

With President-Elect Trump, What Happens Next for the CFPB?

PUBLISHED ON

December 5, 2016

The Consumer Financial Protection Bureau (CFPB) will have its hands full in the coming months with the combined one-two punch it has suffered at the hands of a decision from the U.S. Court of Appeals in [PHH Corporation v. CFPB](#) and the election of Donald Trump.

In October, the court's panel issued its decision in the case ruling that the Dodd-Frank Act's creation of an independent agency like the CFPB with a single director removable only for cause violated the constitutional separation of powers requirements. The panel remedied the constitutional defect by severing the removal only for cause provision, which means the director serves at the will of the President. The CFPB is currently seeking a rehearing of the case by the U.S. Court of Appeals for the District of Columbia Circuit. The case initially started when New Jersey-based mortgage servicer PHH Corp. appealed a CFPB enforcement action that would have imposed a penalty of \$109 million for alleged violations of the Real Estate Settlement Procedures Act (RESPA).

Further complicating matters for the CFPB is that throughout his campaign President-elect Trump [promised to get rid of Dodd-Frank](#), and now his transition team has promised to dismantle the complex act. While repealing the act in its entirety is likely something that will not happen, Trump and a Republican-controlled Congress should be in position to make significant revisions to Dodd-Frank. With an eye towards the CFPB, Trump and Congress could take any number of actions. Trump could elect to withdraw the pending appeal filed in the PHH Corp. case and thus leave the court's decision in place, allowing the president to fire the director at will. Trump and Congress also could seek to restructure the CFPB by installing a multi-member board as is traditionally done with independent agencies. Any of the above changes, from removing the current CFPB director and replacing him with a Trump appointee to reconfiguring the leadership structure to include a multi-member board, will impact the direction and priorities of the CFPB in the coming years for mortgage servicing and banking in general.

At this point, Trump has given no firm plan for the CFPB. But since he's said he wants to address Dodd-Frank, it bears monitoring as we move into 2017.

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