

## Special Alert: Cordray to Resign as Director of CFPB

Richard Cordray said today in an email to the staff of the Consumer Financial Protection Bureau that he will resign as Director before the end of November. While it has long been expected that he would seek the Democratic nomination for the governorship of Ohio, he did not specify his plans in the email.

Richard Cordray is the first confirmed Director of the CFPB, which was created by the Dodd-Frank Act in the wake of the financial crisis. Following his recess appointment by President Obama in January 2012, Cordray oversaw an aggressive rulemaking and enforcement agenda, which accelerated following the election of President Trump in November 2016.

While the CFPB enjoyed many successes during Cordray's tenure, the agency was also criticized by the industry and members of Congress for engaging in "rulemaking by enforcement," most often through its novel and aggressive application of provisions of the Dodd-Frank Act that prohibit unfair, deceptive, and abusive acts and practices, and by failing to provide guidance to the industry on how to comply with its regulations. Of late, the CFPB has seen efforts by Republican leadership in Congress to curtail the agency's authority and an increased willingness by industry participants to fight the CFPB in court. In October, the CFPB suffered a significant defeat when President Trump [signed a resolution](#) overriding its rule banning mandatory arbitration clauses.

Under the Dodd-Frank Act, Cordray will be succeeded by acting CFPB Deputy Director David Silberman, who is unlikely to depart significantly from Cordray's agenda for the remainder of Cordray's term (i.e., until July 2018). However, President Trump may seek to replace Silberman under the Federal Vacancies Reform Act, although his authority to do so is unclear. For more discussion on this subject, see [this article](#) by Buckley Sandler partners Andrew Sandler and Benjamin Olson.

If you have questions about the announcement or other related issues, please visit our [Consumer Financial Protection Bureau](#) practice page, or contact a Buckley Sandler attorney with whom you have worked in the past.