Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

SEILA LAW LLC *v.* CONSUMER FINANCIAL PROTECTION BUREAU

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 19–7. Argued March 3, 2020—Decided June 29, 2020

In the wake of the 2008 financial crisis, Congress established the Consumer Financial Protection Bureau (CFPB), an independent regulatory agency tasked with ensuring that consumer debt products are safe and transparent. See Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), 124 Stat. 1376. Congress transferred the administration of 18 existing federal statutes to the CFPB, including the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, and the Truth in Lending Act; and Congress enacted a new prohibition on unfair and deceptive practices in the consumer-finance sector. 12 U. S. C. §5536(a)(1)(B). In doing so, Congress gave the CFPB extensive rulemaking, enforcement, and adjudicatory powers, including the authority to conduct investigations, issue subpoenas and civil investigative demands, initiate administrative adjudications, prosecute civil actions in federal court, and issue binding decisions in administrative proceedings. The CFPB may seek restitution, disgorgement, injunctive relief, and significant civil penalties for violations of the 19 federal statutes under its purview. So far, the agency has obtained over $11 billion in relief for more than 25 million consumers.

Unlike traditional independent agencies headed by multimember boards or commissions, the CFPB is led by a single Director, §5491(b)(1), who is appointed by the President with the advice and consent of the Senate, §5491(b)(2), for a five-year term, during which the President may remove the Director only for "inefficiency, neglect of duty, or malfeasance in office," §§5491(c)(1), (3). The CFPB receives its funding outside the annual appropriations process from the Federal Reserve, which is itself funded outside the appropriations process through bank assessments.

In 2017, the CFPB issued a civil investigative demand to Seila Law LLC, a California-based law firm that provides debt-related legal services to clients. The civil investigative demand (essentially a subpoena) sought information and documents related to the firm's business practices. Seila Law asked the CFPB to set aside the demand on the ground that the agency's leadership by a single Director removable only for cause violated the separation of powers. When the CFPB declined, Seila Law refused to comply with the demand, and the CFPB filed a petition to enforce the demand in District Court. Seila Law renewed its claim that the CFPB's structure violated the separation of powers, but the District Court disagreed and ordered Seila Law to comply with the demand. The Ninth Circuit affirmed, concluding that Seila Law's challenge was foreclosed by *Humphrey's Executor* v. *United States*, 295 U. S. 602, and *Morrison* v. *Olson*, 487 U. S. 654.

Held: The judgment is vacated and remanded.

923 F. 3d 680, vacated and remanded.

THE CHIEF JUSTICE delivered the opinion of the Court with respect to Parts I, II, and III, concluding:

1. Appointed *amicus* raises three threshold arguments for why this Court may not or should not reach the merits of petitioner's constitutional challenge, but they are unavailing. Pp. 8–11.

2. The CFPB's leadership by a single individual removable only for inefficiency, neglect, or malfeasance violates the separation of powers. Pp. 11–30.

(a) Article II vests the entire "executive Power" in the President alone, but the Constitution presumes that lesser executive officers will assist the President in discharging his duties. The President's executive power generally includes the power to supervise—and, if necessary, remove—those who exercise the President's authority on his behalf. The President's removal power has long been confirmed by history and precedent. It was recognized by the First Congress in 1789, confirmed by this Court in *Myers* v. *United States*, 272 U. S. 52, and reiterated in *Free Enterprise Fund* v. *Public Company Accounting Oversight Bd.*, 561 U. S. 477. In *Free Enterprise Fund*, the Court recognized that it had previously upheld certain congressional limits on the President's removal power. But the Court declined to extend those limits to "a new situation not yet encountered by the Court." 561 U. S., at 483. *Free Enterprise Fund* left in place only two exceptions to the President's unrestricted removal power. First, *Humphrey's Executor* permitted Congress to give for-cause removal protection to a multimember body of experts who were balanced along partisan lines, appointed to staggered terms, performed only "quasi-legislative" and "quasi-judicial functions," and were said not to exercise any executive power. Second, *Morrison* approved for-cause removal protection for an *inferior* officer—the independent counsel—who had limited duties and no policymaking or administrative authority. Pp. 11–16.

(b) Neither *Humphrey's Executor* nor *Morrison* resolves whether the CFPB Director's insulation from removal is constitutional. The New Deal-era FTC upheld in *Humphrey's Executor* bears little resemblance to the CFPB. Unlike the multiple Commissioners of the FTC, who were balanced along partisan lines and served staggered terms to ensure the accumulation of institutional knowledge, the CFPB Director serves a five-year term that guarantees abrupt shifts in leadership and the loss of agency expertise. In addition, the Director cannot be dismissed as a mere legislative or judicial aid. Rather, the Director possesses significant administrative and enforcement authority, including the power to seek daunting monetary penalties against private parties in federal court—a quintessentially executive power not considered in *Humphrey's Executor*.

The logic of *Morrison* also does not apply. The independent counsel approved in *Morrison* was an inferior officer who lacked policymaking or administrative authority and exercised narrow authority to initiate criminal investigations and prosecutions of Governmental actors identified by others. By contrast, the CFPB Director is a principal officer whose duties are far from limited. The Director promulgates binding rules fleshing out 19 consumer-protection statutes that cover everything from credit cards and car payments to mortgages and student loans. And the Director brings the coercive power of the state to bear on millions of private citizens and businesses, imposing potentially billion-dollar penalties through administrative adjudications and civil actions.

The question here is therefore whether to extend the *Humphrey's Executor* and *Morrison* exceptions to a "new situation." *Free Enterprise Fund,* 561 U. S., at 433. Pp. 16–18.

(c) The Court declines to extend these precedents to an independent agency led by a single Director and vested with significant executive power. Pp. 18–30.

(1) The CFPB's structure has no foothold in history or tradition. Congress has provided removal protection to principal officers who alone wield power in only four isolated instances: the Comptroller of the Currency (for a one-year period during the Civil War); the Office of Special Counsel; the Administrator of the Social Security Administration; and the Director of the Federal Housing Finance Agency. Aside from the one-year blip for the Comptroller of the Currency, these examples are modern and contested; and they do not involve regulatory or enforcement authority comparable to that exercised by the CFPB. Pp. 18–21.

(2) The CFPB's single-Director configuration is also incompatible with the structure of the Constitution, which—with the sole exception of the Presidency—scrupulously avoids concentrating power in the hands of any single individual. The Framers' constitutional strategy is straightforward: divide power everywhere except for the Presidency, and render the President directly accountable to the people through regular elections. In that scheme, individual executive officials may wield significant authority, but that authority remains subject to the ongoing supervision and control of the elected President. The CFPB's single-Director structure contravenes this carefully calibrated system by vesting significant governmental power in the hands of a single individual who is neither elected by the people nor meaningfully controlled (through the threat of removal) by someone who is. The Director may *unilaterally*, without meaningful supervision, issue final regulations, oversee adjudications, set enforcement priorities, initiate prosecutions, and determine what penalties to impose on private parties. And the Director may do so without even having to rely on Congress for appropriations. While the CFPB's independent, single-Director structure is sufficient to render the agency unconstitutional, the Director's five-year term and receipt of funds outside the appropriations process heighten the concern that the agency will "slip from the Executive's control, and thus from that of the people." *Free Enterprise Fund*, 561 U. S., at 499. Pp. 21–25.

(3) *Amicus* raises three principal arguments in the agency's defense. First, *amicus* challenges the textual basis for the President's removal power and highlights statements from individual Framers expressing divergent views on the subject. This Court's precedents, however, make clear that the President's removal power derives from the "executive Power" vested exclusively in the President by Article II. And this Court has already discounted the founding-era statements cited by *amicus* in light of their context. Second, *amicus* claims that *Humphrey's Executor* and *Morrison* establish a general rule that Congress may freely constrain the President's removal power, with only two limited exceptions not applicable here. But text, first principles, the First Congress's decision in 1789, *Myers*, and *Free Enterprise Fund* all establish that the President's removal power is the rule, not the exception. Finally, *amicus* submits that this Court can cure any constitutional defect in the CFPB's structure by interpreting the language "inefficiency, neglect of duty, or malfeasance in office," 12 U. S. C. §5491(c)(3), to reserve substantial discretion to the President. But *Humphrey's Executor* implicitly rejected this position, and the CFPB's defenders have not advanced any workable standard derived from the statutory text. Nor have they explained how a lenient removal standard can be squared with the Dodd-Frank Act as a whole, which makes

plain that the CFPB is an "independent bureau." §5491(a).

The dissent advances several additional arguments in the agency's defense, but they have already been expressly considered and rejected by the Court in *Free Enterprise Fund*. Pp. 25–30.

THE CHIEF JUSTICE, joined by JUSTICE ALITO and JUSTICE KAVANAUGH, concluded in Part IV that the Director's removal protection is severable from the other provisions of the Dodd-Frank Act that establish the CFPB and define its authority. Pp. 30–37.

ROBERTS, C. J., delivered the opinion of the Court with respect to Parts I, II, and III, in which THOMAS, ALITO, GORSUCH, and KAVANAUGH, JJ., joined, and an opinion with respect to Part IV, in which ALITO and KAVANAUGH, JJ., joined. THOMAS, J., filed an opinion concurring in part and dissenting in part, in which GORSUCH, J., joined. KAGAN, J., filed an opinion concurring in the judgment with respect to severability and dissenting in part, in which GINSBURG, BREYER, and SOTOMAYOR, JJ., joined.

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