

Implications for the CFPB After the D.C. Circuit's Recess Appointments Decision

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A panel of three judges in the D.C. Circuit stunned Washington on Friday by striking down President Obama's recess appointments to the NLRB in *Noel Canning v. NLRB* on a basis much more sweeping than had been anticipated. The two holdings in the decision cast doubt over the longstanding practice of intrasession recess appointment, which has been used especially frequently in the last two decades. For financial institutions, the decision is of direct interest because it calls into question President Obama's recess appointment that same day of Richard Cordray as Director of the CFPB and, as a result, all of the actions taken by the CFPB since his appointment. Richard Cordray's appointment is already being contested in the D.C. district court as part of a broader lawsuit challenging the constitutionality of other aspects of the CFPB, as well as of the Financial Stability Oversight Council and Title II of the Dodd-Frank Act. In this client alert, we discuss the *Noel Canning v. NLRB* decision and the impact it could have on Director Cordray's status and the validity of the CFPB's past and future actions.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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