

Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—Schumer, Warren, Waters lead lawmakers' motion for amicus brief in CFPB case, (Oct. 7, 2025)

Banking and Finance Law Daily Wrap Up

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By Shashi Kant, BALLB, LLM.

The Democratic legislators contend Congress alone can create or abolish the CFPB, saying the Trump administration's dismantling effort breaches constitutional separation of powers.

Thirty-six Congressional Democrats have jointly requested permission to file an *amicus curiae* [brief](#) supporting a petition for *en banc* rehearing in a case challenging the Trump administration's attempt to dismantle the Consumer Financial Protection Bureau. The congressional members filed their motion and accompanying brief on Oct. 6, 2025, in the U.S. Court of Appeals for the District of Columbia Circuit (*National Treasury Employees Union v. Vought*, No. 25-5091 (D.C. Cir. Oct. 6, 2025)).

Congressional oversight committees seek court intervention. The *amici* [include](#) Senate Democratic Leader Charles Schumer (D-N.Y.), Senator Elizabeth Warren (D-Mass.), and Representative Maxine Waters (D-Calif), along with Democratic members of the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services.

The brief argues that Acting CFPB Director Russell Vought's decision to eliminate the agency violates the constitutional separation of powers. According to the filing, Vought instructed staff to "stand down from performing any work task" without exception for statutorily required duties. The brief states that the administration also cancelled contracts necessary for agency operations and initiated mass terminations, beginning with probationary and term employees.

The case originated when the National Treasury Employees Union and individual CFPB employees filed suit in the U.S. District Court for the District of Columbia, challenging the administration's actions ([Banking and Finance Law Daily](#), Feb. 14, 2025). A three-judge D.C. Circuit panel vacated the preliminary injunction and remanded, concluding that the Civil Service Reform Act precluded the plaintiffs' claims and that the Administrative Procedure Act theory failed under the panel's "public-statement" approach to reviewability ([Banking and Finance Law Daily](#), Mar. 31, 2025).

Administration actions following panel decision. The brief notes that actions taken by the defendants following the panel's order confirm their commitment to dismantling the agency. In a Sept. 30, 2025, letter to Vought, Rep. Waters cited the administration's stated intent to exploit current circumstances and terminate additional federal workers ([Banking and Finance Law Daily](#), Sept. 30, 2025).

Historical context, agency creation. The brief describes how Congress created the CFPB in response to the 2008 financial crisis, which the Financial Crisis Inquiry Commission described as the "worst financial meltdown since the Great Depression." The crisis resulted in more than 26 million Americans losing full-time employment, nearly 10 million foreclosures, and an estimated \$19.2 trillion loss in household wealth, according to the filing.

The brief notes that Congress determined that the crisis stemmed partly from regulatory failures. Further, the filing states that before the Dodd-Frank Act, consumer financial protection authority was dispersed across multiple agencies, resulting in what a Senate report described as "finger pointing among regulators and inaction when problems with consumer products and services arose." The legislation consolidated these functions into a single agency focused exclusively on consumer protection.

Agency powers and responsibilities. According to the brief, the CFPB received regulatory authority under Dodd-Frank. The filing states the agency has exclusive or primary authority to supervise large banks and nonbank financial companies for compliance with consumer financial protection laws. The brief notes the agency can issue regulations identifying unlawful unfair, deceptive, or abusive practices in consumer financial products and services.

The brief states that Congress mandated specific offices within the agency, including those responsible for collecting and responding to consumer complaints, researching consumer protection issues, and assisting servicemembers and older Americans. According to the filing, the bureau must collect and publish demographic data under the Home Mortgage Disclosure Act to identify discrimination and trends in mortgage lending.

Constitutional arguments. The brief contends that only Congress holds the power to eliminate a statutorily created agency. According to the filing, Article I vests all legislative powers in Congress, including the power to create agencies and determine their functions. The brief argues that Congress allowed presidential reorganization authority to lapse four decades ago. The filing notes that even while amending the CFPB's governing statutes, Congress has rejected proposals to eliminate the bureau entirely.

The congressional members argue that historical examples of agency elimination have followed legislative processes. According to the brief, Dodd-Frank itself eliminated the Office of Thrift Supervision after legislative deliberation and a presidential proposal, transferring its remaining powers to other agencies.

Agency accomplishments, consumer impact. Since its creation, the CFPB has returned more than \$21 billion improperly taken from at least 205 million consumers, plus an additional \$5 billion in civil penalties available to compensate consumers when businesses are insolvent, according to the brief. The agency's enforcement actions include a \$250 million settlement with Bank of America for opening fake credit card accounts and charging fees, and a \$120 million penalty against student loan servicer Navient Corporation, which is now barred from federal loan servicing, the filing notes.

The brief states the agency has taken action against discriminatory lending practices, including a January 2025 enforcement action against a mortgage company for redlining that resulted in disproportionately low mortgage numbers in majority-Black and Hispanic neighborhoods. According to the filing, the CFPB's Office of Servicemember Affairs has fielded more than 400,000 complaints and secured \$183 million in redress for military personnel.

Panel decision and request for review. According to the brief, the panel majority ruled that courts lack power to review the administration's actions. The brief notes that Judge Pillard dissented, writing that the ruling leaves courts "powerless" to stop a president from dismantling any statutorily created agency or ignoring any statute, which "cannot be reconciled with either the constitutional separation of powers or our nation's commitment to a government of laws."

The congressional *amici* argue their brief addresses issues not directly covered in the appellees' petition, specifically the necessity of the CFPB and the constitutional violations of the defendants' actions. According to the filing, they cite their knowledge regarding the agency's creation and role in protecting consumers and preventing financial crises. The brief states that eliminating the agency would leave sectors of consumer financial markets unprotected from conduct that contributed to the 2008 crisis.

Attorneys: Deepak Gupta (Gupta Wessler LLP) for National Treasury Employees Union, CFPB Employee Association, National Association for the Advancement of Colored People, National Consumer Law Center, and Virginia Poverty Law Center. Eric Dean McArthur, U.S. Department of Justice, for Russell Vought and the Consumer Financial Protection Bureau. Leah M. Nicholls and Hannah M. Kieschnick, Public Justice, as amicus curiae counsel for named Congressional Democrats.

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

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