

# The Current And Future State of Bank-Fintech Partnerships

By **Shane Foster, Marina Olman-Pal and Jera Bradshaw** (February 28, 2025)

Since taking office, the new presidential administration has taken significant actions that have reduced the role and influence of the Consumer Financial Protection Bureau.

On Feb. 7, President Donald Trump appointed the director of the U.S. Office of Management and Budget, Russell Vought, as acting director of the CFPB. Vought swiftly ordered a pause on new rulemaking, enforcement investigations, litigation, public communications, supervision and examination activity, and other work of the agency. The suspension of rulemaking, supervision and enforcement activity at the CFPB remains in place.

This article examines the impact of recent activity on bank-fintech partnerships and what the industry should consider in light of the change in administration.

Several actions have prompted a series of legal challenges, including a lawsuit — Mayor and City Council of Baltimore v. Vought — brought by the city of Baltimore on Feb. 12 in the U.S. District Court for the District of Maryland to enjoin the CFPB and Vought from actions that would defund the CFPB.[1]

On Feb. 19, a coalition of 23 state attorneys general filed an amicus brief in support of the plaintiffs' motion for a preliminary injunction, arguing that dismantling the CFPB would significantly harm consumers and hamper enforcement of federal consumer protection laws.[2]

On Feb. 12, the presidential administration nominated Jonathan McKernan, a veteran of financial regulation with extensive experience in both the public and private sectors, as the new director of the CFPB.

His leadership may influence the pace and nature of the CFPB's regulatory rollback, enforcement priorities and the CFPB's engagement with industry stakeholders.

According to news reports, the White House also appears to be exploring the possible consolidation of prudential bank regulatory agencies and preparing to transfer employees between agencies in an effort to reshape bank supervision.[3]

## Looking Ahead

Weakening the CFPB or consolidating prudential bank regulatory agencies will not eradicate the sensitivity and regulatory focus on bank-fintech partnership models.

During the Biden administration, federal banking regulators voiced their concerns around these models through published guidance, proposed rulemaking and enforcement actions.[4]



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While changes in leadership and potential consolidation at the federal banking agencies may support a more flexible approach to regulatory oversight of bank-fintech partnerships, meaningful changes in bank regulation take time to materialize before their effects are fully recognized in the banking industry.

Banks and fintechs should be mindful that the federal consumer financial laws and regulations that the CFPB enforces — e.g., Regulation E; the Truth in Lending Act; the Real Estate Settlement Procedures Act; and unfair, deceptive, and abusive acts and practices stipulations, etc., under the Dodd-Frank Act — remain in effect.

And the backup enforcement authority provisions under Dodd-Frank provide the prudential federal bank regulators (Office of the Comptroller of the Currency, Federal Deposit Insurance Corp. and Federal Reserve Board) with the ability to intervene in the event that federal consumer financial laws are not being enforced by the CFPB.[5]

Additionally, the Dodd-Frank Act empowers state attorneys general to enforce various federal consumer financial protection statutes and other regulations promulgated by the CFPB.[6] It is therefore possible that any inaction by the CFPB will be counterbalanced by heightened scrutiny from state and federal regulatory authorities.

As the CFPB is just one federal agency overseeing bank-fintech partnerships, banks and fintechs should be prepared for continued supervisory focus on third-party risk management. In recent years, regulators have focused on business arrangements between banks and nonbank partners, emphasizing the importance of banks' third-party risk management processes.[7]

In accordance with safety and soundness principles, banks are ultimately responsible for managing activities conducted through third-party relationships and identifying and controlling the risks arising from such relationships to the same extent as if the activity were handled within the institution.[8]

As part of this responsibility, banks must ensure that their fintech partners are complying with consumer protection laws such as the Truth in Lending Act, Fair Credit Reporting Act and Electronic Fund Transfer Act.

If past enforcement actions remain a reliable predictor of supervisory focus, the number of enforcement actions related to banking-as-a-service for deficiencies in third-party risk management oversight indicates that enhanced regulatory scrutiny of bank-fintech partnerships is unlikely to cease abruptly.

While shifting policies may create short-term unpredictability, banks and fintechs may consider using this time to proactively strengthen compliance frameworks, risk management strategies and operational resilience to manage the risks arising from bank-fintech partnerships.

The ability to anticipate and adapt to regulatory change is a significant factor in a strong compliance program and a critical competitive advantage in an industry where regulatory frameworks evolve rapidly.

Banks may consider conducting a comprehensive review of all fintech partnerships to detect and mitigate risks before they escalate.

Existing supervisory issues should be addressed promptly, as these are likely to see little impact from the change in administration. Contractual accountability and robust policies and procedures designed to effectively identify, assess, monitor and control risks remain cornerstones in structuring an effective third-party risk management program.

Banks should regularly evaluate contingency plans for potential regulatory changes that could affect third-party oversight, market access, product offerings or compliance requirements.

Navigating the evolving regulatory environment will require banks to remain adaptable and vigilant. Staying informed about regulatory changes, both at the federal and state levels, will be crucial for maintaining compliance and seizing opportunities in the financial sector.

Even in a regulatory environment ripe with change and uncertainty, banks can effectively manage the risks associated with fintechs and innovation by fostering strong partnerships with fintech companies, demonstrating proactive compliance management and implementing a rigorous third-party risk management program.

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[1] See, e.g., Madeliene O'Neill, Lawsuit Tracker: How Maryland, Baltimore are suing the Trump administration, *The Baltimore Banner* (Feb. 24, 2025), <https://www.thebaltimorebanner.com/politics-power/national-politics/maryland-baltimore-trump-lawsuit-tracker-5HBHZWJVPRFB7JJUNGCJNT6UNEM/>.

[2] See, e.g., Press Release, Office of the N.Y. State Att'y Gen., Attorney General James Leads Multistate Coalition to Defend the Consumer Financial Protection Bureau (Feb. 20, 2025), <https://ag.ny.gov/press-release/2025/attorney-general-james-leads-multistate-coalition-defend-consumer-financial>.

[3] See, e.g., Gina Heeb et al., Trump Advisers Eye Bank Regulator Consolidation After Targeting the CFPB, *Wall St. J.* (Feb. 11, 2025), <https://www.wsj.com/finance/regulation/trump-advisers-eye-bank-regulator-consolidation-after-targeting-cfpb-85055a2e>.

See also Evan Weinberger, Trump Gets Ready to Move Bank Regulators After Workforce Purge, *Bloomberg Law* (Feb. 19, 2025), <https://news.bloomberglaw.com/banking->

law/trump-gets-ready-to-move-bank-regulators-after-workforce-purge.

[4] See Interagency Guidance on Third-Party Relationships: Risk Management, 88 Fed. Reg. 37920 (June 9, 2023); Board of Governors of the Fed. Reserve Sys. et al., Joint Statement on Banks' Arrangement with Third Parties to Deliver Bank Deposit Products and Services (July 25, 2024), <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20240725a1.pdf>; Request for Information on Bank-Fintech Arrangements Involving Bank Products and Services Distributed to Consumers and Businesses, 89 Fed. Reg. 61577 (July 31, 2024); Recordkeeping for Custodial Accounts, 89 Fed. Reg. 80135 (proposed Oct. 2, 2024); Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions, 89 Fed. Reg. 68244 (proposed Aug. 23, 2024); Anti-Money Laundering and Countering the Financing of Terrorism Program Requirements, 89 Fed. Reg. 65242 (proposed Aug. 9, 2024); Anti-Money Laundering and Countering the Financing of Terrorism Programs, 89 Fed. Reg. 55428 (proposed July 3, 2024).

[5] 12 U.S.C. § 5515(c)(3).

[6] 12 U.S.C. §§ 5531, 5552.

[7] See, e.g., Request for Information on Bank-Fintech Arrangements Involving Bank Products and Services Distributed to Consumers and Businesses, 89 Fed. Reg. 61577 (July 31, 2024).

[8] See Interagency Guidance on Third-Party Relationships: Risk Management, 88 Fed. Reg. 37920 (June 9, 2023).