

# Supreme Court Upholds CFPB Funding Mechanism as Constitutional, Quelling Uncertainty and Reinvigorating the CFPB's Docket

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May 16, 2024

In a long-awaited [decision](#) with profound implications for the future of the agency, the Supreme Court held 7-2 today that the Consumer Financial Protection Bureau (CFPB) is constitutionally funded. CFPB officials can breathe a sigh of relief as a contrary decision would have called into question many longstanding enforcement, investigative, and regulatory efforts. With the Court's decision today, more than a dozen pending CFPB cases that had been paused pending the decision will now move forward.

As a refresher for those who have not been following the case, several trade associations representing payday lenders and credit-access businesses filed a complaint challenging CFPB regulations relating to high-interest consumer loans. The associations raised a number of statutory and constitutional arguments, including that the CFPB "takes federal government money without an appropriations act" in violation of the Appropriations Clause. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010, the Bureau draws public funds from the Federal Reserve System in an amount not exceeding an inflation-adjusted cap.

As we previously discussed [here](#), after a district court upheld the funding mechanism, a panel of the Fifth Circuit reversed and found it to be unconstitutional on the grounds that its funding structure "goes a significant step further than that enjoyed by other agencies" based on its insulation from regular congressional control and oversight.

Today's decision reverses the Fifth Circuit ruling and holds that "an identified source and purpose are all that is required for a valid appropriation." Tracing pre-founding history and British parliament's inability to direct how the Crown's revenues were spent, the Court concludes that the Appropriations Clause required Congress to "designate particular revenues for identified purposes, but beyond that limit, early legislative bodies exercised a wide range of discretion." The Court rejected a number of related arguments by the associations, including that it was problematic that the Bureau itself decided its amount of annual funding up to a specified limit without a requirement to periodically reobtain Congressional authorization.

It is difficult to overstate the impact of the decision on the Bureau and its ambitious agenda. A contrary ruling would have called into question past, current, and future regulations and

enforcement. Now, the Bureau and Director Rohit Chopra will be emboldened to move forward with haste in the remaining months of President Biden's current term.