

22 State AGs Sue CFPB Acting Director for Loss of Access to CFPB Resources

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In 2025, we wrote how Democrat state attorneys general [opposed](#) CFPB's ANPRs reducing CFPB oversight, a bipartisan group of AGs urged the CFPB to [distribute](#) consumer refunds, and a Democratic group of AGs filed an [amicus brief](#) warning against dismantling the CFPB. In December, a group of 22 Democratic AGs (co-led by California, Colorado, New Jersey, New York, and Oregon) [filed a lawsuit](#) in the District of Oregon against Russel Vought, Acting Director of the CFPB, for allegedly terminating operations and preventing states from accessing statutorily mandated resources. The AGs allege that Vought has reversed course on the past ten years of CFPB operations and now erroneously says there is no funding available for the CFPB, as the Office of Legal Counsel concluded the Federal Reserve System had no "combined earnings."

The Board of Governors of the Federal Reserve System is also a named defendant. Per the states, the Board is required by statute to transfer to the CFPB, from the combined earnings of the Federal Reserve System, "the amount determined by the Director to be reasonably necessary to carry out the authorities of the Bureau under Federal consumer financial law, taking into account such other sums made available to the Bureau" previously.

The lawsuit describes how states use the complaint portal maintained by the CFPB (the Consumer Response System), including by listing the thousands of complaints received in each of the respective states, explaining how states use the complaint information to initiate investigations and support litigation, and stating how some state agencies use the database daily to carry out regulatory responsibilities. The AGs claim losing access will prejudice certain states in active investigations and litigation.

Similarly, the AGs describe the purpose of the Home Mortgage Disclosure Act (HMDA), requiring financial institutions to provide public transaction-level information on mortgages including applicant/borrower race, gender, and income. This HMDA data was compiled by the Federal Financial Institutions Examination Council and overseen by the CFPB beginning with the Dodd-Frank Act, and the CFPB was statutorily required to provide resources to the FFIEC. States used this data, available online, for ongoing investigations and litigation. In addition, certain states relied on these tools for other purposes, such as identifying potential discrimination in mortgage lending.

The AGs assert that defunding the CFPB would impair their ability to access HMDA data and certain complaints and business responses and would eliminate the ability to refer state complaints to the CFPB as certain states have regularly done in the past. Consumer data may also be deleted or potentially corrupted as the database may be unmonitored for potential bad actors. While the FTC's

Consumer Sentinel exists, it does not perform the same functions, such as collecting company responses, and currently Sentinel relies in part on CFPB complaints.

The AGs allege violations of the Administrative Procedure Act for 1) agency action in excess of statutory authority and contrary to law, 2) arbitrary and capricious agency action, and 3) unlawfully withheld agency action. Their causes of action also include an ultra vires agency action beyond congressional authorization, a violation of the separation of powers doctrine through the usurpation of legislative authority, and a request for declaratory judgment.

Importantly, in a separate matter concerning CFPB operations, Acting Director Vought last week requested \$145 million from the Federal Reserve to fund the Bureau's operations through March 31, 2026. Previously, Vought informed the U.S. District Court of the District of Columbia in *National Treasury Employees Union, et al. v. Russell Vought*, that it would be unlawful for the CFPB to request funds from the Federal Reserve, as the Federal Reserve System has been operating at a loss since September 2022 and the Dodd-Frank Act authorizes CFPB funding only from the Federal Reserve's combined "earnings." However, at the end of December, the Court declared that the CFPB's refusal to request funding violated an existing preliminary injunction, a decision that likely prompted Vought's subsequent funding request. The full D.C. Court of Appeals is scheduled to rehear the case en banc at the end of February.

As we have previously discussed, we expect state attorneys general to continue to play an active role in policing the financial industry, and perhaps the CFPB itself, in the coming year. Notably, Rohit Chopra, former CFPB Director, now leads a Democratic Attorneys General Association working group focused on strengthening consumer protection policies, a development that may further bolster these efforts, particularly among Democratic attorneys general.