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Consumer Finance Monitor (Season 7, Episode 23): Did the Supreme Court Hand the CFPB a Pyrrhic Victory?

Speakers: Alan Kaplinsky and Hal Scott

Alan Kaplinsky:

Welcome to the award-winning Consumer Finance Monitor podcast, where we explore important new developments in the world of consumer financial services and what they mean for your business, your customers, and the industry. This is a weekly show brought to you by the Consumer Financial Services Group at the Ballard Spahr Law Firm. I'm your host, Alan Kaplinsky, the former practice group leader for 25 years, and now senior counsel at the Consumer Financial Services Group at Ballard Spahr. And I'm pleased to be moderating today's podcast show.

For those of you who want even more information, either about the topic that we're going to be discussing today or anything else in the consumer financial services world, don't forget to consult our blog Consumerfinancemonitor.com. We've hosted the blog since 2011 when the CFPB became operational, so there's a lot of relevant industry content there. We regularly host webinars on subjects of interest to those in the industry. So to subscribe to our blog or to get on the mailing list for our webinars, please visit us at Ballardspahr.com. And if you like our podcast, please let us know about it. You can leave us a review on whatever platform you may use, be it Apple Podcasts, YouTube, Spotify, or any other podcast platform. And also, please let us know if you have any ideas for other topics that we should cover on our program or other speakers we should consider inviting as guests on our program.

So let me tell you what we're going to be talking about today, and I'm extremely excited about this topic, and you'll find out in just about a minute or two.

So May 20th, the US Supreme Court decided a landmark case called CFSA versus CFPB, which involved the question of whether or not the funding mechanism utilized in the Dodd-Frank Act, which created the CFPB, whether or not that comported with the Appropriations Clause of the Constitution. The Appropriations Clause in the Constitution, the relevant part, of it's really very short, just says, "In Article I, Section 9, Clause 7, no money shall be drawn from the Treasury, but in consequence of appropriations made by law," that's the relevant language. And Justice Thomas, who wrote the majority opinion, which was a seven to two vote, he held also very simply the following in two sentences, "Under the Appropriations Clause, an appropriation is simply a law that authorizes expenditures from a specified source of public money for designated purposes." The statute, he's referring to Dodd-Frank, that provides the Bureau's funding, meets those requirements. Much of Justice Thomas' opinion. It chronicles the history of the Constitution, the creation of that clause, and even goes back to England to talk about how funds were appropriated for the King's use during that time.

We're not going to talk about that opinion today. I mean, that is the Supreme Court opinion, whether you agree with it or you don't agree with it. As I saw George Will just wrote a op-ed in The Washington Post where he strenuously disagreed with Justice Thomas' opinion, but that's not the issue we're going to talk about today.

What caught my eye was that on the day following that opinion, Professor Hal Scott wrote an op-ed in The Wall Street Journal, which was entitled, The CFPB's Pyrrhic Victory in the Supreme Court. Great title because I think that certainly caught my eye. I wanted to read it and I'm sure a lot of other people felt the same way. So I'm very, very pleased to have on our show today the author of that op-ed.

And let me tell you a little bit about Hal and his career. Hal is the Emeritus Nomura Professor of International Financial Systems at Harvard Law School where he taught from 1975 to 2018. His Harvard law courses were on capital markets regulation, international finance, the payment system and securities regulation. He's currently an adjunct professor of public policy at the Harvard Kennedy School of Government where he teaches capital markets regulation. He's the director of the program on International Financial Systems, founded in 1986 as part of Harvard Law School, which became independent in 2018. Besides doing research, the program organizes the annual invitation only US-China, US-Europe, and US-Japan Symposia on building the financial system of the 21st century and special event round tables. Harvard Law School is the non-financial sponsor of these events.

Professor Scott's books include a law school textbook called International Finance Transactions Policy and Regulation, and the Global Financial Crisis. You see, the author of numerous journal articles and op-ed pieces in leading newspapers including The Wall Street Journal. He's the director of the Committee on Capital Markets Regulation, a bipartisan nonprofit organization organized in 2006 dedicated to enhancing the competitiveness of the US capital markets and ensuring the stability of the US financial system via research and advocacy.

Well, before I start questioning you Hal, I want to first say that I know you as an icon in the banking law area, and so I have been delighted to follow your career for many, many years. So a warm welcome to you, Hal. Thank you very much being on our show today and subjecting yourself to my cross-examination.

Hal Scott:

Well, I'm looking forward to that and it's a pleasure to be on your show.

Alan Kaplinsky:

Yeah, thanks Hal. So if you could, why don't you first please describe for our listeners, many of whom probably haven't read your op-ed, what does the op-ed say?

Hal Scott:

Well, I have to start with what was the issue in the actual case, because my contention in brief is that the legitimacy of the CFPB's funding mechanism sustained in that case will not help it in the future. So let me just explain what I mean by that. The actual case involved the s o-called payday lending rule that was promulgated in 2017, and the attack on that lending rule was invalid. The funding mechanism is that the CFPB by statute and the Dodd-Frank Act has a claim on the earnings of the Federal Reserve. And that was a very unusual funding mechanism when it was set up, I think, and I was around during the time of the debates in Dodd-Frank and participated in it. My former colleague, Elizabeth Warren, who was my colleague, this is her brainchild, was very concerned about whether this new agency was going to get continued funding from the normal appropriations process, go back to Congress every year.

So this mechanism was created to insulate to some extent the CFPB's funding from the normal appropriations process by giving the CFPB a continuous claim on Fed earnings over time. So the constitutional issue in this case was, is that okay under, as you explained, Alan, very correctly, under the Appropriations Clause. And Justice Thomas, and you explained this key language in the Appropriations Clause, that money under that clause has to be "drawn from the Treasury".

And at the very beginning of his opinion, Justice Thomas observes this, that the Fed, and this separately people need to understand, sends its surplus or earnings, depending on how you want to define it, every year to the Treasury, to the government. So the Fed earns money because it is usually getting much more payment on its assets than it's paying out on its liabilities. That's called, in the world of finance, seniorage. All central banks have this seniorage. And that profit goes back to the government. And that's very typical of how central banks function. It's certainly the way ours does.

All right. So back in 2017, this wasn't an issue. Fed had lots of earnings, okay? And sent, let me search this, the figures in 2017, it sent $80.6 billion to the Treasury. And that compared with the amount that it provided in that year to the CFPB of $602 million. So Justice Thomas says, look, there's no problem that this money's been drawn from the Treasury here, because this money, 80.6 billion, this 602 million that it gave to the CFPB would otherwise have come to the Treasury. Because there is a big surplus here. So this isn't an issue under the Appropriations Clause. And the rest of the opinion, as you correctly observed made a number of attacks. He rejected all those claims. But at the very beginning of the opinion, was this observation that this money would've otherwise gone to the Treasury.

All right, so that's sort of the background. So my op-ed says, well, wait a second, we're in 2024, starting in 2022 September, the Fed didn't have any earnings, any real earnings, because it had raised interest rates. And so the net effect of the raising of interest rates was it was paying out more on its liabilities that it was earning on its assets because it held long-term treasuries that were paying low interest rates compared to the current market interest rate in 2022. So it started losing money. And at that point, it stopped sending any money to the Treasury. It didn't have any money to send. And it took those losses and calculated them as a deferred asset on its book.

So what's the net effect of all that? Well, how can you now say, at least it's a problem to say, that this money now, okay, is drawn from the Treasury because no money is coming to the Treasury. It's not like they're diverting money that they otherwise would get to the CFPB. So that's the constitutional issue. And there's also a statutory issue here. Why is the Fed giving them any money anymore? Which the Fed continues to do despite the fact that it has no earnings.

So that is what my op-ed is about and says, look, this is a pyrric victory in a sense. Okay? No problem in 2017. But starting in 2022, how do you justify the continued operation of CFPB?

Alan Kaplinsky:

Yeah. So maybe you've already answered this question, Hal, but what gave you the inspiration to write the op-ed? Had you been following this case from its inception, or what was it?

Hal Scott:

I'm not a consumer finance guy, as you probably know. I'm more of a wholesale guy, capital markets, banking, so forth. However, I also am a keen observer of the Fed and well aware of the fact that the Fed's losing money and people are concerned about that and so forth. And then I say, well, I looked at this, Justice Thomas is writing this majority. Like, whoa, that's interesting. Why is he writing it? So that piqued my interest. That was the initial reason I looked at this case. And then I read this beginning about drawn from the Treasury and I said, "Oh my God, there's a big problem here." And that's sort of how I got started.

Alan Kaplinsky:

Yeah. So have you received any pushback yet? I'm just curious. I haven't seen anything. The only thing I saw was the day after you published your op-ed, that is, I think you published your op-ed on the 20th.

Hal Scott:

I think it came online on Monday and then in the paper on Tuesday. Yeah.

Alan Kaplinsky:

Well, there was also, and I refer to this in a blog that we put on our Consumer Finance Monitor, a Mr. Pollock wrote an article in The Federalist Society where he didn't cite your op-ed, which I assume that's where he got the idea, but he came to the same conclusion. I'm wondering whether you've seen anything else that's pushed back on your thesis?

Hal Scott:

No, but I might say about Pollock and I need to give him some credit here. Your words in the op-ed are very limited, and the journal doesn't like you giving references and citations. But he wrote an article, I think around 2022, not on the constitutional issue, but why is the Fed paying funding the CFPB, the statutory issue when they have no earnings? So he's been thinking about this for some time.

Alan Kaplinsky:

Okay, that's interesting. Is that published also in The Federalist Society?

Hal Scott:

Well, I don't know where it's published, but it was published.

Alan Kaplinsky:

Okay, that's interesting. So anyway, in terms of pushback, nothing?

Hal Scott:

No, zero. So I find that very curious, really. You can interpret that one of two ways, Alan, they think I'm so crazy, it's not worth commenting on it. Or they're kind of, God, there is a problem here? Hello Houston?

Alan Kaplinsky:

Yeah, yeah, yeah, yeah, yeah. Houston, we have a problem. So it seems to me, as I've been trying to think through your thesis and discuss it with my colleagues in our Consumer Financial Services Group, I've been trying to think of ways in which your thesis could be attacked. And the only thing I can think of, and it just defies common sense, they're certainly not going to agree you. They got to come up with something. And my thought was they're going to make an argument that, yeah, it said earnings, but it really meant revenues. It didn't really mean earnings.

And I had somebody, one of our associates, just take a very quick and dirty look at Dodd-Frank, the word earnings is used something like nine times, so it's used eight other times other than in 1017 of Dodd-Frank. That's the relevant section that provides the funding. And it looks like sometimes it means the earnings that you and I are familiar with, that is from an accounting standpoint, earnings are profits. There's a big difference between profits and revenues. But yet, I've been told, and I haven't checked all these sources yet, that there are some occasions in Dodd-Frank, where at least this person thought they used earnings to meet revenues. Do you have a reaction to that?

Hal Scott:

Yes, yes, that's a good point. So by the way, you can never tell how the Fed defines anything. Because the Fed has got to justify as to why they've been paying CFPB. Apart from the constitutional issue, under Dodd-Frank, as you point out, they should be paying earnings. So how have they been paying it? I'm sure they're going to come up with some accounting gimmick that will justify this. But on the Dodd-Frank point, I don't think it's particularly relevant how earnings are defined for other purposes. The question is, how should we think about earnings in this context? I think deep in my memory, Alan, I think there was one prior time in the Fed's not been around that long, since 1913, in which it lost money. I don't know exactly when it was, but nobody is thinking about that, okay? They make a ton of money all the time.

Alan Kaplinsky:

And I assume in 2010, July 21st, 2010, the Fed was making a ton of money, right?

Hal Scott:

As they always do. And as the amount is so much greater than what we're talking about CFPB funding at any level. Because I think the statute limits the claim to 9% of their operating costs. Nobody would even think about this. Why would you even think about this? So I would find it a hard argument to make that Congress didn't think of earnings in the normal sense that we would've, profits, because that's always what the Fed had. So then you have to ask, well, what if something happens? The Congress never contemplated that they're actually losing money. So I don't know how that's going to come out. That's for future litigation. I can't answer that. But I would think it's a hard sell to say that Congress intended to fund the CFPB even if the Fed had no profits. I find that hard to believe.

Alan Kaplinsky:

But do you think, I mean, if you were to talk to your former colleague, Senator Warren, it'd be interesting to see what she would say. She'd probably say something like, "What are you kidding me? That there would be a possibility that all of a sudden the CFPB would be done as an agency, they'd have to stop dead in their tracks, they couldn't pay their employees?"

Hal Scott:

Well, things change. And let me add a fact here, which is very important. This argument that we've been talking about is whether the Fed, should under the Dodd-Frank Act, be paying this money to the CFPB. So however you resolve that, there's still the constitutional issue under the Appropriations Clause as to whether that's justified. And I think, what I'm arguing is, that is that's a big problem because the Fed is not sending any surplus anymore to the Treasury, so you can't argue that the current funding that CFPB is getting is in effect drawn from the Treasury.

Alan Kaplinsky:

Right, right. So yeah, just to clarify that, Hal, when I originally read your article, I was thinking that, well, this is a statutory problem, but your point is its both. It's a statutory problem and it's a constitutional problem.

But one thing, I think just other point of clarification, unlike the attack that CFSA made on the funding mechanism, which at least theoretically if the Supreme Court had come out the other way, if they had affirmed the Fifth Circuit, it was a possibility that everything that the CFPB, going back to when it became operational in 2011, everything was invalid. That all regulations under this theory, it only becomes a problem once there's no longer earnings of the Fed that can be used or drawn, thereby be drawn from the Treasury to pay for our operations. And it becomes a problem then, or at the very latest.

The other thing I think we ought to add to the mix, you talk about a peculiar way of funding an agency. The CFPB has this luxury that was given to it by Congress that basically it could write a blank check every year. There was a cap.

Hal Scott:

Up to 9% of Fed operating cost.

Alan Kaplinsky:

It went up to 12%. That's subject to an increase for inflation. But the CFPB has really never come close to even getting close to the cap. And also, they've had a surplus every year, they've never spent all their money, and there's this feature in Dodd-Frank rank that allows them to roll it over from year to year, and that gives them a little breathing room, but maybe not enough.

Hal Scott:

I would say very little breathing room. So let's look at the facts on that. I think that the Fed stopped making money in a normal sense in September 2022. That's when they stopped sending any money to the Treasury. So at that time, they had an investment fund of $339 million.

Alan Kaplinsky:

Do we know how that was invested, Hal?

Hal Scott:

I don't know what they invested in, but I assume pretty safe stuff. Probably Treasury. So I don't know that for sure, I'm sure they weren't investing in FTX, at least I hope not. No crypto investments there.

So what they requested from the Fed to fund the next 12 months was $721 million. So clearly this money, the 339 million was going to run out. And I calculated that it was going to run out in about 5.5 months. So if you roughly do the math, they would've run out of money, entirely run out of money in March of 2023.

Alan Kaplinsky:

And I guess you could argue that that investment fund shouldn't even be calculated, they shouldn't get credit for that, right?

Hal Scott:

Yeah, because they didn't operate from the investment fund. What they were operating on was the Feds money. So I don't really think that calculation is really relevant in the end, but that's what it would be.

Alan Kaplinsky:

Let me go back to the accounting again. And this question of earnings from the Federal Reserve system, and I'm not familiar with government accounting. I'm a little bit familiar with GAAP, not because I was an accounting major at one time at Wharton, but I've been married for 50 years to a CPA.

But I'm wondering, are the losses created by mark-to-market accounting? In other words, that the Fed is holding on its balance sheet long-term investments that they don't intend to sell them in the secondary market. And that similar to what happened to some of the bank failures like Silicon Valley Bank, there was this huge, with interest rates going up, the value of those securities went down, down, down, and eventually it wiped them out. So does that have anything to do with it?

Hal Scott:

Two ways to think about this. An income statement and a balance sheet, you probably covered that ground at Wharton. So let's look at the income statement. From the income statement, what we're talking about is they're losing money because the revenues that they're generating off their assets are less, so they have negative earnings, are less than the money that they're paying out on liabilities. So that's the income statement, look at that.

On the balance sheet, the question would be capital. Okay, what's their capital? And that would be affected by what you've just said, how they're going to account for these assets. So the Silicon Valley, that was a valid point. They became insolvent effect because the losses on their assets were so deep compared to the level of their liabilities. That's a balance sheet issue. So, what the Fed does on the balance sheet to account for what you're talking about is they create a deferred asset to offset this loss. But on an income basis, where we talk about earnings, which is really the relevant term here, that's an income statement concept, right? So I would think whatever they do on their balance sheet is secondary.

Alan Kaplinsky:

Yeah, it's not really relevant to the issue here. And I get that. So let's talk for a little bit about how the theory or thesis can play out. I don't know if you've given any thought to this, but I'm wondering whether CFSA might still be able to raise this issue in the Fifth Circuit. I mean, I take it, this issue never got raised by CFSA.

Hal Scott:

It was irrelevant, because they had plenty of money then.

Alan Kaplinsky:

Well, they did, but as you indicated, the litigation began I think in 2017 on for-

Hal Scott:

'17. And it was about one regulation, Alan, which was the payday lending.

Alan Kaplinsky:

Yeah, yeah, that's true. And so everything other than, I guess you could argue, that what it was costing the CFPB to litigate, I mean, they had a lot of attorneys, they threw at it, in-house counsel. They're paying salaries. They still didn't have an effective regulation, and they litigated that all the way up to the present. And I guess you could make an argument that, yeah, it does affect that regulation in some fashion. Or is that too far?

Hal Scott:

Going forward. So I think the way it affects things is I don't think you could invalidate the regulations that were promulgated during the period where there was ample money under both the statute and the constitution. So from 2017 to 2022 September we'll be okay. However, my theory if it were adopted in some form, would say, well, yeah, but after 2022, this whole agency is functioning in some sense illegally because it doesn't have funding. Anything it's doing is questionable. So for those regulations, and the current enforcement of all their regulation would be an issue. Is it illegitimate because it's being funded by the Fed and that's wrong. It shouldn't be, or it's unconstitutional, even if it is.

So I would say, all of their current enforcement could be challenged even under regulations that were properly adopted with adequate funding from 2017 to September of 2022.

Alan Kaplinsky:

Yeah. So if you had, let's say you have a regulation they started working on in 2020 or '21, there was nothing questionable about the funding at that point, but they didn't really complete it until the end of last year or maybe even the beginning of this year. Would that be vulnerable?

Hal Scott:

Absolutely. Any regulation adopted during the period where there was not adequate funding would be under this theory open to challenge.

Alan Kaplinsky:

And there is a lot in the pipeline. For example, just to give you one or two examples, one that has been in the popular press because it's part of President Biden's attack on so-called junk fees in all different industries. One of the things he labeled a junk fee were credit card late fees and totally complete misnomer in my view, because I don't see how something could be a junk fee if it's disclosed up front. Consumers know that they're paying it. But in any event, the CFPB rushed through a regulation that reduced the safe harbor for credit card late fees from $41 down to $8. The industry has attacked that.

Hal Scott:

Has become final? That regulation?

Alan Kaplinsky:

Well, the final regulation got issued… Well, it was the early part of this year, I think, is when it got finalized. And there was a lawsuit right away. Chamber of Commerce sued the American Bankers Association. Other trade associations brought a lawsuit, of course in federal court in Texas, which is not surprising because that's where most of the lawsuits get brought. And they sought a nationwide injunction and they got it. But the only thing that the judge ruled upon was the constitutional issue that went up to the Supreme Court. Obviously not the Hal Scott constitutional issue. That's the only thing that got ruled upon.

And now, that case will go back either to, it's unclear, it looks like it's going to go back to the federal district court for further proceedings. And I would suppose that the plaintiffs in that case could amend their complaint now to assert these new theories.

Hal Scott:

I agree. I didn't even know that that case was live. Absolutely. So normally when you get a Supreme Court decision, which is dispositive of your case, it's remanded and dismissed. But what they would argue is exactly what I said in my op-ed, that this decision involved a regulation from 2017 where there was adequate funding. It's completely different today. Yeah. Interesting.

Alan Kaplinsky:

And then there is another very important regulation they issued that they were required to issue under Dodd-Frank, but they finally got around to it in 2023. And I'm not sure the exact date they published it in the Federal Register as a final reg, but there was a lawsuit brought almost immediately after that got published, claiming that made the usual constitutional argument because it was in the Fifth Circuit. And Fifth Circuit had controlling precedent at that time. But there were other arguments that were made in that case where the court said, we don't have to deal with these other arguments. We've got binding precedent. They issued the preliminary injunction. That case is going back for more proceedings. And it looks like that can be challenged.

And then, there are about, the way I've counted them, five regulations that are on the cusp of being finalized. And one deals with bank overdraft fees. Another one deals with bank NSF fees. Another one deals with two registries that the has proposed to create that have become very controversial. Something where you would have to register if you've ever been subject to a consent order or a judgment involving consumer finance.

And then there's another registry. This one, this is unbelievable. It would require any non-bank subject to CFPB supervision that uses, catch this language, certain terms or conditions that seek to waive consumer rights or other legal protections or limit the ability of consumers to enforce their rights with arbitration provisions being among the terms that would trigger registration. But if you had anything in a consumer contract that waived any rights you had under the Uniform Commercial Code, and there are always waivers of rights that's become boilerplate, you're going to have to advise the CFPB and they will shame you by putting something on their website.

So there is a lot coming down the pike. President Biden has instructed all the agencies to finalize the regulations as soon as they can, so as to make them not subject to being overruled by the next Congress under the Congressional Review Act. And under that statute, majority of the Senate and majority of the House and the President can override any regulation. So there is a rush to get these things out now. All of that, it seems to me, Hal, that's all going to be fair game, right?

Hal Scott:

Any regulation promulgated after September 2022 is fair game under my theory, by the CFPB. I can't say for anybody else.

Alan Kaplinsky:

So, all right. Aside from that challenging these new regulations, what about all these enforcement matters that have been stayed by the CFPB? I think there are about 14 of them, and now the stays will be lifted. Can that get raised as a defense to the enforcement initiative?

Hal Scott:

I'm quite certain that any new enforcement after September 2022 would be open to a challenge. If you ask, well, let's say there was an enforcement action in 2019 that was stayed while this case was going on, you could argue that's because that enforcement action was brought when there was adequate funding.

Alan Kaplinsky:

Well, it brought at the time, but now-

Hal Scott:

But now, we're enforcing it so somebody could say, hey, but now it's now it's not then. So you still can't do it. So I think any enforcement, any enforcement by CFPB today is open to challenge.

Alan Kaplinsky:

Yeah, same thing with supervision, right?

Hal Scott:

Anything. If my theory is correct, they don't have any money to operate on.

Alan Kaplinsky:

Right, right. Now, I'm just curious, who would have standing to challenge this thing directly? Say, I mean, would there be a way for somebody to bring a lawsuit against the CFPB and the Fed saying basically, what are you doing here? Or maybe the Treasury, you would bring them in the lawsuit too. I mean, is there some direct approach, a taxpayer who doesn't like what's going on?

Hal Scott:

You're above my level of knowledge at this point, Alan. I'm not a litigator and I can't really answer that. But I think, let's put it this way, the agency has lots of problems. And I go back to your question very early in this podcast, have you heard from anybody, Hal on this? And the answer is no. Nobody's pushing back. And given all these consequences, Alan, it's amazing that I haven't heard anything. Maybe people are in shock over it, I don't know. But if there was an obvious comeback, I think I would've heard about it by now.

Alan Kaplinsky:

Right, right, right. You would. You really would. So the other thing I'm thinking of, although this probably isn't going to work, and that is if you entered into a consent order with the CFPB, would you somehow be able to challenge that? I am not so sure that would work.

And then I guess there's another issue not nearly as important, although maybe it is, given what's going on at the FDIC, can Rohit Chopra still serve on the FDIC board, or does he really have to resign or get kicked off, because he doesn't really have any money to do anything?

Hal Scott:

Well, I think the question is, I don't know whether he has to resign from the FDIC board, but he shouldn't be paid anything. Where are they going to get the money to pay people? It's illegal if they're paying them under my theory because they're not entitled to this money.

Alan Kaplinsky:

Maybe the FDIC pays them out of their insurance premiums. I don't know. Let me ask you this and then we're going to have to wrap up, Hal. So are there projections that the Fed is put together as to when they're going to be profitable again?

Hal Scott:

Yes. Of course, this really depends on what interest rates are going to do. So of course, they have changed their tune on that every meeting. So the market wasn't very happy today about the forecast, about rates coming down, but the projection that they made some time ago was that they would be able to resume paying the Treasury in 2027, that they would then have earnings. But I don't know how, that's just a prediction. So we don't really know.

An interesting question is, well, what happens? So the agency goes into hibernation.

Alan Kaplinsky:

Hibernation.

Hal Scott:

Hibernation. For the period until they can get the money again. It's like the bears go into the den and go asleep. Now, obviously that doesn't work. So I mean, obviously the Biden administration's not going to close down CFPB anyway. But if Trump gets elected, it wouldn't surprise me that he could say, here's an agency that has no funding, it shouldn't be existing. I'm closing it down.

Alan Kaplinsky:

Yeah, yeah. Well, that wouldn't surprise me at all, given what happened during his first term where he largely neutered the agency. In fact, it prompted us when we first created our blog, it was called CFPBmonitor.com, and after Trump got elected the next day, I said to my folks, we better change the name to consumerfinancemonitor.com and broaden the scope of what we cover. There may not be much going on for the next four years at the CFPB.

Okay, well, we have drawn to the end of our program today and really want to thank you, Hal, for participating and doing it so quickly so that we can get what happened here out and get your thesis more broadly disseminated and understood. And you and I will both be waiting to hear some response from somebody at the CFPB or elsewhere, or maybe somebody will deploy this theory in a real court case that will be able to follow.

So again, thanks a lot. Appreciate it.

Hal Scott:

Alan, I really enjoyed talking to you. Your questions were great. And as I said at the outset, I'm not a consumer finance person, but I'm going to follow your podcast in the future.

Alan Kaplinsky:

Well, thank you. Thank you. So to make sure that you don't miss any of our future episodes, subscribe to our show on your favorite podcast platform, whatever that might be, Apple, YouTube, Spotify, wherever you listen. And don't forget to check out our blog, consumerfinancemonitor.com for daily insights on the consumer finance industry. And if you have any questions or suggestions for our show, please email us at podcast@ballardspahr.com. Stay tuned each Thursday for a new episode of our show. Thank you all for listening, and have a good day.