

**Committee on Banking, Housing, and Urban Affairs**  
***Nominations Hearing***  
**July 19, 2018**

**Questions for Ms. Kathleen Laura Kraninger, Director-Designate, Bureau of Consumer Financial Protection, on behalf of Ranking Member Brown, and Senator Elizabeth Warren:**

***Supervision, Enforcement and Fair Lending***

- Last week, you testified that “regulation by enforcement . . . is not appropriate, and something that we would not engage in.” What does that mean?

**Response:** As noted in my testimony, it is critical to have clear rules so that lenders and consumers themselves are aware of the rules. Effective use of notice and comment rulemaking is essential for ensuring the proper balancing of all interests. The PHH case provides an example of regulation by enforcement, as seen in the court’s finding that: “In its order in this case, the CFPB thus discarded HUD’s longstanding interpretation of Section 8 and, for the first time, pronounced its new interpretation.” *PHH v. CFPB*, (2016).

- If you are confirmed, will CFPB open new investigations under its Unfair, Deceptive, Abusive Acts and Practices enforcement authority? If so, what criteria would you use to determine whether to open these investigations?

**Response:** I am firmly committed to fulfilling the Bureau’s congressional mandate in accordance with the Dodd-Frank Act. In my testimony, I committed to examining the Bureau’s history of enforcement and related litigation to ensure the Bureau effectively promotes fair lending. While I will not prejudge and cannot predict every decision that will come before me, under my stewardship, the Bureau will take aggressive action against bad actors who break the rules by engaging in fraud and other illegal activity.

- If you are confirmed, will CFPB continue to negotiate settlements or file lawsuits under its Unfair, Deceptive, Abusive Acts and Practices enforcement authority? If so, what criteria would you use to determine whether to negotiate settlements or file lawsuits?

**Response:** I am firmly committed to fulfilling the Bureau’s congressional mandate in accordance with the Dodd-Frank Act. In my testimony, I committed to examining the Bureau’s history of enforcement and related litigation to ensure the Bureau effectively promotes fair lending. While I will not prejudge and cannot predict every decision that will come before me, under my stewardship, the Bureau will take aggressive action against bad actors who break the rules by engaging in fraud and other illegal activity.

- If you are confirmed, will CFPB continue to prosecute lawsuits already brought under its Unfair, Deceptive, Abusive Acts and Practices enforcement authority? If so, what criteria would you use to determine whether to prosecute lawsuits?

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**Response: I am firmly committed to fulfilling the Bureau's congressional mandate in accordance with the Dodd-Frank Act. In my testimony, I committed to examining the Bureau's history of enforcement and related litigation to ensure the Bureau effectively promotes fair lending. While I will not prejudge and cannot predict every decision that will come before me, under my stewardship, the Bureau will take aggressive action against bad actors who break the rules by engaging in fraud and other illegal activity.**

***Operations***

In nominating you, the White House touted your experience in managing agencies' budgets, including "the Bureau of Consumer Financial Protection." The Administration's FY2019 budget request contemplated a 23% cut in the Bureau's budget authority from 2019 projected levels.

- What specific cuts did you envision to meet that budget target?

**Response: The Administration's Fiscal Year 2019 Budget was the President's budget request, not mine. It also had no actual effect on the agency. I pledge that I will look carefully at every line item within the Bureau's budget, should I be confirmed. I believe there are opportunities for efficiency.**

- If you did not have specific budget cuts in mind, how did you determine that a 23% cut was appropriate and consistent with fulfilling the Bureau's mission?

**Response: The Administration's Fiscal Year 2019 Budget was the President's budget request, not mine. It also had no actual effect on the agency. I pledge that I will look carefully at every line item within the Bureau's budget, should I be confirmed. I believe there are opportunities for efficiency.**

When Senator Tester asked you whether you intended to keep political appointees, you volunteered that you would be open to dismissing civil servants, saying "I'm going to take every staff member individually, have a conversation with them to understand what they've been working on and what they'd like to continue to work on, and – but I have not prejudged having political or career staff continue."

- Which career staff do you intend to interview?

**Response: As I noted in my testimony, I have not committed to any staffing changes, but can assure you that I will comply with all applicable laws and agreements in this area. Upon my arrival at the Bureau, I look forward to meeting with as many members of the staff as possible. While I will meet with the leadership teams of every division early on, I intend to meet with staff across the organization at all levels on an ongoing basis.**

- What rubrics will you use to evaluate them?

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**Response:** With the context provided in the preceding answer, I will approach the organizational structure and the staff with an open mind. My first interactions will be focused on listening to them rather than “evaluating them” – asking for their perspectives broadly on the Bureau’s operations and mission effectiveness.

- Do you commit to complying with NTEU-CFPB collective bargaining agreement in reassigning or pursuing personnel action against any bargaining unit employee?

**Response:** As I noted in my testimony, I have not committed to any staffing changes, but can assure you that I will comply with all applicable laws and agreements in this area.

- Do you commit to complying with all civil service laws in reassigning or pursuing personnel action against any non-bargaining unit civil servant?

**Response:** As I noted in my testimony, I have not committed to any staffing changes, but can assure you that I will comply with all applicable laws and agreements in this area.

Typically, independent regulators have modest political staffs. Some regulators, such as the Office of the Comptroller of the Currency, have no Schedule C appointees of any kind. No other financial regulator has Schedule C appointees in charge of regional offices or regulatory functions, and only one -- the Commodity Futures Trading Commission - has a political head of enforcement. None has a political General Counsel.

- Do you think it is appropriate that OMB Director Mulvaney has deviated from the typical practice for independent financial regulators and added more than ten political appointees to the CFPB in senior roles?

**Response:** As noted in my previous answer, I have not made any staffing decisions. It would be inappropriate and premature to make any staffing decisions prior to confirmation and the opportunity to meet with staff.

- Will you commit to removing these new political appointees and depoliticizing the agency as it was under former Director Cordray?

**Response:** As noted in my previous answer, I have not made any staffing decisions. It would be inappropriate and premature to make any staffing decisions prior to confirmation and the opportunity to meet with staff.

***Accountability***

Other than the CFPB, there are four other federal banking regulatory agencies: the OCC, the Federal Reserve, the FDIC, and the NCUA.

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- Are any of these other banking regulatory agencies funded through the congressional appropriations process?

**Response: The prudential regulatory agencies you mentioned are funded through industry assessments, and in the case of the Federal Reserve, open market operations. Other agencies, which are product regulators, are appropriated.**

- Are “major” rules issued by any of these other banking regulatory agencies subject to congressional approval before they take effect?

**Response: At this time, no major rule issued by a federal agency is subject to legislative approval before the rule takes effect.**

- Since the CFPB was created by Congress, how many reports relating to the CFPB has the Federal Reserve’s Inspector General issued?

**Response: It is my understanding that the Inspector General has issued 64 reports about the Bureau.**

- The CFPB Director must testify before Congress four times a year. Are the heads of the OCC, FDIC, and NUCA subject to a similar requirement?

**Response: I am not familiar with the specific testimonial requirements for the agencies you mentioned, although I am aware that the heads of other agencies, such as the Federal Reserve and Department of the Treasury must testify multiple times a year.**

- The CFPB’s rules may be vetoed by the Financial Stability Oversight Council (FSOC). Are rules issued by any of the other banking regulators subject to an FSOC veto?

**Response: At this time, the FSOC set aside does not apply to any of the other financial services regulators.**

***Research, Markets and Regulations***

In your opening statement, you said that you would prioritize ensuring that the Bureau makes “robust use of cost benefit analysis” as required by Congress. As you correctly identified, Dodd-Frank requires CFPB rules to undergo cost-benefit analysis, which the Bureau has done for every CFPB rule that has been finalized.

- What, if any, shortcomings have you identified in the cost-benefit analyses that have accompanied CFPB rules?

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**Response:** As I discussed in my testimony, I am committed to data-driven decision-making. Under my leadership, that would be a focal point at the Bureau – not just as it pertains to rulemaking actions. A direct response to this question could inappropriately influence Bureau rulemakings – whether already in effect as it pertains to enforcement, in the notice and comment process under active consideration, and being reassessed pursuant to the Dodd-Frank Act requirements. Should I be confirmed, I am committed to transparent processes and data-driven decision-making.

- Do you support OMB Director Mulvaney’s proposal that CFPB establish a redundant office of cost-benefit analysis within the Office of the Director?

**Response:** As noted above, I am committed to data-driven decision-making – not just as it pertains to rulemaking. More specifically to the office of cost-benefit analysis, it would be inappropriate and premature to make any staffing or organizational decisions prior to confirmation and the opportunity to meet with staff. I have noted that I will approach the organizational structure with an open mind.

You say in your testimony that the “the bureau would limit data collection only to what is required under law and is necessary to carry out its mission and ensure that the data is protected.” What data that the Bureau now collects will no longer be collected under this standard? For the categories of data that the agency collects, please refer to the Government Accountability Office’s 2014 report titled Consumer Financial Protection Bureau: Some Privacy and Security Procedures for Data Collection Should Continue Being Enhanced.

**Response:** As noted in my testimony and other responses to questions for the record, limiting data collection in the manner I have pledged is consistent with supporting robust use of cost-benefit analysis and a commitment to data-driven decision-making. To the extent that the data is supporting decision-making, the data collection would be needed and required. Further, it is important to note the many sources of evidence available to the Bureau beyond the entities that the Bureau is supervising directly. For example, data that comes through requests for information that are out to the public. The Bureau must recognize its profound duty to the American people to protect the data in its possession.

In your testimony and in response to questions from Senator Toomey, you expressed the importance of the Administrative Procedure Act rulemaking process, including notice and comment. The CFPB’s rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans used was promulgated using that process. Agency staff considered more than a million comments over five years and the final rule had significant differences from the proposal. But, before the rule was ever able to meaningfully go into effect, the CFPB under OMB Director Mulvaney announced his intent to revisit it.

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- Do you support revisiting the payday rule? If so, please describe the specific defects with the notice and comment process for the first payday rulemaking. If not, how do you reconcile your view of the importance of the notice and comment process with your willingness to reopen a rule that has gone through notice and comment but hasn't been allowed to go into effect?

**Response: The Bureau's Payday, Vehicle Title, and Certain High-Cost Installment Loans rulemaking is actively under reconsideration, and it is not appropriate for me to comment on it. I understand the point you are making and, if confirmed, pledge to examine this issue closely.**

**Miscellaneous**

- OMB Director Mulvaney has been in charge of the CFPB for eight months. Can you identify any actions he has taken that you disagree with and explain why you disagree with them?

**Response: Based on the information that is available to me at this time, I cannot identify any actions that Acting Director Mulvaney has taken with which I disagree. I have pledged to approach organizational and staffing structures with an open mind as well as not to prejudge any matter that should come before me if confirmed.**

You told the Committee that your first priority would be to make sure the CFPB is "transparent and fair, ensuring its actions empower consumers to make good choices and provide certainty for marketplace participants." The Bureau is required by Dodd-Frank to accept complaints from individual consumers and since its launch has made these complaints public, providing increased transparency to the marketplace. Information gleaned from the database has empowered consumers to make more informed choices in the financial marketplace, provided businesses with insight into potential partners and allowed researchers to have real-time insight into trends in the market. The transparency has also incentivized financial institutions to be responsive to their customers. Despite this, OMB Director Mulvaney has threatened several times to take down the public-facing consumer complaint database, hiding this crucial information from those who can use it.

- Will you commit to keeping the database public? If not, please explain how it would be more "transparent" or how it would "empower consumers" to hide this information from them?

**Response: As I have previously stated, I will not prejudge any decision that will come before me at the Bureau, including whether to keep the consumer complaint database public. I am aware of the statutory responsibility for the Bureau to collect and track consumer complaints. If confirmed, I will fully examine this issue and all appropriate**

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**considerations with a focus on the ensuring the Bureau is transparent and accountable to the American people for its actions.**