A Look At Trump Admin's Shifting Strategies To Curtail CFPB

By **Eamonn Moran and Ashley Feighery** (July 7, 2025)

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Since the Trump administration returned to Washington earlier this year, its goals for the Consumer Financial Protection Bureau have been clear: Reduce the scope of the agency's authority and minimize its resources and footprint.

At certain times, it has seemed as if the administration is seeking to eliminate the agency completely — although that would require congressional action.

As its initial attempt at curtailing the agency's scope via reductions in force, or RIFs, was halted by the U.S. Court of Appeals for the District of Columbia Circuit in National Treasury Employees Union v. Vought, the CFPB has made use of the administrative rulemaking process, dismissed or attempted to resolve most pending litigation matters, and used other internal paths to scale back the scope of its operations.

Reliance on the Rulemaking Process

In several notices of proposed rulemaking, the CFPB initiated the process of withdrawing amendments to both its Rules of Practice for Adjudication Proceedings and Procedures for Supervisory Designation Proceedings, along with the nonbank registry rule.

After conducting a review of all three rules and procedures, the CFPB classified the changes imposed as "largely unnecessary" based on the associated costs and benefits, and it seeks comment on each proposal.

These proposals are among several other rules that the CFPB has withdrawn in recent months, including: the data broker proposed rule,[1] Regulation AA proposed rule,[2] Regulation E/electronic fund transfers proposed interpretive rule,[3] state enforcement authority interpretive rule,[4] the COVID Real Estate Settlement Procedures Act rule,[5] and the state official notification procedures.[6]

In addition, on June 4, the CFPB submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget five mortgage-related rulemakings for OMB review, which, based on the titling, suggests that the CFPB intends to rescind the Loan Originator Compensation Rule and propose amendments to the mortgage servicing rules.

Rules of Practice for Adjudication Proceedings

The CFPB first published a notice of proposed rulemaking[7] on May 13 to rescind the amendments to its rules of practice adopted on Feb. 22, 2022, and March 29, 2023.

The amendments "expanded parties' opportunities to conduct depositions in adjudication proceedings" in addition to modifying "timing and deadlines, the content of answers, the scheduling conference, bifurcation of proceedings, the process for deciding dispositive motions, and requirements for issue exhaustion," among other technical changes, according

to the CFPB's notice.

Though no administrative proceedings were conducted under the rules of practice since the 2022 and 2023 amendments, the CFPB cited particular concern for the provisions of the amendments that "transferred authority to decide dispositive motions from the hearing officer who is presiding over the proceeding (normally an administrative law judge) to the Director."

The proposed rule, if finalized after review of solicited comments, would be substantively identical to the rules of practice in place prior to the 2022 and 2023 amendments.

Procedures for Supervisory Designation Proceedings

The CFPB subsequently published a second notice of proposed rulemaking[8] on May 14, proposing to rescind the amendments to the Procedures for Supervisory Designation Proceedings adopted on April 29, 2022, as well as on Nov. 21, 2022, and April 23, 2024.

The amendments to be rescinded "provided for public release of final decisions and orders by the Director and made other changes to the CFPB's procedures for designating nonbank covered persons for supervision," according to the notice.

The CFPB expressed its concern that entities exercising the right to contest supervisory designation would be subject to a public decision and order "asserting that the entity 'is engaging, or has engaged, in conduct that poses risks to customers.'"

In consideration of businesses' reputational concerns, the CFPB highlighted that the amendments could improperly persuade entities to consent to designation "even when they have good arguments that designation is unwarranted" and has requested comment on "the impact of public release on supervised entities and the supervisory process."

Nonbank Registry Rule

Finally, the CFPB also proposed to rescind[9] the nonbank registry rule issued on July 8, 2024, which requires particular nonbank covered persons subject to certain final public orders of a government agency to report the existence of those orders and file compliance reports annually.

The CFPB's proposal highlights the concern that the cost imposed on regulated entities to comply with the rule is not sufficiently justified by the benefits to consumers.

The CFPB concluded that the rule is unnecessary "as a tool to effectively monitor and reduce potential risks to consumers from bad actors." In support of its proposal for rescission, the CFPB also noted in the proposal that "Congress has authorized multiple other Federal and State agencies to enforce Federal consumer financial laws," thus negating the necessity of the rule.

This development does not come as a surprise, as the CFPB previously announced on April 11, 2025,[10] that it "will not prioritize enforcement or supervision actions with regard to entities that do not satisfy future deadlines under [the rule] to submit registration information."

At that time, the CFPB also stated that it was further considering issuing a proposed rule to rescind the rule or narrow its scope.

Reliance on Litigation and Other Tools to Resolve Pending Enforcement and Rulemaking and Streamline Functions

While the CFPB has relied on its rulemaking authority to strategically reduce the scope of the agency's authority and broader impact on the financial services industry, it has also resorted to using its available tools to dismiss or otherwise resolve pending litigation and enforcement matters.

Most recently, in Forcht Bank NA v. CFPB, the CFPB requested that the U.S. District Court for the Eastern District of Kentucky vacate the Biden-era open banking rule[11] in a May 30 motion for summary judgment,[12] after stating in a May 23 status report[13] that after reviewing the open banking rule, "Bureau leadership … determined that the Rule is unlawful and should be set aside."

The open banking rule enables consumers to access, or authorize a third party to access, and share data associated with bank accounts, credit cards, mobile wallets, payment apps and other financial products free of charge.

The CFPB's motion for summary judgment opines that "the Rule is unlawful" under the Administrative Procedure Act because "it exceeds the Bureau's statutory authority" and violates the Consumer Financial Protection Act of 2010, as the CFPA does not authorize the CFPB to "broadly regulate open banking by mandating that data providers share information with 'authorized third parties,'" nor does it "authorize the [CFPB] to prohibit banks from charging any fees for maintaining and providing access through the required developer interfaces."

The CFPB's motion to vacate the open banking rule is not the first attempt at utilizing pending litigation to eliminate previously established rules and regulations.

On March 26, the CFPB filed a joint motion to stay in Financial Technology Association v. CFPB, a matter pending before the U.S. District Court for the District of Columbia surrounding the buy now, pay later interpretive rule.

The CFPB sought the stay of proceedings on the grounds that the agency planned to revoke the rule, and on May 12, the CFPB published a notice withdrawing the interpretive rule.

The CFPB ultimately filed a status report stating it would not reissue the rule because the rule was "procedurally defective" and it "inappropriately applied open-end credit regulations to closed-end BNPL loans with little benefit to consumers and substantial burden to regulated entities." The parties subsequently filed a joint notice of voluntary dismissal.

Other instances in which the CFPB has utilized motion filings include the CFPB's motion in support of the Revenue Based Finance Coalition's motion to stay submitted on April 3 to the U.S. District Court for the Southern District of Florida in Revenue Based Finance Coalition v. CFPB.

The action challenged the small business loan data collection and reporting rule,[14] a matter that the CFPB's motion indicated would likely be resolved pending anticipated rulemaking. These examples are not exhaustive.

The CFPB has repeatedly stated its intent to keep its enforcement and supervision resources focused on "pressing threats to consumers, particularly servicemen and veterans" and has

also continued to proceed with select cases involving debt relief and debt collection.

The recent terminations of or amendments/modifications to previously issued consent orders issued during the Biden administration further signal the Trump administration's priorities and shift away from the aggressive enforcement posture of the previous administration.

Motivation Behind Individualized Approach to Scaling Back Operations

The notices of proposed rulemaking and motions filed in pending litigation are also joined by the agency's April 11 commitment to conducting a review of all guidance documents previously issued by the CFPB, leading to the agency's May 9 announcement that it would be withdrawing nearly 70 guidance documents[15] that improperly impose "rights or obligations" through guidance.

But what is the motivation behind the agency's broad commitment to scaling back the CFPB's operations one rule or enforcement matter or guidance document at a time? It is likely an interim strategy pending resolution of the legality of its initial plan: drastically reduce the CFPB's workforce and in turn, minimize its operations to be able to perform, even if just barely, its statutorily required functions.

When the Trump administration initially began its quest to dismantle the CFPB, it took a broad approach by utilizing RIFs to eliminate the vast majority of the agency's staff.

However, U.S. District Judge Amy Berman Jackson enjoined the CFPB from enforcing or enacting any stop-work notice in a preliminary injunction entered in NTEU v. Vought on March 28.[16]

Judge Jackson's primary concern when entering the injunction was that the CFPB's unilateral decision to dismantle the agency would be a violation of separation of powers, as only Congress has authority to make such a decision with respect to the operation of a statutorily created government agency.

The Trump administration quickly appealed the order to the U.S. Court of Appeals for the District of Columbia Circuit, which initially imposed a partial stay on the preliminary injunction[17] and permitted the CFPB to terminate employees if, after a "particularized assessment," the agency determined that the employees to be terminated would be "unnecessary to the performance of [the agency's] statutory duties."

However, after the CFPB issued an RIF effectively terminating 90% of agency employees in April, the D.C. Circuit, on its own accord, lifted the partial stay and ordered that the CFPB be bound by the provision of Judge Jackson's preliminary injunction barring the agency from conducting any RIFs.

Oral argument was held on the merits of the preliminary injunction on May 16, however, the CFPB remains barred from relying on RIFs to dismantle the agency's operations pending the D.C. Circuit's decision.

As the judicial proceedings at the district and circuit court level have at least temporarily stalled the CFPB's plan to reduce the agency via elimination of a substantial portion of its primary workforce, the CFPB has turned its strategy to areas it can independently control: its authority to rescind previously published rules through the Administrative Procedure Act process, conducting an internal review of all previously issued guidance materials, and using

different strategies to resolve pending matters as well as previously issued enforcement actions.

Though these secondary methods require a more individualized approach to reducing the CFPB's scope, they do, in the aggregate, further the overall goal of eliminating all instances where the Trump administration views the agency as overreaching and extending beyond its statutory authority.

However, this playbook also results in continuous changes to consumer financial protection regulations and guidance that will require financial institutions and other covered parties to closely monitor.

The coming weeks and months will be critical in terms of determining whether the Trump administration will be able to continue to exercise broad latitude to drastically reshape the CFPB and how that will affect the consumer financial services industry in the short, medium and long term.

Though the D.C. Circuit's pending decision in NTEU v. Vought will determine whether the administration's initial strategy to knee-cap the CFPB may proceed, the present question is not whether additional changes to the CFPB's scope will be made, but rather what methods or means will be used to effect those changes.

In any scenario, consumers and financial institutions alike should pay careful attention to further changes to their rights and obligations.

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[1] Withdrawal of Data Broker Proposed Rule, 90 Fed. Reg. 20568 (May 15, 2025). https://public-inspection.federalregister.gov/2025-08644.pdf.

[2] Withdrawal of Regulation AA Proposed Rule, 90 Fed. Reg. 20569 (May 15, 2025). https://public-inspection.federalregister.gov/2025-08645.pdf.

[3] Withdrawal of Regulation E/Electronic Fund Transfers Proposed Interpretive Rule, 90 Fed. Reg. 20568 (May 15, 2025). https://public-inspection.federalregister.gov/2025-08646.pdf.

[4] Recission of State Enforcement Authority Interpretive Rule, 90. Fed. Reg. 20565 (May 15, 2025). https://public-inspection.federalregister.gov/2025-08641.pdf.

[5] Recission of COVID RESPA Rule, 90 Fed. Reg. 20791 (May 16, 2025). https://public-inspection.federalregister.gov/2025-08643.pdf?1747313111.

[6] Recission of State Official Notification Procedures, 90 Fed. Reg. 21691 (May 21, 2025).https://public-inspection.federalregister.gov/2025-08640.pdf.

[7] Recission of Rules of Practice for Adjudication Proceedings, 90 Fed. Reg. 20241 (May 13, 2025). https://public-inspection.federalregister.gov/2025-08344.pdf.

[8] Recission of Procedures for Supervisory Designation Proceedings, 90 Fed. Reg. 20401 (May 14, 2025). https://public-inspection.federalregister.gov/2025-08347.pdf.

[9] Recission of Nonbank Registry Rule, 90 Fed. Reg. 20406 (May 14, 2025). https://public-inspection.federalregister.gov/2025-08345.pdf.

[10] Press Release, Consumer Financial Protection Bureau, CFPB Offers Regulatory Relief From Registration Requirements for Small Loan Providers (Apr. 11, 2025) (on file with author). https://www.consumerfinance.gov/about-us/newsroom/cfpb-offers-regulatory-relief-from-registration-requirements-for-small-loan-providers/.

[11] Open Banking Rule, 89 Fed. Reg. 90838 (Nov. 18, 2024).

[12] Plaintiff's Brief in Support of Motion for Summary Judgment, Forcht Bank, N.A., et. al. v. CFPB, No. 5:24-cv-00304-DCR (E.D. Kentucky May 30, 2025). https://storage.courtlistener.com/recap/gov.uscourts.kyed.106299/gov.uscourts.kyed.106299.59.1.pdf.

[13] Defendant's Status Report, Forcht Bank, N.A. v. CFPB, No. 5:24-cv-00304-DCR (E.D. Kentucky May 23, 2025). https://storage.courtlistener.com/recap/gov.uscourts.kyed.106299/gov.uscourts.kyed.106299.57.0.pdf.

[14] Defendant's Response to Plaintiff's Unopposed Motion to Stay, Revenue Based Finance Coalition v. CFPB, No. 1:23-cv-24882-DSL (S.D. Fla. Apr. 3, 2025). https://storage.courtlistener.com/recap/gov.uscourts.flsd.659734/gov.uscourts.flsd.659734.75.0_2.pdf.

[15] Withdrawal of Interpretive Rules, Policy Statements, and Advisory Opinions, 90 Fed. Reg. 20084 (May 12, 2025). https://www.federalregister.gov/documents/2025/05/12/2025-08286/interpretive-rules-policy-statements-and-advisory-opinions-withdrawal.

[16] Memorandum Opinion, NTEU, et. al. v. Vought, No. 25-0381 (ABJ) (D.D.C. Mar. 28, 2025). https://storage.courtlistener.com/recap/gov.uscourts.dcd.277287/gov.uscourts.dcd.277287.87.0_1.pdf.

[17] Order, NTEU, et al. v. Vought, No. 25-5091 (D.C. Cir. Apr. 11, 2025). https://storage.courtlistener.com/recap/gov.uscourts.cadc.41898/gov.uscourts.cadc.41898.01208729648.0.pdf.