

Bureau of Consumer Financial Protection Nominee or Smoke Screen?

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The White House nominated Kathleen Kraninger to be the new director of the Bureau of Consumer Financial Protection. Currently the Associate Director for General Government in the Office of Management and Budget (i.e., deputy to OMB and Interim BCFP Director Mick Mulvaney), Kraninger was not among the names rumored to have been on the short list for the job and is a bit of a surprise from a financial policy perspective. In her current position, she oversees the budget development and execution for several executive branch agencies, including Commerce, Treasury, and Housing and Urban Development. She also has worked at the Departments of Homeland Security and Transportation and has held staff positions on Capitol Hill for both Senate and House committees.

Is she the right person for the job, or is she a smoke screen to enable BCFP Acting Director Mulvaney to continue his administration of the Bureau? Mulvaney's appointment under the Vacancies Reform Act was coming to a point where either a candidate needed to be nominated to fill the position or Mulvaney needed to be reappointed to stay on the job. It would make sense to nominate a serious candidate to move things along, but if the White House's true objective is to keep Mulvaney in place for as long as possible, then perhaps nominating someone who is not a slam dunk for confirmation achieves that goal. A VRA appointment lasts a bit more than 200 days unless a nomination has been submitted to the Senate, in which case the appointment is effective until the nominee is confirmed or rejected. And we all know that confirmation hearings can take a very long time.

There are a lot of variables to consider, e.g., whether the VRA appointment expires when a nominee is rejected or when a congressional session closes, the number of times a VRA appointee can be reappointed, etc., but I'm sure the White House has thought through all of those things. That said, what are Kraninger's chances of surviving a confirmation battle?

Acting Director Mulvaney spent several years on the House Financial Services Committee where he was exposed to a variety of policymaking concerns, and it appears that he is presiding over some very competent policy- and decision-making processes at the BCFP. In fact, Mulvaney may have come to the BCFP with more financial services experience from his time in Congress than Richard Cordray had when he was appointed director of the Bureau. That's kind of ironic if you think about it. But it is certain to become a talking point during Kraninger's confirmation hearings to defend attacks by Democrats that she appears to have no financial services experience whatsoever. She certainly appears to have bona fides in budget management and administrative leadership - skills that are handy when running a multimillion-dollar agency - but her financial services policymaking experience seems to be lacking. This is not lost on Sen. Elizabeth Warren (D-MA), who put a hold on her nomination, though her stated reason

for the hold was that she wants more information about any role Kraninger may have had in developing the administration's family-separation immigration policy while she was at Homeland Security. But, that's likely just a tactic to slow things down so Warren & Company can build a case against Kraninger's confirmation. She was a bit of a surprise to everyone, so it's doubtful Democrats have much in the way of opposition research ready to go. Ironically (again), the Warren hold just extends Mulvaney's time in place that much longer.

There is a case to be made that an agency director is primarily a manager and need not have a substantive background in an agency's portfolio. A reasonably intelligent director can get up to speed on policy issues over time with the assistance of the career agency staff. But, in my view, it is always better to have leadership experienced in an agency's subject matter - for agency morale, for making good public policy, for implementing the mission, etc. A leader steeped in agency subject matter will more quickly earn the trust and respect of those s/he leads and be better able to direct the implementation of the administration's goals. But there is also a case to be made for a good manager with an interest in policy and the commitment to becoming a subject-matter expert. Unencumbered by lore and conventional wisdom, this kind of leader can bring innovative ideas to the table without the mental chorus singing, "We don't do things that way."

I have an open mind about the new nominee, and I'd hope our Senate does as well. However, given the quality of the names that were on the short list, I find it disturbing that the White House chose to go in this direction, when those on the short list had so many qualifications for the role. But then, the White House may not have wanted to fill the role right now. So, I leave you with one last (admittedly cynical) thought: The BCFP director is appointed for five years. The longer the confirmation process can be stretched into 2019, the more likely it is that a Democratic president elected in 2020 would see the BCFP run by a Republican-appointed director for the entirety of his/her term. If you want to erase the Cordray imprint on the agency, that's certainly one way to do it.

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