

[Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—Mulvaney testifies before Senate Banking on CFPB report, \(Apr. 13, 2018\)](#)

Banking and Finance Law Daily Wrap Up

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By [Colleen M. Svelnis, J.D.](#)

Acting Director of the Consumer Financial Protection Bureau Mick Mulvaney appeared before the Senate Banking Committee, testifying about the Bureau's semi-annual report to Congress for the period of April 1 to Sept. 30, 2017. Mulvaney also discussed the activities of the Bureau during his tenure, asserting that the Bureau will continue to execute the law but will no longer go beyond its statutory mandate.

Mulvaney has offered four recommendations for the Bureau in its first [semi-annual report](#) under his tenure. Mulvaney recommended modifying the Dodd-Frank Act by: funding the Bureau through congressional appropriations; requiring legislative approval of major rules; ensuring that the Director answers to the President in the exercise of executive authority; and creating an independent Inspector General for the Bureau.

Committee Chairman Mike Crapo (R-Idaho) [opened](#) the hearing, noting that "Given the changes taking place at the agency, now is an appropriate time to consider the future of the CFPB." Crapo discussed the series of requests for information on various Bureau functions, including its rulemaking, supervision, guidance, and enforcement processes. Crapo called consumer protection "vital for a properly-functioning financial market place," and said he looks forward to hearing about the feedback the CFPB receives with respect to its requests for information, "and how consumers and the marketplace stand to benefit from changes being considered."

Crapo expressed concern about the CFPB's data collection in light of recent high-profile data breaches "and recent news about how outside groups have collected private information from Facebook users." He commended Mulvaney "for treating these concerns seriously by freezing the agency's collection of personal information while the agency reviews ways it can improve its data-security program." Crapo stated that the committee should discuss "how the CFPB's data collection process can be narrowed and enhanced to better protect consumers' personal information."

Ranking Member Sherrod Brown (D-Ohio) also delivered an [opening statement](#), accusing Mulvaney of failing at the mission of the CFPB. According to Brown, before Mulvaney took over, the CFPB "was doing its job, initiating a handful of enforcement actions every month on behalf of the consumers it was created to serve." But Brown stated that the number of enforcement actions since Mulvaney took over has been "Negative four. Not only has the CFPB not initiated a single enforcement action, but it has withdrawn lawsuits against four payday lenders that charge consumers triple digit interest rates."

Mulvaney testimony. Mulvaney [testified](#) that the report includes a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services, highlighting "credit invisibles," consumers who lack a credit record at one of the nationwide credit reporting companies. Mulvaney stated that during the time period at issue, the Bureau handled approximately 317,000 consumer complaints in its central database on complaints. The report also provides an analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau, focused on highlights from the Bureau's fair lending enforcement and rulemaking activities.

The report includes a justification of the Bureau's budget request of the previous year. Mulvaney stated that the report lists the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the CFPB, during the preceding year. Significant final rules issued during the term include the final rule on arbitration agreements (which Mulvaney noted will not go into effect because Congress adopted a joint

resolution of disapproval, which the President signed pursuant to the Congressional Review Act), and the final rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans.

Questions and concerns in Senate. Senator Elizabeth Warren (D-Mass) [stated](#) during the hearing that Mulvaney "tried repeatedly to kill the consumer agency." Warren pointed out that since 2012 the CFPB has:

- recovered \$700 million for credit card customers cheated by Citigroup;
- recovered nearly \$25 million for students scammed by for-profit college chain Bridgepoint;
- shut down Top Notch Funding, a company that was scamming 9/11 first responders out of the taxpayer money they got to treat medical problems they developed after 9/11;
- recovered \$6.5 million for 50,000 active duty military members who were scammed into abusive auto loans from DFS and U.S. Bank; and
- forced the biggest financial institutions to return \$12 billion directly to 29 million consumers.

Banking committee member Sen. Bob Menendez (D-NJ) [criticized](#) Mulvaney, stating that the CFPB has failed to initiate a single enforcement action on behalf of consumers since Mulvaney took over. Menendez told Mulvaney "we're not going to stand by while you thwart the statute and subvert congressional intent, nor will we be silent while you give winks and nods to lenders that they will no longer be subject to vigorous review of their activities under the fair lending laws. And I don't know how you think you can subvert congressional intent, but it's not going to go unchallenged," said Menendez.

Senator David Perdue (R-Georgia) expressed concern about the Bureau's financial data collection and its recent security breaches. Perdue [stated](#) that the CFPB has the right to collect "every credit card transaction, every debit card transaction, every car loan application, and every home loan application package." Mulvaney confirmed in response to the questions that the Bureau has had 240 confirmed and another 800 suspected lapses in data security, which could include individual's Social Security numbers and bank account numbers.

Senator Doug Jones (D-Ala) [asked](#) Mulvaney about his efforts to roll back consumer protections against payday lenders as well as data collection rules.

Senator Catherine Cortez Masto (D-Nev) [questioned](#) Mulvaney during his testimony about plans to cut off public access to the Bureau's Consumer Complaint database, asking if he was using the Request for Information on the usefulness of the database to "hamper the effectiveness of the database or completely remove it from public view?"

Don't abandon duty. In a [letter](#) to the Banking Committee leadership, the National Association of Consumer Advocates (NACA) stated that the Bureau's "recent actions (and inaction) over the last several months indicate a willingness to abandon its duty to protect consumers in the financial marketplace. We urge you to (1) call on the President to name a qualified nominee for CFPB director for formal consideration by the U.S. Senate, (2) support the bureau's payday loan rule and oppose any efforts to weaken or eliminate it, and (3) demand that the bureau's current 'acting' leadership act in good faith to carry out his temporary responsibility to make the financial marketplace fair for consumers."

Companies: National Association of Consumer Advocates

LegislativeActivity: BankingFinance CFPB ConsumerCredit DebtCollection DoddFrankAct EnforcementActions FairCreditReporting FedTracker Loans Mortgages OversightInvestigations