



U.S. Department of Justice

Civil Division

Assistant Attorney General

Washington, D.C. 20530

December 16, 2025

The Honorable Jerome Powell
Chair, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

RE: Federal Reserve System Combined Earning, FY 2026 Quarter 1

Dear Chair Powell:

The United States Department of Justice, Civil Division represents the Consumer Financial Protection Bureau (“CFPB”) and its Director in pending litigation. *Nat’l Treas. Emps. Union v. Vought*, No. 1:25-cv-0381 (D.D.C.) (“NTEU”); *Rise Economy v. Vought*, No. 5:25-cv-10481 (N.D. Cal.).

Last month, the Office of Legal Counsel (“OLC”) issued a memorandum opinion concluding that, so long as “the Federal Reserve has no profits,” “it cannot transfer money to the CFPB” under 12 U.S.C. § 5497(a)(1). *Whether the CFPB May Continue to Draw Funds from the Federal Reserve System Under 12 U.S.C. § 5497 When the Federal Reserve System is Operating at a Loss*, 49 Op. O.L.C. ___, at *1 (O.L.C. Nov. 7, 2025) (explaining that “profits” are “calculated by subtracting [the Federal Reserve’s] interest expenses from its revenues”), available at <http://www.justice.gov/olc/opinions>.

Based on published financial statements, CFPB understood that the Federal Reserve had no combined earnings under OLC’s definition at that time. Accordingly, the Director prepared and submitted a report pursuant to 12 U.S.C. § 5497(e)(1) stating that, based on OLC’s opinion, there were no funds legally available for the Bureau to request from the Federal Reserve System under 12 U.S.C. § 5497 and identifying the funding needs of the Bureau.

There has since been reporting that the Federal Reserve System is returning to profitability and may have or may soon have combined earnings under OLC’s definition. We are writing to request the Federal Reserve’s opinion on (i) whether the Federal Reserve System has “combined earnings” for purposes of § 5497(a) as that term is defined in the OLC opinion and (ii) whether the Federal Reserve System anticipates having or continuing to have such “combined earnings” in the coming weeks.

Sincerely,

A handwritten signature in blue ink that reads "Brett Shumate".

Brett Shumate
Assistant Attorney General