

1 Stephanie B. Garlock (*pro hac vice* application pending)
 Allison M. Zieve (*pro hac vice* application pending)
 2 Wendy Liu (*pro hac vice* application pending)
 3 PUBLIC CITIZEN LITIGATION GROUP
 1600 20th Street NW
 4 Washington, DC 20009-1001
 Telephone: (202) 588-1000
 5 Email: sgarlock@citizen.org
 azieve@citizen.org
 6 wliu@citizen.org

7 Michael W. Bien – 096891
 8 Gay Crosthwait Grunfeld – 121944
 Van Swearingen – 259809
 9 Adrienne Spiegel – 330482
 ROSEN BIEN GALVAN & GRUNFELD LLP
 10 101 Mission Street, Sixth Floor
 San Francisco, California 94105-1738
 11 Telephone: (415) 433-6830
 12 Facsimile: (415) 433-7104
 Email: mbien@rbgg.com
 13 ggrunfeld@rbgg.com
 vswearingen@rbgg.com
 14 aspiegel@rbgg.com

15 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

20 RISE ECONOMY; NATIONAL
 21 COMMUNITY REINVESTMENT
 COALITION; and WOODSTOCK
 22 INSTITUTE,

23 Plaintiffs,

24 v.

24 RUSSELL VOUGHT, in his official capacity
 25 as Acting Director of the Consumer Financial
 Protection Bureau; and CONSUMER
 26 FINANCIAL PROTECTION BUREAU,

27 Defendants.

Case No. 5:25-cv-10481-EJD

**PLAINTIFFS’ NOTICE OF MOTION
 AND MOTION FOR SUMMARY
 JUDGMENT**

Hearing Date: March 5, 2026

Hearing Time: 9:00 AM

Judge: Hon. Edward J. Davila

Place: San Jose

Date Filed: December 9, 2025

Trial Date: None set

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

NOTICE OF MOTION AND MOTION 1

MEMORANDUM OF POINTS AND AUTHORITIES 1

INTRODUCTION..... 1

BACKGROUND..... 3

LEGAL STANDARD 8

ARGUMENT 8

I. Plaintiffs have standing. 9

II. Defendants’ refusal to request funds from the Federal Reserve under § 5497
is arbitrary, capricious, and contrary to law. 13

A. The Dodd-Frank Act requires the CFPB Director to request funds
reasonably necessary to carry out the agency’s authorities..... 13

B. Even if § 5497 permitted Defendants not to request funding based
on the Federal Reserve’s “combined earnings,” Defendants’ action
is not based on the best reading of that statutory term. 15

C. Defendants’ decision not to request funding is arbitrary and
capricious because it rests on an incorrect factual premise..... 24

CONCLUSION 25

TABLE OF AUTHORITIES

CASES

1

2 **CASES**

3 *Center for Biological Diversity v. U.S. Fish & Wildlife Service,*

4 33 F.4th 1202 (9th Cir. 2022).....24

5 *Center for Biological Diversity v. Zinke,*

6 900 F.3d 1053 (9th Cir. 2018).....24

7 *CFPB v. CashCall, Inc.,*

8 35 F.4th 734 (9th Cir. 2022).....17

9 *CFPB v. Community Financial Services Ass’n of America,*

10 601 U.S. 416 (2024)16, 20

11 *CFPB v. ITT Educational Services, Inc.,*

12 219 F. Supp. 3d 878 (S.D. Ind. 2015)17

13 *City of Los Angeles v. Barr,*

14 941 F.3d 931 (9th Cir. 2019).....15, 18

15 *Custodia Bank, Inc. v. Federal Reserve Board of Governors,*

16 No. 24-8024, 2025 WL 3039669 (10th Cir. Oct. 31, 2025).....17

17 *Hunt v. Wash. State Apple Advertising Commission,*

18 432 U.S. 333 (1977)12

19 *Immigrant Defs. L. Ctr. v. Noem,*

20 145 F.4th 972 (9th Cir. 2025).....9, 13

21 *Inland Empire Waterkeeper v. Corona Clay Co.,*

22 17 F.4th 825 (9th Cir. 2021).....9, 10

23 *Loper Bright Enters. v. Raimondo,*

24 603 U.S. 369 (2024)15

25 *Motor Vehicle Manufacturers Ass’n v. State Farm Mutual Automobile Insurance Co.,*

26 463 U.S. 29 (1983)24

27 *Munoz v. PHH Corp.,*

28 No. 22-15407, 2023 WL 2202228 (9th Cir. Feb. 24, 2023).....9

Natural Resources Defense Council, Inc. v. Pritzker,

828 F.3d 1125 (9th Cir. 2016).....8

Niz-Chavez v. Garland,

593 U.S. 155 (2021)17

Northwest Motorcycle Ass’n v. USDA,

18 F.3d 1468 (9th Cir. 1994).....8

1 *Payne Enters., Inc. v. United States,*
 2 837 F.2d 486 (D.C. Cir. 1988), 12

3 *Sierra Club v. Bosworth,*
 4 510 F.3d 1016 (9th Cir. 2007)..... 8

5 *TransUnion v. Ramirez,*
 6 141 S. Ct. 2190 (2021) 9

7 *West Virginia v. EPA,*
 8 597 U.S. 697 (2022) 24

9 *Wilderness Society Inc. v. Rey,*
 622 F.3d 1251 (9th Cir. 2010)..... 9

10 **FEDERAL CASES**

11 12 U.S.C. § 2801(b) 10

12 12 U.S.C. § 2803(f) 10

13 12 U.S.C. § 2809(a)..... 10

14 12 U.S.C. § 2809(b) 10

15 12 U.S.C. § 2809(c)..... 10

16 12 U.S.C. § 289(a)..... 19

17 12 U.S.C. § 289(a)(1) 5

18 12 U.S.C. § 289(a)(2) 5

19 12 U.S.C. § 289(a)(3)(b) 5

20 12 U.S.C. § 461(b)(12)(A) 5

21 12 U.S.C. § 5390(c)(3)(b)(ii)..... 19

22 12 U.S.C. § 5390(n)(2)..... 18

23 12 U.S.C. § 5390(s)(3) 19

24 12 U.S.C. § 5465(c)..... 18

25 12 U.S.C. § 5491(a),..... 3

26 12 U.S.C. § 5496(c)(4) 11

27 12 U.S.C. § 5497 2, 7

28

1 12 U.S.C. § 5497(a)(1)3, 4, 20

2 12 U.S.C. § 5497(a)(2)(A)3, 20

3 12 U.S.C. § 5497(e)(1)3

4 12 U.S.C. § 5511(a).....3

5 12 U.S.C. § 55153

6 12 U.S.C. § 5534 11

7 12 U.S.C. § 55643

8 12 U.S.C. § 55813

9 12 U.S.C. § 5581(b)21

10 15 U.S.C. § 1691c-2(a)..... 11

11 15 U.S.C. § 1691c-2(f) 11

12 15 U.S.C. § 78u-6(g)(5)(D) 18

13 5 U.S.C. § 706(2)(A)8, 14

14

15 Dodd-Frank Wall Street Reform and Consumer Protection Act,
 Pub. L. No. 111-203, 124 Stat. 1376 (July 21, 2010),3

16

17 Emergency Economic Stabilization Act of 2008,
 Pub. L. No. 110-343, 122 Stat. 3765 (Oct. 3, 2008)5, 21

18

19 One Big Beautiful Bill Act,
 Pub L. No. 119-21, 139 Stat. 126 (July 4, 2025)23

20 **STATE CASES**

21 CBO, Reconciliation Recommendations of the House Committee on Financial Services (May 7,
 2025).....23

22

23 H.R. 4173, 111th Cong. (as introduced in House Dec. 2, 2009).....22

24 *Hearing before the Senate Committee On Banking, Housing & Urban Affairs, The Semiannual
 Monetary Policy Report to Congress, 117th Cong. (June 22, 2022)22*

25 *Hearing Before the Senate Committee On Banking, Housing & Urban Affairs, The Semiannual
 Monetary Policy Report to the Congress, 119th Cong. (Feb. 11, 2025)..... 14*

26

27 One Big Beautiful Bill Act,
 Pub L. No. 119-21, 139 Stat. 126 (July 4, 2025)23

28

1 S. 3217, 111th Cong. (as placed on Senate calendar Apr. 15, 2010)22

2 S. Rep. No. 111-176 (2010)20

3 **OUT OF STATE CASES**

4 12 C.F.R. § 1003.510

5 88 Fed. Reg. 35150 (2023).....11

6 90 Fed. Reg. 50952 (Nov. 13, 2025).....11

7 **FEDERAL STATUTES**

8 U.S. Const., art. VI, cl. 315

9 **CONSTITUTIONS**

10 *Black’s Law Dictionary* (9th ed. 2009)16

11 CFPB, *A Beginner’s Guide to Accessing and Using Home Mortgage Disclosure Act Data* (June

12 2022).....11

13 CFPB, *CFPB Notifies Court it Cannot Lawfully Draw Funds from the Federal Reserve* (Nov. 11,

14 2025).....7

15 CFPB, *Consumer Response Annual Report: January 1-December 31, 2024* (May 1, 2025).....11

16 Cong. Res. Serv., *Why Is the Federal Reserve Operating at a Loss?* (Jan. 23, 2023).....5, 18

17 *Earnings*, Webster’s New Dictionary (2005).....16

18 Fed. Reserve, *Federal Reserve Banks Combined Financial Statements as of and for the Years*

19 *Ended December 31, 2022 and 2021 and Independent Auditors’ Report*.....23

20 Fed. Reserve, *Federal Reserve Banks Combined Financial Statements as of and for the Years*

21 *Ended December 31, 2024 and 2023 and Independent Auditors’ Report*.....4, 18

22 Fed. Reserve, *Financial Accounting Manual for Federal Reserve Banks* (May 2025)5, 18

23 Fed. Reserve, *Press Release: Board announces that it will begin to pay interest on depository*

24 *institutions’ required and excess reserve balances* (Oct. 6, 2008)21

25 Fed. Reserve, *The Fed Explained: What the Central Bank Does* (11th ed. Aug. 2021).3, 4, 5, 20

26 *Federal Reserve Balance Sheet: Factors Affecting Reserve Balances - H.4.1* (Dec. 4, 2025)6, 25

27 *Federal Reserve Balance Sheet: Factors Affecting Reserve Balances - H.4.1* (Nov. 6, 2025)6, 25

28 *Federal Reserve Bank of Atlanta Financial Statements As of and for the Years Ended December*

31, 2024 and 2023 and Independent Auditors’ Report6

1 GAO, GAO-02-939, *Federal Reserve System: The Surplus Account* (Sept. 2002)22

2 GAO, *Principles of Federal Appropriations Law 2-24* (4th ed. 2016).....20

3 Letter from Patrick McClanahan to Jafnar Gueye (Jan. 2, 2025) 14

4 Letter from Russell Vought to Jerome Powell (Feb. 8, 2025)6

5 *Merriam-Webster’s Collegiate Dictionary* (11th ed. 2005).....17

6 Notice of Potential Lapse in Appropriations,

7 *NTEU v. Vought*, No. 1:25-cv-00381-ABJ (D.D.C. Nov. 10, 2025), ECF No. 145 7

8 Notice of Section 5497(e) Report,

9 *NTEU v. Vought*, No. 1:25-cv-00381-ABJ (D.D.C. Nov. 21, 2025), ECF No. 147 7

10 OIG, *Coordination of Responsibilities Among the Consumer Financial Protection Bureau and the Prudential Regulators—Limited Scope Review* (June 2015)21

11 OLC, *Whether the Consumer Financial Protection Bureau 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* (Nov. 7, 2025)passim

12

13

14 Opp. to Mot. to Dismiss, *CFPB v. Purpose Financial, Inc.*, No. 24-3206 (D.S.C. Oct. 3, 2024), ECF 48.....16

15 Oxford English Dictionary (2d ed. 1989).....16

16 *The American Heritage Dictionary of the English Language* (5th ed. 2016).....17

17 The Charlie Kirk Show, *Vice President Vance and the Trump Admin Honor Charlie* at 1:21:47–

18 1:23:00 (Oct. 15, 202.....6

19 *Webster’s Third New Int’l* (1993 ed.).....17

20

21

22

23

24

25

26

27

28

1 **NOTICE OF MOTION AND MOTION**

2 PLEASE TAKE NOTICE THAT at 9:00 AM, on March 15, 2026, in Courtroom 4 of the
3 San Jose Courthouse of the U.S. District Court for the Northern District of California, before the
4 Hon. Judge Edward J. Davila, Plaintiffs Rise Economy, National Community Reinvestment
5 Coalition, and Woodstock Institute will, and hereby do, move for summary judgment pursuant to
6 Federal Rule of Civil Procedure 56 on their claim for declaratory and injunctive relief against
7 Defendants Russell Vought, in his official capacity as Acting Director of the Consumer Financial
8 Protection Bureau (CFPB), and the CFPB. Plaintiffs respectfully request that the Court grant them
9 summary judgment and enter a final order enjoining Defendants to request funding under 12 U.S.C.
10 § 5497 from the Federal Reserve Board of Governors as needed to carry out the CFPB’s authorities.¹

11 On November 10, 2025, Defendants announced that the CFPB would not request funding
12 from the Federal Reserve pursuant to § 5497, and that the CFPB would soon run out of funds to
13 support its operations. The issue presented by this motion is whether Defendants acted arbitrarily,
14 capriciously, and contrary to law by refusing to request funding from the Federal Reserve, entitling
15 Plaintiffs to a declaration that Defendants have acted unlawfully and an injunction requiring
16 Defendants to request funding from the Federal Reserve. Because this case involves no disputed
17 factual issues, Plaintiffs believe it can be resolved on a summary judgment motion.

18 Plaintiffs’ motion is based on this notice of motion, the accompanying supporting
19 memorandum of points and authorities, the accompanying supporting declarations, the papers,
20 evidence, and records on file in this action, and any other written or oral evidence or argument as
21 may be presented at or before the time this motion is heard by the Court.

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **INTRODUCTION**

24 In the ten months since becoming Acting Director of the CFPB, Defendant Russell Vought
25 has repeatedly tried to shutter the agency. This case challenges Vought’s latest gambit: starving the
26

27 ¹ Plaintiffs intend to file an administrative motion to request an earlier hearing date and
28 expedite consideration of this motion.

1 CFPB of the funds needed to carry out its consumer-protection mission. As a result of his action,
2 Defendants have warned that the CFPB will very soon lack funding to carry out its work.

3 To support Vought’s decision to defund the agency, Defendants have advanced an
4 implausible interpretation of the statutory provision that Congress crafted to provide the CFPB with
5 a stable source of funding. In that provision, Congress specified that the CFPB will be funded
6 through the “combined earnings of the Federal Reserve System.” Defendants Vought and the CFPB
7 now take the position that the Federal Reserve System has “combined earnings” only when the
8 System is profitable under a creative reading of the statutory text that is inconsistent with the overall
9 statutory scheme. Applying that reading, they declare that the Federal Reserve System does not
10 currently have any “earnings” to transfer to the CFPB and that Defendant Vought is accordingly
11 relieved of the obligation to request funding out of this standing appropriation.

12 Defendants are triply wrong. First, the statutory provision authorizing a standing
13 appropriation for the CFPB, 12 U.S.C. § 5497, requires the CFPB’s Director to determine the
14 amount of funding needed to support the CFPB’s work so that the Federal Reserve Board can
15 transfer that amount to the CFPB. The statute does not delegate to the Director (or Acting Director)
16 discretion to choose whether to do so. Second, even putting aside their lack of authority, Defendants’
17 interpretation of “earnings” in § 5497 is not entitled to deference and is wrong on the merits.
18 Defendants’ approach misreads the statute, is irreconcilable with other aspects of the statutory
19 scheme, and misunderstands the Federal Reserve’s structure and finances. Their reading also
20 attributes to Congress an irrational scheme, placing unstated restraints on the Federal Reserve’s
21 independence and risking throwing the supervision of our nation’s largest financial institutions into
22 chaos. Third, even under Defendants’ incorrect interpretation, the Federal Reserve System currently
23 has ample “combined earnings” to fund the CFPB.

24 Plaintiffs are nonprofit organizations that rely on the CFPB’s work to conduct research and
25 advocacy work on consumer financial issues critical to the Plaintiffs’ missions. Plaintiffs will be
26 injured when the CFPB—as a result of the impending funding crisis that Defendants have
27 manufactured—halts its work, as soon as early January. Because Defendants’ refusal to request
28 funds rests on an incorrect reading of the statute, Plaintiffs ask this Court to resolve these pure legal

1 questions and grant them summary judgment. Plaintiffs respectfully request that the Court declare
 2 that Defendants’ interpretation of § 5497 is incorrect and order Defendants to comply with that
 3 provision by requesting the funding reasonably necessary to support the CFPB’s work.

4 **BACKGROUND**

5 **A.** In the wake of the 2008 financial crisis, Congress created the CFPB and tasked it with
 6 “ensuring that all consumers have access to markets for consumer financial products” that “are fair,
 7 transparent, and competitive.” Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub.
 8 L. No. 111-203, §§ 1021 & 1011, 124 Stat. 1376, 1964, 1979–80 (July 21, 2010), *codified at* 12
 9 U.S.C. §§ 5491(a), 5511(a). Congress transferred substantial authority to the CFPB from other
 10 regulators, including authority to enforce a range of consumer protection statutes and responsibility
 11 to supervise compliance by the country’s largest banks. *See* 12 U.S.C. §§ 5515, 5564, 5581.

12 Congress provided the agency with a stable source of funding through the Federal Reserve
 13 System. By statute, the Federal Reserve “Board of Governors shall,” on an annual or quarterly basis,
 14 “transfer to the Bureau from the combined earnings of the Federal Reserve System, the amount
 15 determined by the [CFPB] Director to be reasonably necessary to carry out the authorities of the
 16 Bureau under Federal consumer financial law, taking into account such other sums made available
 17 to the Bureau” in earlier periods. *Id.* § 5497(a)(1). The statute provides only one limitation on the
 18 amount that the Federal Reserve Board can transfer to the CFPB: That amount is subject to a
 19 statutory cap, based on a percentage of the Federal Reserve System’s total operating expenses in
 20 2009, adjusted for inflation. *Id.* § 5497(a)(2)(A). If the amount allowed by that cap is insufficient,
 21 the CFPB Director may submit to Congress a request for additional funding, with a report explaining
 22 “the extent to which the funding needs of the Bureau are anticipated to exceed the level of the
 23 amount” to be provided under the statutory cap. *Id.* § 5497(e)(1)).

24 **B.** The Federal Reserve System is the central bank of the United States. *See* Ex. A at 1 (Fed.
 25 Reserve, *The Fed Explained: What the Central Bank Does* (11th ed. Aug. 2021)).² The Federal
 26

27 ² Citations to exhibits refer to “Ex.” refer to the exhibits to the request for judicial notice,
 28 filed concurrently herewith.

1 Reserve System is responsible for conducting the nation’s monetary policy, carrying out its dual
2 statutory mandates of promoting maximum employment and stabilizing prices. *Id.*

3 Several components of the Federal Reserve System play a role in funding the CFPB. The
4 Federal Reserve Board of Governors, which serves as the System’s governing and administrative
5 body, *id.* at 8, receives requests from the CFPB and levies assessments on the Federal Reserve Banks
6 to fulfill those requests. 12 U.S.C. § 5497(a)(1); *see also, e.g.*, Ex. B at 4 (Fed. Reserve, *Federal*
7 *Reserve Banks Combined Financial Statements as of and for the Years Ended December 31, 2024*
8 *and 2023 and Independent Auditors’ Report*). The twelve regional Federal Reserve Banks are the
9 System’s primary “operating arms” and—as a byproduct of their work implementing monetary
10 policy—they are the primary income-generating entities within the Federal Reserve System. *See* Ex.
11 A at 5, 8, 36–38. The Reserve Banks use the income they generate to support their own work, and
12 to satisfy assessments that the Federal Reserve Board levies on both its own behalf and the CFPB’s.
13 In their combined annual financial statements, the Federal Reserve Banks list among their
14 “operating expenses” assessments for both the CFPB and the Board. *See, e.g.*, Ex. B at 4.

15 The Federal Reserve Banks fund the CFPB from each Bank’s income. The largest source of
16 the Banks’ income comes from what are known as “open market operations”—a key tool the Federal
17 Reserve has long used to implement monetary policy. As the Federal Reserve has explained, through
18 these operations it can influence interest rates in the economy by buying and selling securities issued
19 or guaranteed by the U.S. Treasury or U.S. government agencies. *See* Ex. A at 4, 36–38. The
20 targeting of interest rates, in turn, helps the Federal Reserve carry out its statutory mandates of
21 maximizing employment and stabilizing prices, as changes in interest rates affect willingness to
22 spend, invest, and save throughout the economy. *See id.* at 21. The Federal Reserve Banks’ financial
23 statements demonstrate that they generate substantial revenue each year through open market
24 operations and other sources—totaling more than \$160 billion in 2024. *See* Ex. B at 4.

25 The Federal Reserve Banks’ role in implementing monetary policy also requires the Banks
26 to take on liabilities, beyond the expenses of funding their own operations and paying assessments
27 to cover Board and CFPB functions. In recent years, the largest category of liabilities has been
28 interest on the balances that financial institutions maintain with Reserve Banks. *See, e.g., id.* Reserve

1 Banks first received statutory authorization to pay interest on reserve balances in 2008. *See* 12
2 U.S.C. § 461(b)(12)(A); Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343,
3 § 128, 122 Stat. 3765, 3796 (Oct. 3, 2008). As the Federal Reserve has recognized, the ability to pay
4 interest on reserves was seen as an important new tool for the Federal Reserve’s implementation of
5 monetary policy, after many of its traditional tools became less effective following the 2008
6 financial crisis. *See* Ex. A at 36. The interest rate that Reserve Banks offer on reserve balances now
7 functions as a benchmark for financial institutions in their own lending activities, as banks will not
8 lend at a rate below what they could earn by holding those same funds at a Reserve Bank.

9 Starting in late 2022, as the Federal Reserve raised interest rates to combat inflation, the
10 Reserve Banks’ expenses began to exceed the funds generated. Ex. C (Cong. Res. Serv., *Why Is the*
11 *Federal Reserve Operating at a Loss?* (Jan. 23, 2023)). This situation, however, was not “a sign of
12 mismanagement,” because the Fed “is not profit-maximizing” but instead is focused on “achieving
13 its statutory mandate of maximum employment and stable prices.” *Id.* The Federal Reserve does not
14 “become insolvent” following losses. *Id.* Rather, whether the Banks are operating in the black or in
15 the red, a series of statutory requirements govern how the Federal Reserve System handles its
16 finances. Reserve Banks, “after all [their] necessary expenses ... have been paid or provided for,”
17 must issue annual dividends to stockholders. 12 U.S.C. § 289(a)(1). After issuing dividends, if “net
18 earnings” remain, Banks must place those earnings, up to a cap, in a surplus fund. *Id.* § 289(a)(2)–
19 (3). And if the Banks have additional net earnings beyond the limit of their surplus funds, they must
20 transfer those amounts to the Federal Reserve Board, for remittance to the Treasury. *Id.*
21 § 289(a)(3)(B). Under Federal Reserve accounting practices, the Banks remit “excess earnings” to
22 the Treasury weekly. Ex. D at 53 (Fed. Reserve, *Financial Accounting Manual for Federal Reserve*
23 *Banks* (May 2025)). And when a Reserve Bank’s expenses exceed its income, the Bank stops
24 making remittances and records a “deferred asset.” *Id.* at 45, 53. When a Reserve Bank begins
25 earning more money than it spends, it pays down its deferred asset before beginning to remit to the
26 Treasury. *Id.* at 45.

27 The Federal Reserve’s balance sheet demonstrates that, since 2022, the Federal Reserve
28 Banks have recorded a combined deferred asset of more than \$240 billion. *See* Ex. E (*Federal*

1 *Reserve Balance Sheet: Factors Affecting Reserve Balances - H.4.1* (Dec. 4, 2025)). That deferred
2 asset has not affected the Banks’ ability to operate or pay dividends, and several individual Banks
3 have remitted funds to the Treasury on a regular basis during this period. *See, e.g., Ex. G at 58*
4 *(Federal Reserve Bank of Atlanta Financial Statements As of and for the Years Ended December*
5 *31, 2024 and 2023 and Independent Auditors’ Report)*.

6 Moreover, the total size of the deferred asset across the entire Federal Reserve System has
7 recently begun to shrink—an indication that, overall, the System is generating surplus funds. Indeed,
8 across three weeks in November, the Federal Reserve Banks generated at least \$600 million more
9 than they spent. *Compare Ex. E with Ex. F (Federal Reserve Balance Sheet: Factors Affecting*
10 *Reserve Balances - H.4.1* (Nov. 6, 2025)).

11 C. Russell Vought was appointed CFPB Acting Director on February 7, 2025. On February
12 8, pursuant to § 5497, he sent a letter to Federal Reserve Chair Jerome Powell requesting \$0 to fund
13 the CFPB’s operations for the third quarter of fiscal year 2025. *See Ex. H* (Letter from Russell
14 Vought to Jerome Powell (Feb. 8, 2025)). In that letter, Vought did not suggest he was prohibited
15 by law from asking for funds. Instead, he stated that the CFPB’s “current funds [we]re more than
16 sufficient” to carry out its authorities, and that he would use what was in his view an “excessive”
17 “‘reserve fund’ for financial contingencies” to support the CFPB’s operations. *Id.* During his tenure,
18 Vought has requested no funds from the Federal Reserve, forcing the CFPB to spend down its
19 reserves.

20 In mid-October, Vought stated that his team was working to “close down the agency” and
21 would “be successful” in doing so “probably within the next two or three months.” The Charlie Kirk
22 Show, *Vice President Vance and the Trump Admin Honor Charlie* at 1:21:47–1:23:00 (Oct. 15,
23 2025) (statement of Defendant Vought).³ Then, in November, Defendants announced that, although
24 the CFPB anticipates exhausting its reserves in early 2026, Vought had made a final decision to not
25 transmit to the Board of Governors of the Federal Reserve System any determination of the amount

26 _____
27 ³ [https://omny.fm/shows/the-charlie-kirk-show/vice-president-vance-and-the-trump-admin-](https://omny.fm/shows/the-charlie-kirk-show/vice-president-vance-and-the-trump-admin-honor-charlie)
28 [honor-charlie](https://omny.fm/shows/the-charlie-kirk-show/vice-president-vance-and-the-trump-admin-honor-charlie); *see also* Request for Judicial Notice at 4.

1 of funds reasonably necessary to carry out the CFPB’s work. *See* Ex. I (Notice of Potential Lapse
2 in Appropriations, *NTEU v. Vought*, No. 1:25-cv-00381-ABJ (D.D.C. Nov. 10, 2025), ECF No.
3 145). Defendants announced a new interpretation of the CFPB’s funding statute, 12 U.S.C. § 5497,
4 that, they asserted, precluded Vought from requesting funding from the Federal Reserve.

5 In so doing, Defendants relied on a legal opinion that the CFPB had requested from the
6 Department of Justice’s Office of Legal Counsel (OLC). *See* Ex. J (OLC, *Whether the Consumer*
7 *Financial Protection Bureau May Continue to Draw Funds from the Federal Reserve System Under*
8 *12 U.S.C. § 5497 When the Federal Reserve System Is Operating at a Loss* (Nov. 7, 2025)) (OLC
9 Memo). The OLC Memo interprets the phrase “combined earnings of the Federal Reserve System”
10 in § 5497(a)(1) to “refer[] to the Federal Reserve’s profits, calculated by subtracting its interest
11 expenses from its revenues.” *Id.* at 1. In Defendants’ view, because that memo states that the
12 “Federal Reserve currently lacks combined earnings from which the CFPB can draw pursuant to 12
13 U.S.C. § 5497(a)(1),” they cannot request any funding from the Federal Reserve System. *See* Ex. K
14 (CFPB, *CFPB Notifies Court it Cannot Lawfully Draw Funds from the Federal Reserve* (Nov. 11,
15 2025)).

16 Vought has reported to congressional appropriations committees that, in his view, the funds
17 available under § 5497 will be insufficient to satisfy the CFPB’s needs in fiscal year 2026. *See* Ex.
18 L (Notice of Section 5497(e) Report, *NTEU v. Vought*, No. 1:25-cv-00381-ABJ (D.D.C. Nov. 21,
19 2025), ECF No. 147). But Congress would need to pass a new appropriations law to fix the funding
20 lapse that Defendants have manufactured, and Defendants, in a court filing, have acknowledged that
21 they do “not know whether and the extent to which Congress will appropriate funding to pay the
22 expenses of the Bureau.” Ex. I at 1. Thus, they have begun to take steps to halt the agency’s work
23 altogether. *See id.* (explaining, in Defendants’ filing in separate litigation, that the CFPB will not be
24 able to continue work following a lapse in agency funding).

25 **D.** Defendants’ manufactured funding crisis will imminently hamper the CFPB’s work, to
26 the detriment of Plaintiffs and others who rely on the agency. Plaintiffs are three nonprofit research
27 and advocacy organizations that rely on the CFPB’s work. Plaintiffs rely on a variety of data sets
28 that the CFPB collects and that must be made public by law—including data about mortgage lending

1 under the Home Mortgage Disclosure Act and data from the CFPB’s consumer complaint database.
2 *See* Gonzalez-Brito Decl. ¶¶ 5–9; Van Tol Decl. ¶¶ 4–5, 10; Mendez Decl. ¶ 3. Plaintiffs rely on up-
3 to-date information from the CFPB about lending patterns and consumers’ experience with financial
4 products and services to support their research and publications; to strengthen their negotiations
5 with financial institutions over potential community-benefits agreements; to inform their advocacy
6 work before regulators and legislators; to secure grant-based funding to engage in all of this work;
7 and, for Plaintiff Woodstock Institute, to realize the value of their investment in its proprietary
8 product analyzing that information. *See* Gonzalez-Brito Decl. ¶¶ 5–10; Van Tol Decl. ¶¶ 6–9;
9 Mendez Decl. ¶¶ 4–12. In addition, Plaintiff Rise Economy’s members also rely on CFPB services
10 to provide counseling services and other work critical to their mission. Toriz Decl. ¶¶ 5–7. These
11 effects will reverberate beyond Plaintiffs, as the loss of the CFPB’s critical work will leave the
12 nation’s largest banks without supervision and the public uninformed about and without tools to
13 address emerging issues in the financial marketplace.

14 **LEGAL STANDARD**

15 Summary judgment is the appropriate standard for resolving cases under the Administrative
16 Procedure Act. *Nw. Motorcycle Ass’n v. USDA*, 18 F.3d 1468, 1472 (9th Cir. 1994). The moving
17 party is entitled to summary judgment where there are no genuine issues of material fact and the
18 moving part is entitled to judgment as a matter of law. *Sierra Club v. Bosworth*, 510 F.3d 1016,
19 1022 (9th Cir. 2007). Under the APA, a reviewing court “shall” “hold unlawful and set aside agency
20 action, findings, and conclusions” found to be “arbitrary, capricious, an abuse of discretion, or
21 otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). In conducting this review, a court
22 “do[es] not rubber-stamp ... administrative decisions that [it] deem[s] inconsistent with a statutory
23 mandate or that frustrate the congressional policy underlying a statute.” *Nat. Res. Def. Council, Inc.*
24 *v. Pritzker*, 828 F.3d 1125, 1139 (9th Cir. 2016) (second alteration in original) (citation omitted).

25 **ARGUMENT**

26 Plaintiffs are entitled to summary judgment on their claim that Defendants acted arbitrarily,
27 capriciously, and contrary to law when they refused to request funding to support the CFPB’s
28 continued operations, as required by statute. Under § 5497, Defendants must ask the Federal Reserve

1 Board for funds, to be paid out of the Federal Reserve’s “combined earnings,” that are necessary to
2 carry out the CFPB’s authorities to enforce federal consumer financial protection laws. And under
3 § 5497, the Federal Reserve has substantial “combined earnings” available—both as a matter of law
4 and based on the Federal Reserve System’s uncontestable financial reports. Defendants thus violated
5 the APA by refusing to request funds to support the CFPB’s work and instead manufacturing a fiscal
6 crisis that will shut down the agency in just a few weeks’ time. Because Plaintiffs rely on the work
7 of the CFPB and will be injured if its work halts, they are entitled to a declaration that Defendants
8 have acted unlawfully and an order requiring Defendants to request the needed funds.

9 **I. Plaintiffs have standing.**

10 **A.** The Ninth Circuit has “repeatedly recognized that failure to provide statutorily required
11 information can give rise to Article III injury on the part of private plaintiffs.” *Inland Empire*
12 *Waterkeeper v. Corona Clay Co.*, 17 F.4th 825, 833 (9th Cir. 2021). In particular, “when a statute
13 provides a right to information, the deprivation of which ‘result[s] in an informational harm,’
14 violation of the statute gives rise to a cognizable ‘informational’ injury.” *Id.* (quoting *Wilderness*
15 *Soc’y Inc. v. Rey*, 622 F.3d 1251, 1260 (9th Cir. 2010)). Plaintiffs will imminently suffer such an
16 informational injury because, without a funded and operating CFPB, they will soon be deprived of
17 information that they are entitled to by statute and that is essential to carrying out their work. *See*
18 *Munoz v. PHH Corp.*, No. 22-15407, 2023 WL 2202228, at *1 (9th Cir. Feb. 24, 2023) (discussing
19 *TransUnion v. Ramirez*, 141 S. Ct. 2190 (2021)); *see also Immigrant Defs. L. Ctr. v. Noem*, 145
20 F.4th 972, 987 (9th Cir. 2025) (affirming that that an organization has standing to sue where “a
21 defendant’s actions affected and interfered with [a plaintiff’s] core business activities,” and
22 “frustrated its mission and caused it to divert resources in response to that frustration of purpose”
23 (citations omitted)).

24 Several statutes give Plaintiffs a right to information within the CFPB’s control or authority.
25 First, the Home Mortgage Disclosure Act (HMDA) requires the publication of certain mortgage
26 lending data, to “provide the citizens and public officials of the United States with sufficient
27 information to enable them to determine whether depository institutions are filling their obligations
28 to serve the housing needs of the communities and neighborhoods in which they are located.” 12

1 U.S.C. § 2801(b). HMDA requires covered mortgage lenders to submit data to federal regulators
2 for public disclosure. *See id.* § 2803(f); *id.* § 2809(a), (c). And it requires the CFPB to “provide staff
3 and data processing resources” to support the publication of that data. *Id.* § 2809(b); *see also* 12
4 C.F.R. § 1003.5 (stating that CFPB will make HMDA data available on its website, after modifying
5 “to protect applicant and borrower privacy”).

6 Plaintiffs rely substantially on HMDA data to carry out their work and further their missions
7 of improving access to credit and encouraging fair lending practices. *See* Gonzalez-Brito Decl. ¶¶ 5–
8 7; Van Tol Decl. ¶¶ 5–9; Mendez Decl. ¶¶ 4–9. For example, Rise Economy works to bring
9 investment to low-income communities and communities of color through negotiating community
10 benefit agreements with financial institutions. *See* Gonzalez-Brito Decl. ¶ 5. Rise Economy uses
11 HMDA data about banks’ lending practices to understand patterns of disinvestment, formulate
12 realistic proposals for reform, and monitor compliance once banks have signed an agreement. *Id.*
13 For Rise Economy, then, the loss of timely access to updated HMDA data creates a “genuine threat”
14 of reduced ability to bring benefits to consumers and communities, to the detriment of the
15 organization’s mission. *Inland Empire Waterkeeper*, 17 F.4th at 833–34. Likewise, Woodstock
16 Institute, in addition to relying on HMDA data to inform its advocacy work with policymakers and
17 financial institutions, builds its premier proprietary product—the Community Lending Data
18 Portal—using HMDA data. Mendez Decl. ¶¶ 4–9. Indeed, because HMDA data is so central to
19 Woodstock Institute’s work, much of the organization’s funding assumes that Woodstock Institute
20 will be able to obtain timely access to mortgage lending data from the CFPB. *Id.* ¶ 11. And the value
21 of Woodstock’s investment in its Portal will be substantially diminished without that access. *Id.*
22 Woodstock’s “interest in accurate information” under HMDA is thus “obvious.” *Inland Empire*
23 *Waterkeeper*, 17 F.4th at 834 (finding injury to a researcher who planned to write a book based in
24 part on information that should have been disclosed by law). Plaintiffs, however, will be unable to
25 access updated information once the CFPB halts its work due to a lapse in funding. CFPB staff and
26 contractors are responsible for collecting HMDA data from lenders, checking for accuracy, and
27 releasing that data to the public after processing to protect borrower and applicant privacy. *See* Ex.
28 M at 5 (CFPB, *A Beginner’s Guide to Accessing and Using Home Mortgage Disclosure Act Data*

1 (June 2022)). The CFPB releases data from the previous year to the public by March 31 of each
2 year, *id.*, but will not be able to do so for 2025 data once the agency’s funding runs out.

3 Second, the Dodd-Frank Act requires that the CFPB maintain and make public certain
4 information from its consumer complaint process, which is separately required by statute, 12 U.S.C.
5 § 5534. In particular, the statute instructs the CFPB to maintain complaints in a “central database”
6 and report to Congress regularly an “analysis of complaints about consumer financial products or
7 services that the Bureau has received and collected in its central database on complaints during the
8 preceding year.” *Id.* § 5496(c)(4). In CFPB staff and contractors are essential to the operation of the
9 consumer complaint database and the publication of required reports. *See, e.g.*, Ex. N at 5–8 (CFPB,
10 *Consumer Response Annual Report: January 1-December 31, 2024* (May 1, 2025)). Plaintiffs Rise
11 Economy and NCRC rely on data from the CFPB’s consumer complaint database to understand the
12 risks that consumers are facing and inform their advocacy efforts. For example, Rise Economy relied
13 on data about complaints regarding a bank from the CFPB database in recent comments to federal
14 regulators considering a bank-merger proposal. *See* Gonzalez-Brito Decl. ¶ 8. But these data must
15 be regularly updated for Rise Economy and NCRC to continue effectively advocating in such
16 regulatory proceedings, and they will be unable to do so if the CFPB lacks funding to continue its
17 work. *See* Gonzalez-Brito Decl. ¶ 8; Van Tol Decl. ¶¶ 4, 8.

18 Third, once the CFPB ceases to operate, Plaintiffs will either face substantial delays in
19 accessing, or lose out altogether on access to, small business lending data promised by Section 1071
20 of the Dodd-Frank Act. Section 1071 aims to provide the public with crucial information to facilitate
21 fair-lending laws and allow communities, policymakers, and creditors to better address the “needs
22 and opportunities of women-owned, minority-owned, and small businesses.” 15 U.S.C. § 1691c-
23 2(a). But the statute required significant action from the CFPB so that the data can be collected and
24 disseminated to the public, *Id.* § 1691c-2(f), and the CFPB is still in the process of implementing
25 the provision. Although the CFPB issued a regulation implementing Section 1071 in May 2023, 88
26 Fed. Reg. 35150 (May 31, 2023), the effective dates have been extended several times—at first due
27 to litigation, but more recently by the CFPB itself. *See* 90 Fed. Reg. 50952 (Nov. 13, 2025). If the
28 CFPB ceases operating due to lack of funding, there will be nobody to put out necessary guidance

1 or build out systems to help financial institutions comply, and nobody to process submitted data,
2 determine what redactions are necessary to address privacy concerns, and publish information for
3 use by borrowers, lenders, community groups, and policymakers. Indeed, there is substantial risk
4 that a delay in implementation would cause a loss of this data altogether, as financial institutions
5 will not collect or maintain the information until they receive adequate guidance from the CFPB.

6 Each Plaintiff, though, has made plans to utilize future data about small business lending
7 guaranteed by Section 1071 of Dodd-Frank. *See* Gonzalez-Brito Decl. ¶ 9; Van Tol Decl. ¶ 10;
8 Mendez Decl. ¶ 12. Woodstock Institute, in particular, has invested in planning new functionality
9 for its Community Lending Data Portal to accommodate the new information promised by that
10 statute and the CFPB’s implementing regulation. Mendez Decl. ¶ 12. Woodstock will lose the value
11 of that investment if the CFPB ceases its efforts to release small business lending data. And even if
12 Plaintiffs could later access these data, after the CFPB resumes work—something that is far from
13 clear—Plaintiffs will still suffer, both in the meantime and thereafter. Because “stale information is
14 of little value,” *Payne Enters., Inc. v. United States*, 837 F.2d 486, 494 (D.C. Cir. 1988), Plaintiffs
15 will be impeded in their work of improving access to credit and promoting fair lending without
16 access to up-to-date information on which the CFPB would be working in the first months of 2026.

17 **B.** In addition, Rise Economy has standing to sue based on injury to its members. An
18 organization can sue on behalf of its members when (a) its members would have standing to sue in
19 their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and
20 (c) neither the claim asserted nor the relief requested requires the participation of individual
21 members. *Hunt v. Wash. State Apple Advertising Comm’n*, 432 U.S. 333, 343 (1977). Rise Economy
22 meets all three prongs. First, it has members who will be injured by Defendants’ manufactured
23 shutdown of the CFPB due to a lapse in funding. For instance, Rise Economy member Haven
24 Services is a financial and housing counseling agency with a mission of improving the financial
25 health and housing security in underserved communities in Los Angeles. Toriz Decl. ¶ 2. Haven
26 provides no-cost counseling to assist clients in managing debt, avoiding foreclosure, and dealing
27 with other consumer issues. *Id.* ¶ 4. In that work, Haven relies on the CFPB’s consumer response
28 function—a statutorily mandated part of the CFPB’s work, through which the agency secures

1 substantive responses from financial institutions for consumers facing issues. *Id.* ¶ 6. Without access
2 to this critical tool, Haven will be impeded in its mission of improving financial health and housing
3 security in the communities it serves, and it will have to devote substantial resources to trying to
4 work directly with financial institutions—rather than having the CFPB as a powerful intermediary,
5 required by law to secure responses from the institutions it helps regulate. *Id.* ¶ 7. That type of injury
6 is sufficient to give Haven standing. *See Immigrant Defs. L. Ctr.*, 145 F.4th at 987. The second and
7 third elements of associational standing are also apparent: Bringing this case to keep the CFPB open
8 is germane to Rise Economy’s mission of aiding low-income communities and communities of color
9 in accessing credit, financial services, and investments. And participation of Rise Economy’s
10 individual members is not needed to resolve this action.

11 **II. Defendants’ refusal to request funds from the Federal Reserve under § 5497 is**
12 **arbitrary, capricious, and contrary to law.**

13 For three reasons, Plaintiffs are entitled to summary judgment on their claim that
14 Defendants’ final decision to not request funds from the Federal Reserve was unlawful: First, the
15 statute gives no authority to the *CFPB* to determine whether the Federal Reserve System has
16 “earnings.” Second, under the best reading of § 5497, the Federal Reserve System has hundreds of
17 billions of dollars in annual earnings. Third, even under Defendants’ incorrect interpretation of the
18 statute, the Federal Reserve has “earnings” to fund the CFPB based on the undisputed facts.

19 **A. The Dodd-Frank Act requires the CFPB Director to request funds reasonably**
20 **necessary to carry out the agency’s authorities.**

21 Section 5497(a)(1) provides that “the Board of Governors shall transfer to the Bureau from
22 the combined earnings of the Federal Reserve System, the amount determined by the Director to be
23 reasonably necessary to carry out the authorities of the Bureau under Federal consumer financial
24 law, taking into account such other sums made available to the Bureau from the preceding year (or
25 quarter of such year).” The statute thus gives distinct roles to the CFPB and the Federal Reserve:
26 The CFPB Director must determine the amounts reasonably necessary, and the Federal Reserve
27 Board must transfer funds in that amount out of the “combined earnings of the Federal Reserve
28 System.” Necessarily, then, the CFPB Director must communicate the determination of the amount
reasonably necessary to carry out the CFPB’s duty to the Federal Reserve Board, so that the Board

1 can fulfill its statutory duty to make the transfer. The statute does not contemplate that the CFPB
2 Director could make a determination of the amount of funding needed but lock it in a drawer, making
3 it impossible for the Federal Reserve Board to fulfill its statutory obligation. Any suggestion to the
4 contrary would make the statute nonsensical and would be arbitrary and capricious. Moreover, the
5 statute does not delegate to the CFPB any authority to consider whether “combined earnings” exist.
6 Rather, the CFPB’s duty is to determine how much money *the CFPB* has and how much it requires
7 to fulfill its other statutory responsibilities, and to make it possible for the Federal Reserve Board to
8 transfer that amount to the CFPB.

9 Defendants’ contrary position is arbitrary, capricious, and contrary to law. *See* 5 U.S.C.
10 § 706(2)(A). The OLC memo advises that “section 5497 imposes no obligation for the CFPB” to
11 draw funds from the Federal Reserve “after determining that no ‘combined earnings’ are available,”
12 in part based on OLC’s understanding that “[o]n its face,” the statute does not contain any
13 “instruction ... directed at the CFPB.” Ex. J, OLC Memo 30–31. To start, that assertion ignores the
14 plain language of the statute. Further, OLC’s reading would allow a CFPB Director to refuse to ask
15 for funding for any reason at all, even after determining that funds were both available and
16 necessary. In addition, OLC’s conclusion that the CFPB Director may unilaterally determine
17 whether the Federal Reserve System has combined earnings invites conflict with the Federal
18 Reserve. Indeed, the Federal Reserve Board appears to disagree with OLC’s interpretation of what
19 constitute the System’s “earnings,” as the Board has continued to fulfill CFPB funding requests
20 since the System began running a deficit in 2022. *See, e.g.,* Ex. O (Letter from Patrick McClanahan
21 to Jafnar Gueye (Jan. 2, 2025)). And Federal Reserve Chair Jerome Powell has testified that, even
22 when the System is operating at a loss, “it’s very clear on the law and the legislative history that
23 we’re still required to make those payments” to the CFPB. *See Hr’g Before the S. Comm. On*
24 *Banking, Housing & Urban Affs., The Semiannual Monetary Policy Report to the Congress at*
25 *1:24:50–1:26:02, 119th Cong. (Feb. 11, 2025) (Testimony of Jerome Powell).*⁴ Moreover, it would

26
27 ⁴ [https://www.banking.senate.gov/hearings/02/04/2025/the-semiannual-monetary-policy-](https://www.banking.senate.gov/hearings/02/04/2025/the-semiannual-monetary-policy-report-to-the-congress)
28 [report-to-the-congress](https://www.banking.senate.gov/hearings/02/04/2025/the-semiannual-monetary-policy-report-to-the-congress); *see also* Request For Judicial Notice at 3–4.

1 be odd to assign responsibility for monitoring the Federal Reserve System’s earnings to the CFPB,
2 when the CFPB has no particular insight into the state of the System’s finances. (In this regard, it is
3 noteworthy that, since the beginning of November, the System’s weekly financial reports indicate
4 it is generating “earnings” even under Defendants’ interpretation. *See infra* at pp.24–25.)

5 Further, the OLC memo is wrong that asking the Federal Reserve for funds when there are
6 no “combined earnings” raises constitutional concerns under the Oath or Affirmation Clause. *See*
7 Ex. J, OLC Memo 32–34. As OLC recognizes, all executive officers are bound by oath “to support
8 th[e] Constitution.” U.S. Const., art. VI, cl. 3. That includes the officers of the Federal Reserve
9 Board. Of course, if the Board could not constitutionally transfer funds, the Board’s statutory duty
10 to do so under § 5497 would give way. That theoretical scenario, however, would not excuse
11 Defendant Vought from his independent statutory obligation.

12 **B. Even if § 5497 permitted Defendants not to request funding based on the Federal**
13 **Reserve’s “combined earnings,” Defendants’ action is not based on the best reading**
14 **of that statutory term.**

15 Defendants’ decision not to request funding from the Federal Reserve rests on a second
16 misreading of the term “combined earnings.” Putting aside that the statute affords them no role in
17 evaluating the Federal Reserve’s finances, Defendants define those “combined earnings” as “profits,
18 calculated by subtracting” a subset of the System’s expenses—those related to interest—“from its
19 revenues.” Ex. J, OLC Memo 1. That reading of “combined earnings” is not entitled to deference,
20 *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024), and is wrong. The best interpretation
21 of the term is all the money generated by the Federal Reserve System’s components, without
22 reductions for expenses—whether related to interest or otherwise. That definition is consistent with
23 the ordinary meaning of “earnings” and best comports with statutory context and congressional
24 intent. For this reason, even putting aside that the state of the System’s earnings does not excuse
25 compliance with § 5497, Defendants’ refusal to request funding is arbitrary, capricious, and contrary
26 to law.

27 **1.** Because Dodd-Frank does not define “combined earnings,” the Court must give the term
28 its “ordinary, contemporary, common meaning, and may consult dictionary definitions.” *City of Los*
Angeles v. Barr, 941 F.3d 931, 940 (9th Cir. 2019) (cleaned up). “In construing specific words in a

1 statute, [the court] must also look to the language and design of the statute as a whole, and read the
2 specific words with a view to their place in the overall statutory scheme.” *Id.* (cleaned up). At the
3 time of Dodd-Frank’s enactment in 2010, a common, ordinary meaning of the term “earnings” was
4 wages, income, or other revenue generated from labor, services, or investments. *See Earnings,*
5 *Black’s Law Dictionary* (9th ed. 2009) (“Revenue gained from labor or services, from the
6 investment of capital, or from assets. *See INCOME.*”); *Earnings*, Webster’s New Dictionary (2005)
7 (listing first definition as “something (as wages) earned”); *Earning*, Oxford English Dictionary (2d
8 ed. 1989) (defining “earning,” in plural, as “[t]he amount of money which a person acquires or
9 becomes entitled to by his labour; also, the income produced by invested capital”).

10 As the CFPB itself recognized just one year ago, that ordinary meaning of earnings—
11 “‘revenue or ‘income’ generated from labor, services, or investments”— “fits this statute to a T.”
12 *See* Ex. P at 6 (Opp. to Mot. to Dismiss, *CFPB v. Purpose Financial, Inc.*, No. 24-3206 (D.S.C. Oct.
13 3, 2024), ECF 48).⁵ As the Federal Reserve has explained, the Federal Reserve System generates
14 income from a variety of sources, largely through interest earned on securities it acquires through
15 its open market operations, as well as certain fees for services to depository institutions. *See* Ex. A
16 at 4. The most common-sense definition of the phrase “combined earnings” is the total amount
17 generated by those sources of income, across the entire Federal Reserve System. *See also Cmty. Fin.*
18 *Servs. Ass’n of Am.*, 601 U.S. 416, 450 (2024) (Alito, J., dissenting) (observing that the “Federal
19 Reserve Banks’ earnings represent interest on and gains derived from the purchase and sale of
20 securities, as well as fees they receive for services provided to depository institutions”).

21
22 ⁵ After the Supreme Court upheld the constitutionality of the CFPB’s statutory funding in
23 *CFPB v. Cmty. Fin. Servs. Ass’n of Am.*, 601 U.S. 416 (2024), defendants in several CFPB
24 enforcement cases argued that the Federal Reserve’s “combined earnings” meant the “excess
25 earnings” the Reserve Banks remitted to the Treasury. The CFPB rejected that reading of the statute
26 and advanced the one that Plaintiffs put forward here. And no court ever adopted that or any other
27 reading of “earnings” that would lead to the defunding of the CFPB. *See* Ex. J, OLC Memo 4–5
28 (discussing previous litigation).

1 **b.** Relying on the OLC Memo, Defendants now disagree, citing dictionary definitions and
2 discussions in corporate finance and accounting treatises. OLC, however, misreads its sources and
3 ignores that the Federal Reserve is not analogous to a for-profit, commercial corporation.

4 As for dictionary definitions, OLC states that “[c]ommon dictionary definitions interpret
5 ‘earnings’ to describe ‘the balance of revenue after deduction of costs and expenses.’” Ex. J, OLC
6 Memo 10 (quoting *Merriam-Webster’s Collegiate Dictionary* 391 (11th ed. 2005)). But that
7 definition is not even the one that OLC uses: It defines the Federal Reserve’s “earnings” as revenue
8 after deducting *some* cherry-picked expenses. That is not an ordinary definition. Moreover, OLC
9 ignores the *other* definitions that the dictionaries cited by OLC list before OLC’s preferred
10 definition—including the definition that supports Plaintiffs’ reading (and the CFPB’s previous
11 reading). *See, e.g., Earnings, Merriam-Webster’s Collegiate Dictionary* 391 (11th ed. 2005) (listing
12 first definition as “something (as wages) earned”); *Earnings, Webster’s Third New Int’l* 714 (1993
13 ed.) (listing first definition as “something (as wages or dividends) earned as compensation for labor
14 or the use of capital”); *Earnings, The American Heritage Dictionary of the English Language* 561
15 (5th ed. 2016) (listing first definition as “salary or wages”).

16 OLC also cites “technical dictionaries and usage in the business and accounting context,”
17 which it says are entitled to “particular weight” because “the Federal Reserve’s income is generated
18 by the twelve Reserve Banks and Dodd-Frank was passed specifically to regulate the financial
19 industry.” Ex. J, OLC Memo 11. But absent “evidence suggesting otherwise, affected individuals
20 and courts alike are entitled to assume statutory terms bear their ordinary meaning,” rather than a
21 specialized one. *Niz-Chavez v. Garland*, 593 U.S. 155, 163 (2021). Courts have thus applied
22 ordinary meanings to terms in both the Federal Reserve Act and the portions of Dodd-Frank
23 governing the CFPB. *See CFPB v. CashCall, Inc.*, 35 F.4th 734, 746 (9th Cir. 2022) (applying
24 ordinary meaning to a provision of Dodd-Frank); *CFPB v. ITT Educ. Servs., Inc.*, 219 F. Supp. 3d
25 878, 908 (S.D. Ind. 2015) (same); *Custodia Bank, Inc. v. Fed. Rsrv. Bd. of Governors*, No. 24-8024,
26 2025 WL 3039669, at *11 (10th Cir. Oct. 31, 2025) (same as to phrase in the Federal Reserve Act).

27 In fact, there is particularly good reason *not* to apply the business and accounting definitions
28 that OLC cites to determine what makes up the Federal Reserve’s “earnings.” As the nation’s central

1 bank, the Federal Reserve differs from commercial entities in significant respects. As the
2 Congressional Research Service has explained, the Federal Reserve System is “not profit-
3 maximizing,” and any losses are a “byproduct of monetary policy” rather than “a sign ... of
4 mismanagement.” Ex. C at 3. Because Reserve Banks can record a “deferred asset,” “[l]osses do not
5 affect the Fed’s ability to honor its liabilities (as with a private company), and its creditors cannot
6 compel it to declare bankruptcy when losses exceed capital.” *Id.* at 2. And, unlike a private company,
7 the Federal Reserve Banks are limited by statute in the amount of surplus they can have on hand—
8 forcing the Banks to record deferred assets for the last few years, even though the amount they
9 remitted to the Treasury over the previous decade is expected to “more than offset” their recent lack
10 of excess earnings. *Id.* Recognizing that standard accounting principles are not “appropriate for the
11 nature and function of a central bank,” the Federal Reserve has developed its own accounting
12 manual. *See* Ex. D at iii. Those standards, the Federal Reserve recognizes, “differ from accounting
13 principles generally accepted in the United States of America,” due to the “unique nature of the
14 Reserve Banks’ powers and responsibilities.” Ex. B at 9. Context thus militates against applying
15 specialized definitions from the financial sector here.

16 2. Looking to “the language and design of the statute as a whole, and read[ing] the specific
17 words with a view to their place in the overall statutory scheme,” *Los Angeles*, 941 F.3d at 940
18 (cleaned up), confirms that “earnings” as used in § 5497 means the money taken in or generated by
19 the Federal Reserve System, without reduction for expenses. This definition of “earnings” is
20 consistent with how the term is used throughout the Dodd-Frank Act. For example, one provision
21 of the Act directed the Federal Deposit Insurance Corporation to deposit “[a]mounts received,”
22 including “interest and other earnings from investments,” into the Orderly Liquidation Fund. *See* 12
23 U.S.C. § 5390(n)(2). Another authorizes Federal Reserve Banks to “pay earnings on balances
24 maintained by or on behalf of” certain systemically important financial entities. *Id.* § 5465(c). And
25 a third requires the Securities and Exchange Commission to report annually to Congress on the
26 amount of “earnings on investments” made from its Investor Protection Fund. 15 U.S.C. § 78u-
27 6(g)(5)(D).

28 Downplaying this consistent statutory usage, OLC asserts that the most “natural[]”

1 understanding of these references to earnings requires offsetting the cost of the input recovered when
2 cashing in on an investment, and that Plaintiffs’ definition (with which the CFPB previously agreed)
3 would not do so. *See* Ex. J, OLC Memo 24. But the ordinary definition discussed above *does* exclude
4 the recovery of the initial cost of an investment from earnings; the interest the Federal Reserve
5 generates on securities it owns already accounts for the cost of those assets. What OLC wants to do
6 instead is offset the income earned from one source (interest generated by securities the Banks own)
7 against the cost of paying out *separate* liabilities (interest owed on deposits the Banks hold).
8 Although OLC correctly observes that the Federal Reserve has both assets and liabilities that involve
9 “interest,” that point does not require combining the two for the purposes of calculating “combined
10 earnings.”

11 Citing the “meaningful-variation canon,” the OLC memo contends that, because some
12 provisions of the Dodd-Frank Act use the term “revenue,” the word “earnings” must mean “profit.”
13 *See* Ex. J, OLC Memo 14–15. But the memo overlooks that the Dodd-Frank Act *also* uses the term
14 “profits.” *See* 12 U.S.C. § 5390(c)(3)(b)(ii) (excluding “damages for lost profits” from relevant
15 damages calculation); *id.* § 5390(s)(3) (requiring the FDIC to promulgate regulations defining the
16 term “compensation” to include, among other things “any profits realized from the sale of the
17 securities of the covered financial company”). The canon thus does not assist OLC here.

18 The OLC Memo also points to 12 U.S.C. § 289, which dictates how the Federal Reserve
19 Banks handle their finances: First, they must pay for “all necessary expenses,” then provide
20 stockholders dividends, then deposit the “portion of net earnings” that remains into the bank’s
21 surplus fund up to a cap, and finally transfer any remaining earnings to the Treasury. *See* 12 U.S.C.
22 § 289(a). OLC assumes that, because the Federal Reserve considers “excess earnings” to be those
23 left at the end of the process, the input at the outset must be the Reserve Bank’s “earnings.” Ex. J,
24 OLC Memo 17. But that assumption begs the question what constitutes the Reserve Bank’s
25 “earnings”—and, crucially, whether interest income must be deducted before the Banks begin
26 making those sequential payments. OLC concludes that interest income must be subtracted before
27 the payments begin under § 289. But that conclusion conflates “operating expenses” and “all
28 necessary expenses,” because, under OLC’s reading, the Banks would need to deduct interest

1 expenses at the outset only if “all necessary expenses” taken out during the operation of § 289 were
2 limited to operating expenses. Congress’s use of the capacious phrase “all necessary expenses”
3 suggests that, to the contrary, operating expenses are a subset of “all” the “necessary expenses” that
4 the Banks incur. And statutory context confirms that Congress would have understood the System’s
5 “operating expenses” to be something different than all its “necessary expenses,” as the provision
6 setting up the CFPB’s funding mechanism references specifically the “total operating expenses of
7 the Federal Reserve System.” 12 U.S.C. § 5497(a)(2)(A). Section 289’s reference to “all necessary
8 expenses” thus means exactly what it says: all expenses that are necessary, including interest
9 expenses.

10 Next, focusing on a difference between the CFPB’s and the Federal Reserve Board’s funding
11 mechanisms, the OLC Memo notes that the CFPB’s funding comes from the “combined earnings of
12 the Federal Reserve System,” 12 U.S.C. § 5497(a)(1), while the Federal Reserve Board itself is
13 funded through assessments “upon the Federal reserve banks,” *id.* § 243. In OLC’s telling, with
14 these different provisions, Congress imposed no “limitation” on funding for the Board, but it did
15 limit the CFPB’s funding by “provid[ing] that the CFPB’s funds must be paid out of a specified
16 source: the ‘combined earnings of the Federal Reserve System.’” Ex. J, OLC Memo 19 (quoting 12
17 U.S.C. § 5497(a)(1)). OLC is wrong, because both provisions plainly identify a source of funding.
18 And there is nothing remarkable about that, because *all* appropriations must “identify a source of
19 public funds ... to satisfy the Appropriations Clause.” *Cnty. Fin. Servs. Ass’n*, 601 U.S. at 426; *see*
20 *GAO, Principles of Federal Appropriations Law* 2-24 (4th ed. 2016) (“[A] direction to pay without
21 a designation of the source of funds is not an appropriation.”). Furthermore, because the Federal
22 Reserve Banks are the primary earnings-generating components of the Federal Reserve System, *see*
23 Ex. A at 5, 8, 36–38, there is little practical difference between funding through the Federal Reserve
24 System and funding through the Federal Reserve Banks.

25 **3.** The Dodd-Frank Act’s history and purpose also contradict Defendants’ reading. When it
26 created the CFPB, Congress expressly aimed to establish a steady source of funding, rather than
27 funding through an annual appropriation, because it deemed “the assurance of adequate funding” to
28 be “absolutely essential.” S. Rep. No. 111-176, at 163 (2010). That stable funding source would

1 support consumer-protection functions that Congress, legislating in the wake of the 2008 financial
2 crisis, would have understood to be particularly important during times of economic uncertainty.

3 The Dodd-Frank Act transferred enforcement authority for numerous consumer protection
4 statutes from other bank regulators, including the Federal Reserve Board, the Office of the
5 Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance
6 Corporation, and the National Credit Union Administration. *See* 12 U.S.C. § 5581(b). The CFPB
7 thus assumed exclusive responsibility for deposit institutions and credit unions with assets
8 exceeding \$10 billion, with respect to more than a dozen statutes, including the Equal Credit
9 Opportunity Act and the Real Estate Settlement Procedures Act. Ex. Q at 2, 13 (OIG, *Coordination*
10 *of Responsibilities Among the Consumer Financial Protection Bureau and the Prudential*
11 *Regulators—Limited Scope Review* (June 2015)). Today, therefore, *only* the CFPB monitors the
12 compliance of our largest financial institutions with numerous federal consumer financial laws, and
13 only the CFPB has either primary or sole enforcement authority with respect to several significant
14 statutes. Yet under OLC’s reading of § 5497, enforcement of consumer protection statutes and
15 supervision of our largest financial institutional could start and stop, repeatedly—essentially
16 attributing to Congress a wholly irrational and self-defeating decision.

17 The OLC Memo does not deny that Congress intended to create a stable source of funding.
18 It asserts, though, that legislation does not pursue its stated goals at all costs. *See* Ex. J, OLC Memo
19 24. But that reasoning applies only if there is some evidence in the text or context that Congress has
20 made a tradeoff. There is none. While OLC says that Congress was legislating against the context
21 of stable Federal Reserve profitability for the past century and could not have anticipated that its
22 supposedly chosen source could dry up, *see* Ex. J, OLC Memo 19, OLC misses that Congress had
23 recently authorized Reserve Banks to pay interest on reserves—authority that both Congress and
24 the Federal Reserve recognized would be an important new tool for implementing monetary policy
25 following the 2008 financial crisis. *See* Pub. L. No. 110-343, § 128, 122 Stat. at 3796; Ex. R (Fed.
26 Reserve, *Press Release: Board announces that it will begin to pay interest on depository institutions’*
27 *required and excess reserve balances* (Oct. 6, 2008)). Congress would have been well aware that
28 this change created a new potential for instability in the Federal Reserve’s operating results. Besides,

1 even before that change, there was a known possibility that the Federal Reserve could operate at a
2 shortfall—most of the individual Federal Reserve Banks already had, repeatedly. *See* Ex. S at 11
3 (GAO, GAO-02-939, *Federal Reserve System: The Surplus Account* (Sept. 2002)) (reporting that,
4 from 1989 to 2001, nearly all Reserve Banks reported some unprofitable weeks).

5 OLC errs as well in contending that limiting the CFPB’s funding mechanism to times when
6 the Federal Reserve is operating at a profit could have been a way to preserve the independence of
7 the Federal Reserve. *See* Ex. J, OLC Memo 20. OLC offers no support for this *ipse dixit*—and for
8 good reason. The existence or size of the Federal Reserve System’s losses “play no role in [its]
9 decision making [and] have no effect at all on [the Fed’s] ability to conduct monetary policy.” Ex.
10 T at 24–25 (*Hr’g before the S. Comm. On Banking, Housing & Urban Affairs: The Semiannual*
11 *Monetary Policy Report to Congress*, 117th Cong. (June 22, 2022) (testimony of Jerome Powell)).
12 Moreover, OLC’s new interpretation would itself intrude on the Fed’s independence: Under OLC’s
13 reading, Congress has effectively constrained the Federal Reserve’s ability to conduct monetary
14 policy by forcing it, in an inflationary crisis, to choose between rapidly raising interest rates or
15 maintaining a source of funding for the CFPB at a time when the agency’s work may be most
16 needed.

17 The OLC Memo’s reliance on the statute’s drafting history is off base as well. OLC asserts
18 that Congress considered but decided affirmatively against allowing the CFPB to draw funds from
19 the Federal Reserve System’s revenue stream. *See* Ex. J, OLC Memo 19. In support, OLC cites the
20 version of the bill introduced in the House of Representatives, which would have required the Board
21 to transfer a flat 10% of the Federal Reserve System’s “total system expenses” for the previous year
22 to the CFPB. *See* H.R. 4173, 111th Cong., § 4109 (as introduced in House Dec. 2, 2009). OLC posits
23 that the insertion of the reference to “combined earnings” in the final version of the statute was some
24 intentional choice to limit the availability of funds for the Bureau. But OLC ignores that the funding
25 mechanism that Congress enacted was *not* the proposal in that House bill. Rather, Congress took
26 § 5497 wholesale from the Senate version of the bill. *See* S. 3217, 111th Cong., § 1017 (as placed
27 on Senate calendar Apr. 15, 2010). There is no evidence that Congress intended the term “combined
28 earnings” to convey the limitation that OLC advances.

1 Recent legislative action confirms that Congress continues to understand the phrase
2 “combined earnings” in the CFPB’s funding mechanism to refer to all the money the Federal
3 Reserve System takes in, not some metric of the System’s profitability. The One Big Beautiful Bill
4 Act, enacted in July of this year, reduced the statutory cap on the amount the CFPB Director can
5 request from the “combined earnings of the Federal Reserve System,” from 12% to 6.5% of the
6 System’s reported 2009 total operating expenses. *See* Pub L. No. 119-21, § 30001, 139 Stat. 126
7 (July 4, 2025). The bill’s supporting material confirms that Congress did *not* agree with Defendants’
8 new reading: The Congressional Budget Office Cost Estimate for the bill recognized that the
9 proposed new cap “would take effect at the beginning of 2026,” and that a new, lower maximum
10 transfer for the CFPB would be reflected in the Federal Reserve’s finances beginning in 2026—
11 even as it understood that the Federal Reserve System was at the time largely still operating without
12 sufficient excess earnings to send remittances to the Treasury. *See* Ex U at 3–4 (CBO, Reconciliation
13 Recommendations of the House Committee on Financial Services (May 7, 2025)).

14 4. Defendants’ new reading of the statute is also unworkable. To start, the OLC Memo says
15 that the CFPB may request and receive earnings under § 5497 only when the Federal Reserve
16 System’s revenues exceed its interest expenses, but it never clarifies over what time period—
17 whether annual (when the Reserve Banks release their audited financial reports), quarterly (when
18 the CFPB requests funding), or weekly (when each Bank determines whether to remit excess
19 earnings to Treasury). This distinction matters because the System may have temporary periods of
20 unprofitability even as it remains hugely profitable over a longer term. *See, e.g.,* Ex. V at 67–68
21 (Fed. Reserve, *Federal Reserve Banks Combined Financial Statements as of and for the Years*
22 *Ended December 31, 2022 and 2021 and Independent Auditors’ Report*) (noting that in 2022, the
23 System sent on net tens of billions in remittances, even as it began recording a deferred asset in the
24 fall). While OLC asserts that weekly remittances and other Fed accounting practices are not
25 “required by statute,” Ex. J, OLC Memo 26, that argument is inconsistent with its suggestion
26 elsewhere that Congress was legislating against the backdrop of how the System handles its funds,
27 *id.* at 13, 16.

28 Moreover, depending on what time period the CFPB chooses to look at, Defendants’

1 approach would put the CFPB (not to mention any reviewing court) in the position of auditor of the
2 Federal Reserve System. Nothing in the statute suggests that the CFPB was charged with that
3 responsibility. *See West Virginia v. EPA*, 597 U.S. 697, 721 (2022).

4 Finally, again, OLC’s reading of the statute would mean funding for the CFPB would turn
5 off and on intermittently, making it impossible for the agency to plan and for financial institutions
6 and the public to count on its work. That outcome would cause substantial disruption for the
7 financial institutions it regulates, the consumers it seeks to protect, and the economy as a whole.
8 That scenario cannot be what Congress intended and is not required by the best reading of the statute.

9 **C. Defendants’ decision not to request funding is arbitrary and capricious because**
10 **it rests on an incorrect factual premise.**

11 In any event, even under their definition, Defendants are wrong that the Federal Reserve
12 System currently has no “combined earnings.” Under Defendants’ definition, the Federal Reserve
13 has “earnings” when its revenues exceed its costs related to interest. In recent weeks, Federal
14 Reserve releases have indicated that the System has generated more in “earnings—as Defendants
15 define it—than the CFPB could even request under § 5497. The Federal Reserve System’s financial
16 statements cannot be contested, and they support entry of judgment in Plaintiffs’ favor as a matter
17 of law. *See Ctr. for Biological Diversity v. Zinke*, 900 F.3d 1053, 1068 (9th Cir. 2018) (recognizing
18 that agency action can be arbitrary and capricious where the agency ignored available data); *see also*
19 *Motor Vehicle Manufacturers Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)
20 (stating that agency action is arbitrary and capricious when based on a “clear error of judgment”);
21 *Ctr. for Biological Diversity v. U.S. Fish & Wildlife Serv.*, 33 F.4th 1202, 1223 (9th Cir. 2022)
22 (holding that an agency action was arbitrary and capricious where it was based on an incorrect
23 assumption).

24 Although the Federal Reserve releases data that could be used to calculate Defendants’
25 definition of “earnings” only on a quarterly basis, its weekly balance sheet provides insight into the
26 amount of those “earnings.” In particular, the balance sheet lists the net amount the System remits
27 to the Treasury each week, and, for the last several years, serves to track the size of the System’s
28 “deferred asset.” Recent balance sheets show that the Federal Reserve System has begun to pay

1 Stephanie B. Garlock (*pro hac vice* application pending)
 Allison M. Zieve (*pro hac vice* application pending)
 2 Wendy Liu (*pro hac vice* application pending)
 PUBLIC CITIZEN LITIGATION GROUP
 3 1600 20th Street NW
 4 Washington, DC 20009-1001
 Telephone: (202) 588-1000
 5 Email: sgarlock@citizen.org
 azieve@citizen.org
 6 wliu@citizen.org

7 Michael W. Bien – 096891
 8 Gay Crosthwait Grunfeld – 121944
 Van Swearingen – 259809
 9 Adrienne Spiegel – 330482
 ROSEN BIEN GALVAN & GRUNFELD LLP
 10 101 Mission Street, Sixth Floor
 San Francisco, California 94105-1738
 11 Telephone: (415) 433-6830
 12 Facsimile: (415) 433-7104
 Email: mbien@rbgg.com
 13 ggrunfeld@rbgg.com
 vswearingen@rbgg.com
 14 aspiegel@rbgg.com

15 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

20 RISE ECONOMY; NATIONAL
 21 COMMUNITY REINVESTMENT
 COALITION; and WOODSTOCK
 22 INSTITUTE,

Plaintiffs,

v.

24 RUSSELL VOUGHT, in his official capacity
 as Acting Director of the Consumer Financial
 25 Protection Bureau; and CONSUMER
 FINANCIAL PROTECTION BUREAU,
 26

Defendants.

Case No. 5:25-cv-10481-EJD

**PLAINTIFFS’ MOVING SEPARATE
 STATEMENT IN SUPPORT OF
 MOTION FOR SUMMARY JUDGMENT**

Hearing Date: March 5, 2026

Hearing Time: 9:00 AM

Judge: Hon. Edward J. Davila

Place: San Jose

Date Filed: December 9, 2025

Trial Date: None set

1 Pursuant to Section V.B.1 of the Court's Standing Order for Civil Cases, Plaintiffs Rise
 2 Economy, National Community Reinvestment Coalition, and Woodstock Institute respectfully
 3 submit the following Moving Separate Statement in support of Plaintiffs' Motion for Summary
 4 Judgment:

Claim or Defense	Moving Party's Undisputed Facts/Supporting Evidence	Opposing Party's Response/Supporting Evidence
Claim for Relief: Administrative Procedure Act		
1. Plaintiffs have standing.	Fact 1. Plaintiff Rise Economy relies on data provided by the CFPB under the Home Mortgage Disclosure Act (HMDA) and the CFPB's consumer complaint database to support its research and advocacy work with financial institutions, legislators, and regulators. Gonzalez-Brito Decl. ¶¶ 5–9.	
	Fact 2. Without access to CFPB data, Rise Economy will have a more difficult time, and need to invest more resources into, publishing updated research, negotiating effective community benefits agreements with lenders, and advocating for consumers before regulators and legislators. Gonzalez-Brito Decl. ¶¶ 6–9.	
	Fact 3. Rise Economy member Haven Services relies on the CFPB's consumer complaint process to help its clients receive relief from loan servicers, lenders, and other financial institutions. Toriz Decl. ¶¶ 2–5.	
	Fact 4. Haven Services will be substantially impeded in its	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>counseling work and would have to spend more time and resources to effectively achieve the same results from clients without help from the CFPB.</p> <p>Toriz Decl. ¶ 6.</p>	
	<p>Fact 5. Plaintiff National Community Reinvestment Coalition (NCRC) regularly relies on the information contained in CFPB’s consumer complaint database and HMDA data provided by the CFPB to support its research and advocacy work, and it plans to rely on small-business lending data under the CFPB’s Section 1071 rule once the CFPB begins collecting and producing it.</p> <p>Van Tol Decl. ¶¶ 4–10.</p>	
	<p>Fact 6. Without access to information provided by the CFPB, NCRC will have a more difficult time, and need to invest more resources into, publishing updated research, advocating as effectively with state and federal regulators, conducting research, analyses, and other activities.</p> <p>Van Tol Decl. ¶¶ 7–10.</p>	
	<p>Fact 7. Plaintiff Woodstock Institute relies on timely access to updated HMDA data to support its Community Lending Data Portal, as well as its research and advocacy work.</p> <p>Mendez Decl. ¶¶ 4–11.</p>	
	<p>Fact 8. Without access to data provided by the CFPB, Woodstock Institute would be</p>	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>unable to update its Community Lending Data Portal with new lending information, thereby reducing the value of its investment; and it would have less ability to negotiate with financial institutions to improve their lending practices.</p> <p>Mendez Decl. ¶¶ 10–11.</p>	
<p>2. Defendants have made a final decision not to request from the Board of Governors of the Federal Reserve System funding necessary to carry out the CFPB’s authorities under federal consumer financial law.</p>	<p>Fact 9. Defendants have made a final decision not to request funding from the Board of Governors of the Federal Reserve System as necessary to carry out the CFPB’s authorities under federal consumer financial law.</p> <p>Request for Judicial Notice (RJN), Ex. K, CFPB, <i>CFPB Notifies Court it Cannot Lawfully Draw Funds from the Federal Reserve</i> (Nov. 11, 2025).</p>	
	<p>Fact 10. Defendants have announced that the CFPB “anticipates exhausting its currently available funds in early 2026.”</p> <p>RJN Ex. I, Notice of Potential Lapse in Appropriations, <i>NTEU v. Vought</i>, No. 1:25-cv-00381-ABJ (D.D.C. Nov. 10, 2025), ECF No. 145.</p>	
<p>3. The best reading of § 5497 does not support Defendants.</p>	<p>Fact 11. Just one year ago, the CFPB recognized that reading “combined earnings” in § 5497 to mean “‘revenue’ or ‘income’ generated from labor, services, or investments ... fits this statute to a T.”</p> <p>RJN Ex. P, Opp. to Mot. to Dismiss at 6, <i>CFPB v. Purpose Financial, In</i>, No.</p>	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>24-3206 (D.S.C. Oct. 3, 2024), ECF 48 (internal quotation marks omitted).</p>	
	<p>Fact 12. When it created the CFPB, Congress expressly aimed to establish a steady source of funding, rather than funding through an annual appropriation, because it deemed “the assurance of adequate funding” to be “absolutely essential.”</p> <p>S. Rep. No. 111-176, at 163 (2010).</p>	
	<p>Fact 13. Congress gave the CFPB exclusive responsibility for deposit institutions and credit unions with assets exceeding \$10 billion, with respect to more than a dozen statutes.</p> <p>RJN Ex. Q, OIG, Coordination of Responsibilities Among the Consumer Financial Protection Bureau and the Prudential Regulators— Limited Scope Review 2, 13 (June 2015)</p>	
<p>4. The Federal Reserve System has generated sufficient earnings to fulfill any assessment for the Consumer Financial Protection Bureau.</p>	<p>Fact 14. The Federal Reserve System generated more than \$160 billion in revenue in 2024.</p> <p>RJN Ex. B, Federal Reserve, <i>Federal Reserve Banks Combined Financial Statements as of and for the Years Ended December 31, 2024 and 2023 and Independent Auditors’ Report.</i></p>	
	<p>Fact 15. As of November 5, 2025, the Federal Reserve Banks reported a net deferred asset of \$243,818,000.000.</p>	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	RJN Ex. F, Federal Reserve Balance Sheet: Factors Affecting Reserve Balances - H.4.1 (Nov. 6, 2025).	
	Fact 16. As of December 3, 2025, the Federal Reserve Banks reported a net deferred asset of \$243,180,000.000. RJN Ex. E, Federal Reserve Balance Sheet: Factors Affecting Reserve Balances - H.4.1 (Dec. 4, 2025).	

I attest that the evidence cited herein fairly and accurately supports or disputes the facts as asserted.

DATED: December 9, 2025

Respectfully submitted,

ROSEN BIEN GALVAN & GRUNFELD LLP

By: s/ Michael W. Bien
Michael W. Bien

Attorneys for Plaintiffs