

Top CFPB Officials Describe Recent Changes At The Bureau

Article By:

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On May 7, 2018, at the Practising Law Institute's 23rd Annual Consumer Financial Services Institute in Chicago, panel members Kristen Donoghue, the CFPB's top enforcement official, and Allison Brown, from the Bureau's Office of Supervision Policy, discussed how the Bureau has changed under Acting Director Mulvaney, and how it has not changed. Alan Kaplinsky, who leads Ballard Spahr's Consumer Financial Services Group, moderated the panel, which also included Chris Willis, the leader of the firm's consumer financial services litigation and enforcement practice.

Alan opened the panel discussion by asking the CFPB officials what it is like at the Bureau under Acting Director Mulvaney's leadership. Ms. Donoghue responded by first noting that this is the Bureau's first leadership transition and that much of the chatter-inducing activity is just run-of-the-mill movement that would be associated with a changeover at any other agency. She indicated that the last six months have included a lot of "get-to-know-you" meetings during which career Bureau staff members have been explaining to the Acting Director "why things are the way they are," which she indicated has been a valuable exercise.

Next, Alan asked the Bureau officials to describe how Mr. Mulvaney has been instituting changes at the Bureau. Ms. Brown explained that Mr. Mulvaney has generally managed the Bureau by appointing both a policy director and a career civil servant to lead each division. The policy directors are there to ensure that Mr. Mulvaney's policy objectives are carried out while the career civil servants are there to implement the changes and provide needed context and expertise.

There has also been speculation as to what is happening with the Bureau's [Office of Fair Lending](#), which, is currently being reorganized. Asked by Alan to comment on such changes, Ms. Donoghue indicated that the reorganization is not intended to diminish the Office's work, but to align it with the rest of the Bureau. The Office is being split up so that the enforcement and supervisory aspects of the Bureau's fair lending work will be managed through, respectively, the Office of Enforcement and the Office of Supervision, while the Office of Fair Lending's policy, education, and other functions will be part of the Acting Director's "front office." Ms. Donoghue was quick to point out that these changes have not been implemented yet and that, practically, they will not result in much change for industry participants.

In response to a question from Alan about the apparent slow-down in the Bureau's enforcement work, Ms. Donoghue pointed out that the Bureau is actively litigating 24 cases in federal courts throughout the country, including a recent jury trial against a debt collection law firm. She also, of

course, pointed to the recent record-setting consent order against a major bank. In addition, Ms. Donoghue indicated that the CFPB has issued Civil Investigative Demands recently and that it would be a mistake for industry lawyers to advise their clients that the Bureau is relaxing its enforcement activities. She declined, however, to say what industries or legal issues are being targeted in the new investigations.

Perhaps the most visible change discussed by the panel is the Bureau's decision to use its "given name" as set forth in the Dodd-Frank Act, the Bureau of Consumer Financial Protection. While the reason for this change is anyone's guess, it may be representative of Acting Director Mulvaney's focus on enforcing the law *as written* rather than "pushing the envelope."

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