidst putative meet-and-confer difficulties, (Mar. 20, 2025)

Banking and Finance Law Daily Wrap Up

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By Justin Marcus Smith, J.D.

The NTEU and other plaintiffs unilaterally dropped a provision, previously entered by consent, that barred the CFPB from actively defunding itself—for example, by returning money already drawn from the Federal Reserve.

The group of National Treasury Employees Union (NTEU) and other plaintiffs challenging the dismantling of the Consumer Financial Protection Bureau (CFPB or Bureau) [proposed](#) a preliminary injunction order that largely tracks that of the original consent order entered at case inception. The NTEU plaintiffs [submitted](#) the proposed order to the court apparently without the involvement of the Bureau defendants. According to the NTEU, the Bureau defendants continue to oppose entry of a preliminary injunction. The meet-and-confer the court had urged at the conclusion of an evidentiary hearing on March 11 apparently broke down after some disagreement about Bureau stipulation to statutory functions and the Bureau's list of contracts. In any event, the order the NTEU plaintiffs have now unilaterally proposed is similar to the initial consent order. The only major proposed change is that the NTEU dropped the provision that barred the CFPB from relinquishing control over funds in hand. Among other circumstances, the government may have represented that such funds could not be returned to the Federal Reserve or the U.S. Treasury (*National Treasury Employees Union v. Vought*, No. 1:25-cv-00381-ABJ (D.D.C. Mar. 19, 2025)).

Background. The National Treasury Employees Union (NTEU) led a group of plaintiffs in challenging the Trump Administration's attempt to dismantle the Consumer Financial Protection Bureau (see [Banking and Finance Law Daily](#), Feb. 14, 2025). The other plaintiffs included the National Consumer Law Center, National Association for the Advancement of Colored People (NAACP), Virginia Poverty Law Center, CFPB Employee Association, and an individual plaintiff. The NTEU complaint named the Bureau and Acting Director Russell Vought as defendants (the Bureau defendants).

After a scheduling conference, the federal district court for the District of Columbia issued a consent order that barred the Bureau from firing employees, sending "reductions in force" (RIF) notices, destroying data or records, and defunding the Bureau during case pendency. Also, by party consent, the court deemed the NTEU motion for a TRO and administrative stay as a motion for preliminary injunction (see [Banking and Finance Law Daily](#), Feb. 18, 2025).

Party conferral. According to the NTEU plaintiffs, after an evidentiary hearing on March 11, 2025, the court urged the parties to meet and confer about a proposed preliminary injunction order, should the court decide to issue one.

Having conferred, the NTEU plaintiffs told the court that the Bureau defendants continued to oppose entry of a preliminary injunction and declined to file a joint proposed order. The NTEU plaintiffs represented that they nonetheless revised their proposed order per the court's and defendants' comments at the March 11 hearing.

Statutory functions. In the NTEU plaintiffs' account of party conferral, the sticking point for the defendants appeared to be that the first draft of the proposed order referenced two provisions of the Bureau's statutorily required functions. The NTEU plaintiffs said they included those references based on the Bureau defendants' claim that they were now committed to performing those functions. The Bureau defendants said they were

actually performing those functions, yet, as the NTEU plaintiffs perceived the interaction, the defendants appeared to also insist that a preliminary injunction order requiring performance of those functions would be “ambigu[ous].” The NTEU plaintiffs represented to the court that the Bureau defendants also “refused to identify the duties that they believe the Bureau is statutorily required to perform.” The NTEU plaintiffs said they nonetheless amended their proposed order in light of the defendants’ comments.

Work stoppage. The NTEU plaintiffs said the proposed provision forbidding work stoppage does not rely on the Bureau’s statutory functions. Instead, it simply bars the Feb. 10, 2025, stop-work order and prohibits future instructions to stop work.

Contract termination. The NTEU plaintiffs described contract termination discussions with the Bureau defendants. They said the CFPB appeared to have a “master spreadsheet” of CFPB contracts, status thereof, and a description of their relationship to Bureau statutory functions, but the defendants allegedly declined to provide that spreadsheet.

As a workaround, the NTEU plaintiffs proposed to satisfy the Bureau defendants’ concerns by prohibiting the wholesale cancellation of contracts without reference to the sticking point of having to stipulate to statutorily required functions. Conversely, the proposed order expressly permits the cancellation of specific, individual contracts if they are not necessary to the fulfillment of statutory functions. Even so, cancellation of any specific contract must not be finalized. That will leave the court room for potential reinstatement of contracts at final disposition of the matter.

RIFs. The NTEU plaintiffs reported that the Bureau defendants wanted to be able to continue RIFs. However, they noted the hearing confirmed that the RIFs essentially amounted to the termination of most CFPB employees with irreparable harm. Accordingly, the NTEU plaintiffs said they kept the original prohibition on mass terminations agreed at inception of the case.

Proposed terms. The NTEU plaintiffs’ proposed a succinct two-page, seven-paragraph order that largely reiterated the initial consent order. Among other things, if the court adopts the NTEU order as proposed, then the Bureau defendants would be required:

- to preserve all CFPB data or records;
- to stop terminating employees without employee cause and stop all RIF notices;
- to reinstate probationary and term employees terminated during the week of Feb. 10, 2025;
- not to enforce the Feb. 10, 2025, stop-work order or require employees take corresponding administrative leave;
- not to reinstitute a work stoppage by any means;
- to rescind all notices of Bureau contract terminations issued on or after Feb. 11, 2025, and to stop “wholesale” contract cancellations; contract terminations, if any, must be based on individualized assessment that the contracts are not necessary to carrying out statutory functions, and such individual contract terminations must not be finalized; and
- to file a compliance report with the court within seven business days.

Defunding deletion. The NTEU plaintiffs deleted the provision of the original consent order barring the Bureau from defunding itself in light of dissolution of the TRO governing funding in *Mayor and City Council of Baltimore v. CFPB*, Civ. No. MJM-25-458. In that matter, the City of Baltimore and the Economic Action Maryland Fund had sought injunctive relief to stop the Trump administration from carrying out its putative “desire to dissolve the CFPB.” The Maryland federal district court, however, denied the motion on a finding that the defunding claim was unlikely to succeed. That district court also found the motion unripe for lack of any final CFPB agency action subject to challenge under the APA (see [Banking and Finance Law Daily](#), Mar. 14, 2025).

The NTEU plaintiffs explained further that they wanted to “draw as narrow a preliminary injunction as Possible.” They also noted government representations that it was not possible to transfer CFPB funds back to the Federal Reserve or U.S. Treasury. Accordingly, the NTEU plaintiffs elected to drop the barring of defunding as provided in the original consent order in the instant matter.

The original order in this matter barred the CFPB defendants from transferring money from the CFPB's reserve funds, relinquishing control or ownership of these funds, returning any money to the Federal Reserve or the Department of Treasury, or taking any steps to reduce the amount of money available to the CFPB below the amount available as of 4:00 PM on February 14, except to satisfy ordinary operating obligations.

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Companies: National Treasury Employees Union; National Consumer Law Center; National Association the Advancement of Colored People; Virginia Poverty Law Center; CFPB Employee Association

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