

# NY federal court rules CFPB's structure is unconstitutional

The decision contradicts a Jan. federal appeals court ruling that upheld the CFPB's constitutionality

## Constitutionality of the CFPB's structure

The constitutionality of the bureau's independent structure has long been the subject of partisan debate, as the CFPB is headed by a single director that can be fired only for cause by the president and receives funding from the Fed instead of Congress. The bureau's constitutionality has been at the center of two federal lawsuits

### PHH Corp. v. CFPB

In June 2015, the CFPB filed a \$109 million fine against mortgage company PHH Corp. for allegedly taking illegal kickbacks for mortgage referrals. PHH challenged the fines' legality and the constitutionality of the CFPB's structure

### CFPB v. RD Legal Funding LLC

In May 2017, the CFPB and the NY attorney general's office filed a lawsuit against NJ lender RD Legal for allegedly scamming 9/11 first responders with illnesses and former NFL players with brain injuries out of financial payouts

## Timeline of court decisions regarding the CFPB's constitutionality

Oct. 2016

### PHH Corp. V. CFPB

CFPB structure ruled **unconstitutional** by a DC circuit court, voiding the fine and theoretically permitting the president to fire a director at will

Jan. 2018

### PHH Corp. V. CFPB

In a rehearing, CFPB's structure is ruled **constitutional** by a DC Court of Appeals, overturning the 2016 decision

June 2018

### RD Legal V. CFPB

CFPB structure ruled **unconstitutional** by a NY federal court, meaning the bureau can't be party to the RD Legal lawsuit

What's next?

The June ruling increases the likelihood that the Supreme Court will consider the issue and aids a push by industry executives and the GOP to turn the CFPB into a bipartisan commission

Sources: Brent Kendall, "Appeals Court Rules CFPB Structure Is Constitutional," The Wall Street Journal, January 31, 2018; Sylvan Lane, "Federal court rules consumer bureau structure unconstitutional," The Hill, June 22, 2018.