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INSIGHT

Financial Services and General Government FY2025 Appropriations: CFPB's Funding and Structure Provisions

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On June 17, 2024, the House Committee on Appropriations reported its FY2025 Financial Services and General Government (FSGG) appropriations bill (H.R. 8773). The reported bill would change the funding and structure of the Consumer Financial Protection Bureau (CFPB) by bringing the agency under the traditional appropriations process and replacing the CFPB director with a five-person commission. Other 118th Congress bills, such as H.R. 2798, as reported by the House Committee on Financial Services, include similar provisions. H.R. 8773 would also prohibit the use of CFPB funds on recently initiated rulemakings that would cap credit card late fees, require reporting on small business demographic information as directed by Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), and create a non-bank registry to report violations of consumer protection laws. The Senate Appropriations Committee reported an FSGG appropriations bill, S. 4928, that does not include these policy changes.

Since the CFPB's creation over a decade ago, policymakers have debated the degree of independence the CFPB should have from Congress and the President. Some argue that the agency can operate more effectively when insulated from political pressures, while others counter that such insulation decreases accountability. This Insight discusses the CFPB's current structure and funding, how H.R. 8773 would change it, and legal challenges related to these issues.

Current CFPB Structure, Funding, and Budget

Dodd-Frank established the CFPB as an independent bureau within the Federal Reserve System (Fed). The CFPB is headed by a single director appointed by the President with the advice and consent of the Senate for a five-year term. The Fed's Board of Governors generally does not have legal authority to influence the CFPB's operations. This single-director structure is similar to other independent financial regulators, such as the Office of the Comptroller of the Currency (OCC), though other agencies—such as the Fed, the Federal Deposit Insurance Corporation (FDIC), and the Securities and Exchange Commission (SEC)—are headed by boards or commissions.

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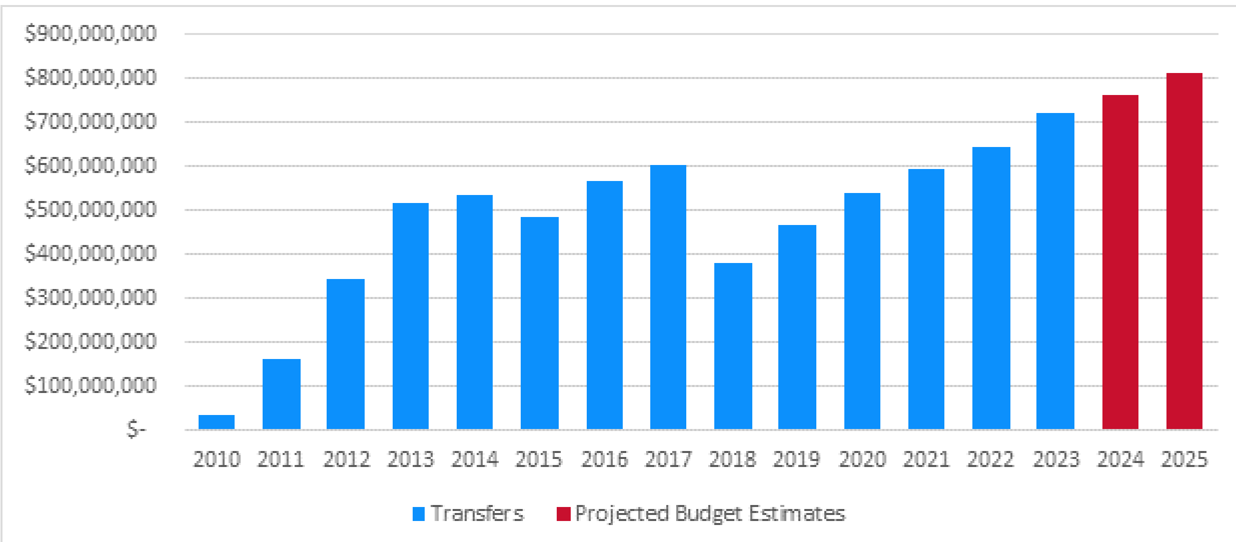
The CFPB is funded outside the traditional congressional appropriations process. The CFPB funds its operations through monetary transfers from the Fed's combined earnings. The Fed must transfer amounts requested by the CFPB director based on the director's determination of need, subject to a cap set each year by a statutory formula. Some other agencies—such as the OCC, the FDIC, and the Fed—are also funded outside of the congressional appropriations process. However, in contrast to the CFPB's funding scheme, those agencies generally cover all or part of their costs with funds collected as fees or assessments from regulated entities or investment income.

For FY2023, the CFPB received a total of $721.2 million in transfers from the Fed, which was below its $750.9 million statutory cap for that year. The CFPB's projected budget estimate for its operations in FY2024 is $762.9 million and in FY2025 is $810.6 million. **Figure 1** below compares the CFPB's transfers from the Fed from FY2010 to FY2023 to the CFPB's projected budget estimates in FY2024 and FY2025.

Figure 1. CFPB Transfers from the Fed and Projected Budget Estimates

FY2010-FY2025



Source: CRS. Data from CFPB annual financial reports.

CFPB Provisions in H.R. 8773

H.R. 8773 would authorize $650 million in appropriations for FY2025, which is about $161 million less than the CFPB estimated for its FY2025 budget. In addition, the bill contains provisions amending the CFPB's authorizing language in Dodd-Frank and limiting the implementation of new CFPB regulations on small business lending, credit cards, and creation of a nonbank registry. Specifically:

- Section 500 would authorize $650 million for the CFPB for FY2025 and would not include a specific amount for following fiscal years.
- Section 501 would remove the provisions governing the Fed's funding of the CFPB, thus bringing the CFPB under the traditional appropriations process beginning in FY2025. It would also replace the CFPB director with a five-person commission, led by a chair, with a maximum of three members from the same political party. Commissioners would be appointed by the President, subject to the advice and consent of the Senate, to serve five-year staggered terms, and two members would need private sector experience in

consumer finance. The President would be able to remove commissioners only for "inefficiency, neglect of duty, or malfeasance in office."

- Section 502 would prohibit the use of funds to implement a small business lending data collection regulation mandated by Section 1071 of Dodd-Frank, which the CFPB finalized in July 2024.
- Section 503 would prohibit the use of funds to implement a rule capping certain credit card fees that was finalized in March 2024.
- Section 504 would prohibit the use of funds to implement a rule creating a registry of nonbank violations of consumer protection law that was finalized in June 2024.

Constitutional Challenges to the CFPB

The CFPB's funding structure has been the subject of litigation. On May 16, 2024, the U.S. Supreme Court rejected a constitutional challenge to this funding structure. The 7-2 majority decision reversed an opinion of the U.S. Court of Appeals for the Fifth Circuit, which had held that the CFPB's funding violated the Appropriations Clause and separation of powers principles.

The CFPB was also subject to other legal challenges that the Supreme Court ultimately settled. Under Dodd-Frank, as passed, the President could remove the CFPB director only "for inefficiency, neglect of duty, or malfeasance in office." The Supreme Court in *Seila Law LLC v. CFPB* held that this statutory removal protection for a sole director violated the separation of powers. The Court held that these unconstitutional tenure protections were severable, and the Court's ruling left the rest of the CFPB-related Dodd-Frank provisions intact. Consequently, the CFPB director now serves at the pleasure of, and may be removed at will by, the President.

The FY2025 FSGG House-committee-reported appropriations bill contains provisions addressing the funding and compositional structure of the CFPB. Section 501 of the bill would convert the CFPB's funding to annual appropriations and replace the CFPB's directorship with a multi-member commission.

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