Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—D.C. Cir.: CFPB chafes under delay in obtaining reevaluation of injunction hindering RIF plan, (Apr. 28, 2026)

Banking and Finance Law Daily Wrap Up

By Justin Marcus Smith, J.D.

The Bureau argued that its appeal of the district court preliminary injunction has been pending for over a year, and yet that injunction is preventing Acting Director Vought from exercising a subsequent RIF policy choice.

The Consumer Financial Protection Bureau has replied to recent National Treasury Employees Union (NTEU) and consumer group opposition to the Bureau's motion to lift an appellate stay so the Bureau can get on with implementing an immediate reduction in the Bureau's workforce. The Bureau argued in reply that the court should re-modify its stay pending appeal to permit the Bureau to implement Acting Director Vought's revised reduction-in-force (RIF) plan, issue a time-limited remand to the district court for reconsideration of the district court's 2025 preliminary injunction, and hold the present appeal before the United States Court of Appeals for the District of Columbia Circuit in abeyance (*National Treasury Employees Union v. Vought*, No. 25-5091 (D.D.C. Apr. 25, 2026)).

Bureau motion. On March 31, 2026, the CFPB filed a motion to modify the existing district court stay pending appeal; to permit the Bureau to implement a newly adopted workforce restructuring plan; and to remand the case to the district court for further proceedings. The Bureau argued intervening developments significantly altered the basis for the 2025 preliminary injunction at issue. The motion also asked the court to hold the appeal in abeyance while the district court considers the updated record (see *Banking and Finance Law Daily*, Apr. 1, 2026).

NTEU opposition. On April 21, the NTEU and other plaintiffs filed opposition to the motion. They urged the court to reject the Bureau's bid to implement the new workforce reduction plan. The NTEU parties argued that any request to modify or stay the preliminary injunction must first be presented to the district court and that the Bureau did not show an emergent need for appellate intervention (see *Banking and Finance Law Daily*, Apr. 21, 2026).

Advocated course. On April 24, the Bureau filed a reply arguing the most appropriate course would be for the D.C. Circuit to: (1) re-implement its original April 2025 stay of the district court preliminary injunction, thus permitting immediate CFPB staff reduction, and (2) impose a time limit on remand to the district court to consider what preliminary injunctive relief, if any, is still warranted. The Bureau argued the government's entitlement to immediate appellate review will be stymied if the D.C. Circuit does not take at least one of those two "commonsense" measures.

Intervening developments. The Bureau reiterated its position that intervening developments have significantly altered the basis of the district court preliminary injunction at issue. Specifically, Bureau Acting Director Vought approved a detailed RIF plan that explains how the agency will continue to perform its statutory obligations despite the RIF; the Supreme Court has reiterated that courts may not issue injunctive relief beyond what is necessary to remedy irreparable injury (*see Trump v Casa, Inc.*, 606 U.S. 831 (2025)); and Congress "reduced the funding flowing to CFPB from the Federal Reserve such that the staffing levels the district court mandated will soon become financially untenable."

Indefinite delay. The Bureau claimed the parties agree that intervening events call for district court reevaluation of the preliminary injunction, but it is now time to get on with it. District court reexamination should neither indefinitely suspend D.C. Circuit exercise of appellate jurisdiction nor leave the government indefinitely barred from conducting a

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RIF based on new circumstances that, in the Bureau's view, bear "no resemblance" to the putative CFPB shutdown of a year ago.

"Particularized assessment." The Bureau continued that the NTEU plaintiff parties also ignored that the D.C. Circuit provided definite clarity, when it modified the partial stay, about the term "particularized assessment" specifically in order to restore the government's ability to permit immediate implementation of the proposed RIF. The Bureau contended there could be no doubt that the Bureau's 26-page RIF plan explains the Acting Director's conclusion that every CFPB office can continue to fulfill statutory duties despite the proposed reductions in staffing. The Acting Director is "politically accountable" and should be able to implement the RIF as a policy decision.

Policy choice thwarted. The Bureau concluded that its appeal of the preliminary injunction has been pending for over a year without the Acting Director being able to exercise a RIF policy choice that, again, bears "no resemblance" to the putative CFPB shutdown that the NTEU plaintiff parties originally sought to litigate. The Bureau urged the D.C. Circuit to impose a time limit on remand to consider intervening developments. The Bureau noted the district court took only 43 days to impose the preliminary injunction in the first place, after holding multiple hearings, so it should not take longer than 45 days to review it. The Bureau proposed 45 days to complete a reevaluation on remand.

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

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