UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION

FORCHT BANK, N.A., KENTUCKY BANKERS ASSOCIATION, and BANK POLICY INSTITUTE,

Plaintiffs,

v.

CONSUMER FINANCIAL PROTECTION BUREAU and RUSSELL VOUGHT, in his official capacity,

Defendants.

No. 5:24-cv-304-DCR

JOINT MOTION TO STAY PROCEEDINGS

Plaintiffs Forcht Bank, N.A., Kentucky Bankers Association, and Bank Policy Institute, and Defendants the Consumer Financial Protection Bureau (CFPB) and Russell Vought, in his official capacity as Acting Director of the CFPB (together, the "Parties"), respectfully submit this joint motion to stay proceedings with notice of recent developments.[1]

1. On October 22, 2024, the CFPB announced the final rule at issue in this case, which it published in the Federal Register the following month. *See Required Rulemaking on Personal Financial Data Rights*, 89 Fed. Reg. 90,838 (Nov. 18, 2024) (the "Rule"). Plaintiffs filed this suit the day the Rule was announced, alleging various causes of action under the Administrative Procedure Act and requesting that the Rule be vacated and set aside. ECF No. 1. Plaintiffs filed the operative Amended Complaint on November 18, 2024, ECF No. 22, which Defendants answered on December 27, ECF No. 29. On January 28, 2025, upon the Parties' joint motion, the

[1] Pursuant to Fed. R. Civ. P. 25(d), Russell Vought, in his official capacity as the CFPB's Acting Director, is substituted for Scott Bessent as a defendant in this action, who was previously substituted under Fed. R. Civ. P. 25(d) for former CFPB Director Rohit Chopra.

Court entered a scheduling order providing for the resolution of this case on cross-motions for summary judgment, pursuant to which Plaintiffs would serve their motion for summary judgment on February 28, 2025. ECF No. 34.

2. Effective January 31, 2025, the President of the United States removed Former CFPB Director Rohit Chopra and designated Secretary of the Treasury Scott Bessent to serve as Acting Director. On February 7, 2025, the President designated Director of the Office of Management and Budget Russell Vought to serve as the Acting Director of the CFPB.

3. The CFPB's new leadership needs time to review and consider the CFPB's position on various pending agency actions and recently finalized rules, including the rule Plaintiffs challenge here. The CFPB has sought stays in several other pending litigations that challenge rules promulgated under the previous Administration. Those courts that have acted on such requests have granted the requested relief. *See, e.g.*, *Texas Bankers Ass'n* v. *CFPB*, No. 24-40705 (5th Cir. Feb. 7, 2025) (ECF No. 134-2) (staying litigation and tolling compliance deadlines for 90 days); *Cornerstone Credit Union League* v. *CFPB*, No. 25-00016 (E.D. Tex. Feb. 6, 2025) (staying litigation and tolling effective date of rule for 90 days).

4. To avoid prejudice to Plaintiffs, the CFPB also consents to a corresponding tolling of the compliance deadlines prescribed by the Rule. *See* 12 C.F.R. 1033.121(b). Plaintiffs appreciate the value of the CFPB's ongoing deliberative process and thus join in the request for 30-day stays of this litigation and the compliance deadlines.

5. Accordingly, to allow the CFPB and the Acting Director time to consider the Rule at issue in this case, while preserving the status quo, the Parties request a brief 30-day stay of proceedings in this case, including the current briefing deadlines on the parties' anticipated cross-motions for summary judgment. *See* ECF No. 34 (scheduling order).

6. WHEREFORE, PREMISES CONSIDERED, the Parties respectfully and jointly

move the Court to:

1. Grant the Parties' request for a 30-day stay in this litigation, with amended briefing deadlines as set forth in the proposed order tendered with this motion; and

2. Grant the Parties' request for a 30-day tolling of the compliance deadlines prescribed in 12 C.F.R. 1033.121(b).

Respectfully submitted,

Dated: February 25, 2025

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* Admitted *pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on February 25, 2025, I electronically filed this Joint Notice of Parties' Conference and Proposed Briefing Schedule with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ *John T. McGarvey*

Co-counsel for Plaintiffs Forcht Bank, N.A., Kentucky Bankers Association, and Bank Policy Institute