# Kraninger Lets Industry "Drive the Agenda" at CFPB

Kathleen Kraninger, the current director of the Consumer Financial Protection Bureau, told an audience of bankers at a November 2019 industry gathering that "you are really helping drive the agenda." Unfortunately for the public and for consumer financial protection, the Kraninger agenda and the Wall Street lobby's agenda are indeed all too similar.

Since the Senate confirmed Kraninger on a party-line vote, she has steered the CFPB in an anti-consumer direction, making it easier for Wall Street and predatory lenders to rip people off and to discriminate against people of color. Instead of writing new rules to address serious problems, the bureau is rolling back protections, or opening new avenues for abuse. For example, they are devoting resources to gutting protections against payday lending, while abandoning a project required by law almost 10 years ago to help all small businesses – and women- and minority-owned small businesses in particular – by collecting and releasing data on their access to credit to languish. In the first phase of its existence the CFPB was an effective enforcer and won more than $12 billion for consumers. Kraninger's CFPB has eased up on prosecuting wrongdoing and companies are paying less restitution.

The CFPB was set up because the financial crisis made devastatingly clear that without effective regulation, Wall Street will abuse individual consumers and threaten financial stability for everyone. The CFPB's mission is to be a strong advocate for consumers by vigorously enforcing federal consumer finance laws and ensuring access to fair, competitive, and transparent markets. Congress did not intend for the CFPB to be a passive presence in the marketplace that leans on consumer education to do its job. Letting the worst actors and the worst impulses of industry drive the agency's agenda runs directly contrary to that mission.

The particulars:

**Gutting Payday Protections**

Kraninger has proposed to gut a crucial rule that was set to protect consumers from predatory payday and car-title loans by requiring lenders to verify a borrower's ability to repay before extending credit. These loans have interest rates of over 300 percent, and trap borrowers in a cycle of debt, where they owe more and more every month; 8 in 10 payday loans goes to cover another payday loan. The Kraninger proposal came after intense pressure from payday lenders, who have openly admitted they rely on contributions to Trump's campaign to advance their agenda.

**Helping Debt Collectors Abuse and Harass**

Under Kraninger, the CFPB has proposed a debt collection regulation that would make the already serious problems of abuse and harassment by debt collectors even worse. She wants to allow debt collectors to send unlimited emails and text messages, along with up to 7 phone contacts per debt, per week, and she wants to make it easier for them to seek payment of debt that is outside the legal statute of limitations.

**Disappearing Fair Lending Cases**

Since the previous confirmed director departed, CFPB has not referred a single case on fair lending to the Department of Justice, despite ample evidence that lending discrimination remains a problem. Even industry lawyers admit that CFPB supervision of companies under the Equal Credit Opportunity Act has seen a "substantial drop-off" and what little remains reflects actions started long before Kraninger arrived.

**Decline of Enforcement and Restitution**

Public enforcement actions significantly decreased – by 80 percent from 2015 to 2018 – under this CFPB compared to when Richard Cordray led the CFPB. This reality makes it easier for companies to break the law, knowing the likelihood of getting caught and called out has fallen dramatically. The previous CFPB leadership ordered restitution averaging of $94 million per case in cases where consumers fell victim to deceptive practices; in three similar cases this CFPB left out restitution entirely. In at least one case, Kraninger denied restitution recommended by career staff.

**About-Face on CFPB Constitutionality**

The financial services lobby has repeatedly sought to undermine the independence and efficiency of the CFPB, including by seeking legislation to turn it into a commission, or by challenging the constitutionality of its structure in court. In several congressional hearings, Kraninger maintained that it was not her place to comment on the constitutionality of the CFPB. But in September, Kraninger made an about face and said that the CFPB would not defend itself on the question. Now, a case brought by a debt collector challenging the CFPB's authority in an enforcement action is before the Supreme Court, and the Kraninger CFPB is not defending itself.

**Staffing Decisions that Weaken Agency Mission**

Eric Blankenstein, former CFPB official and now counsel at the Department of Housing and Urban Development, was found to have authored several racist blogs but was allowed to keep his job. Paul Watkins, another CFPB official, was previously employed by an organization that advocated against rights for the LGBTQ community. A hiring freeze not driven by budget necessity, contributed to a 15 percent drop in staffing, even as Kraninger used over-taxed employees as an excuse for not advancing consumer protection activities. The hiring freeze has since been partially lifted, but staffing remains down, and some positions have been left unfilled.

**Packing Advisory Bodies with Industry Advocates**

After the dissolution of the Consumer Advisory Board by interim CFPB head Mick Mulvaney, Kraninger waited until September 2019 to reconstitute this body, whose existence is mandated under Dodd-Frank. The board now has far fewer consumer advocates than it used to. At the start of 2020, Kraninger launched a new five-person "taskforce" on federal consumer financial protection law that will be headed by Todd Zywicki, a longtime financial services industry advocate and opponent of CFPB's existence who works for the Mercatus Center, a body partially funded by the billionaire Koch family. Other members of this new body include an attorney for auto dealers and a lawyer who defended payday lenders. No one the CFPB put on the task force has a history of advocating for the public interest, and well-respected academics and experts who do have such a history were rejected.

**Suspending Consumer Protections**

In the name of serving "innovation," a trendy but vague label, the CFPB is offering exemptions from federal law for potentially dangerous products. Kraninger's 'sandbox' and no-action letters policies permit financial technology companies to dodge vital consumer protections that they would otherwise have to follow. And the process will occur in secret, without the public knowing what companies are seeking exceptions to the rules, or for what activities. *Anyone* can apply for these exemptions, even if there is *nothing* particularly innovative about the project or product at all.

**Neglecting Student Loan Borrowers and Ignoring the Student Debt Crisis**

Kraninger has been all but silent on the student debt crisis. The student debt load surpassed $1.6 trillion in 2019, and abuses by private servicers – which the CFPB is charged with regulating – are rampant. But Kraninger's CFPB has completely abandoned oversight of student loan servicers, giving companies free rein to rip off borrowers in a market in which millions of people's economic security is at stake and racial discrimination is a serious risk. She also left the position of Student Loan Ombudsman – tasked with overseeing the student lending market – open for an entire year. When she did appoint someone, it was an industry veteran with a track record of perpetuating abuses.

**Cutting Back on Data to Identify Discrimination**

The Home Mortgage Disclosure Act requires lenders to report mortgage lending data, so that regulators and the public can see who is getting loans, who is not, and at what cost. In response to the abusive lending at the heart of the financial crisis, Congress beefed up what information is required, and the previous CFPB wrote a rule implementing these enhancements. But then Kraninger proposed rollback of reporting requirements, after lenders had implemented the requirements but before the first data had even been made public. Kraninger presented no factual or legal basis as to why this step – which will compromise efforts to identify and respond to abusive lending and to discrimination – was warranted.

**Dismantling Effective Fair Lending Office**

Kraninger followed the lead of Mulvaney in overseeing the dissolution of the Office of Fair Lending and Equal Opportunity, a groundbreaking unit within CFPB that harnessed the different dimensions of the agency's work (research, supervision, public engagement) to fight discrimination in lending. She refused entreaties from senators to reverse this destructive decision, which became final early in her tenure. The resulting turmoil led to staff departures, further weakening efforts to fulfill the anti-discrimination mission Congress gave CFPB.

**Consumer Financial Education Bureau?**

Consumers should have the right information when making financial decisions. But Kraninger's overemphasis on this function ignores the CFPB's role as an enforcer and regulator in favor of handing out pamphlets and warning emails. As one expert put it, Kraninger is expecting consumers to figure out how to purify their own water while dismantling water purification plants. Even as Kraninger promotes consumer education ahead of enforcement and supervision, CFPB has seen no increase in funding for work on consumer understanding of financial products or other major new initiatives in this area.

**Watered Down "Abusive" Standard**

Congress gave the CFPB the power to address actions that are "abusive" to consumers, in addition to those that are unfair or deceptive, which is an important additional tool to help the agency respond effectively to changing industry practices that harm individuals and communities. Despite the CFPB's limited use of this standard, big banks and predatory lenders have complained loudly about this consumer protection enhancement. In January, responding to industry requests, Kraninger announced severe restrictions on the agencies use of this new power, essentially choosing to put away a tool that Congress told them to use to police industry wrongdoing.

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