



Written by [Bob Adelman](#) on January 18, 2023

15 States Try to Rein In Consumer Financial Protection Bureau

In the wake of the 2007-2008 financial crisis, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010, creating the Consumer Financial Protection Bureau (CFPB). Ever since then, victims of the CFPB have tried [again and again](#) to find a court that would shut it down.

A brainchild of far-left Senator Elizabeth Warren (D-Mass.), CFPB was designed from the start to avoid constitutional limitations. It is housed inside the Eccles Building in Washington, D.C., along with the Federal Reserve's Board of Governors. It isn't funded by Congress, but by the Federal Reserve, and, although part of the Executive Branch, there is virtually no congressional or executive oversight of the agency.



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It writes its own rules, finds who violates them, and then punishes them, sometimes with outrageous fines that threaten their very existence.

In a lawsuit filed by Connecticut attorney Kimberly Pisinski in July 2013, Pisinski alleged that the "CFPB's structure insulates it from political accountability and internal checks and balances in violation of the United States Constitution. Unbridled from constitutionally-required accountability, CFPB has engaged in ultra vires ["beyond the powers"] and abusive practices, including attempts to regulate the practice of law ... attempts to collect attorney-client protected material and overreaching demands for, and mining of, personal financial information of American citizens, which has prompted a Government Accountability Office investigation."

Her case was dismissed by a D.C. federal court a few months later.

In *Seila Law v. CFPB*, filed in 2018, the sole proprietor for a law firm that got caught in the CFPB's web filed suit against the agency. After losing appeal after appeal, the case finally went to the Supreme Court, which ruled in June 2020 that the agency could continue its unconstitutional operations.

This is the issue raised by *Seila*:

The appropriations issue that *Seila Law* noted has now come to a head. In [its decision] the Fifth Circuit correctly held that the CFPB's unprecedented funding scheme impermissibly shifts Congress's power of the purse to the Bureau.

But that decision is at odds with one from the D.C. Circuit, which saw no constitutional problem with "the CFPB's budgetary set-up."

So now much of the country's financial industry sits in a state of regulatory limbo,



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wondering whether the CFPB can continue as a going concern without congressional intervention.

Meanwhile, the Bureau insists that it will “continue to carry out its vital work” without apparent change — even though a federal appellate court has told the Bureau it **must** change.

In *Consumer Financial Protection Bureau v. All American Check Cashing, Inc.*, another agency victim fought back and lost in the Fifth Circuit Court of Appeals.

Fifteen states, [including Texas](#), have filed a request with the Supreme Court that it take another look at the rogue agency. In their writ of certiorari, the states claim that since the agency is operating with funds from the Federal Reserve and not appropriated by Congress, as required under the Constitution’s appropriations clause, it is operating illegally.

Texas Attorney General Ken Paxton [joined](#) the 15 states’ request:

The CFPB is a largely autonomous entity that has imposed a number of damaging regulations on American businesses.

While the CFPB’s constitutionality has been challenged on several fronts, the nature of this case revolves around the entity’s funding mechanism.

CFPB is not funded through the congressional appropriations process. Instead, it derives its funding from the Federal Reserve and may receive up to 12 percent of the Federal Reserve’s annual operating expenses, which amounts to several billion dollars.

This funding structure allows the CFPB to act as an unaccountable regulator in violation of the Appropriations Clause of the Constitution.

So, there it is: Warren’s totalitarian brainchild has virtually unlimited funding to wreak havoc on America’s financial industry, with no congressional oversight. It recombines the three elements of government that the Founders separated in order to keep that government from becoming tyrannical. Texas and the other states are hoping that this time is a charm — that the high court will take the case, uncover the agency’s unconstitutional structure and funding, and declare it illegal.

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