



# *FedFin Client Report*

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Thursday, July 30, 2020

## **Kraninger: Consumer Data-Rights ANPR Will Address Who Owns Product-Pricing Data, More Work Possible to Increase Alternative-Data Reliance**

Client Report: **CONSUMER34**

### **Executive Summary**

As in yesterday's Senate Banking hearing ([see Client Report CONSUMER34](#)), today's marathon HFSC session with CFPB Director Kraninger was highly contentious. Chairwoman Waters (D-CA) accused the director of "sabotaging" the Bureau, leading Democrats blasting the CFPB's pandemic response and payday, QM and HMDA rulemakings. As expected, Ranking Member McHenry (R-NC) and other GOP Members came to Ms. Kraninger's defense, although Reps. Hill (R-AR) and Emmer (R-MN) worried that the QM overhaul may weaken underwriting standards and shift lending to FHA. There was bipartisan interest in the Bureau's forthcoming ANPR on consumer-data rights, with Director Kraninger saying that it will clarify whether financial-product pricing data are proprietary or belong to the consumer and can thus be shared with aggregators and fintech firms. When asked about broader privacy legislation, Ms. Kraninger indicated that the CFPB may request additional powers over credit reporting but did not describe what these could entail.

### **Analysis**

#### ***Opening Statements***

Chairwoman Waters argued that Director Kraninger has done "next to nothing" for consumers during the pandemic, saying that she hopes the director never appears before HFSC again. Ranking Member McHenry applauded the CFPB's pandemic actions and repeal of the payday rule's ATR provisions. He also supports the Supreme Court's determination that the Director is dismissible at-will ([see Client Report STRUCTURE14](#)), saying that further structural reform is also needed. Rep. Luetkemeyer (R-MO) pushed his legislation to turn the CFPB into a commission and subject it to the appropriations process.

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## Testimony

Director Kraninger's testimony was substantively identical to her testimony yesterday.

## Q&A

- **Data Privacy:** Reps. McHenry, Wagner (R-MO), and Luetkemeyer (R-MO) asked how the ANPR would foster innovation and improve security; Director Kraninger said that it will promote innovative alternatives to screen-scraping. Rep. Lynch (D-MA) worried that aggregators could use consumer financial data to discriminate and asked if the Bureau will discourage complex disclosures. Ms. Kraninger is prioritizing clear disclosures. Rep. Sherman (D-CA) accused fintechs of selling consumer's bank data. Rep. Davidson (R-OH) asked whether the CFPB needs additional privacy authority; Ms. Kraninger said that it may request additional authority over credit reporting.
- **Qualified Mortgage:** Reps. Clay (D-MO) and Foster (D-IL) argued that the QM proposal ([see FSM Report MORTGAGE116](#)) could weaken consumer protection, with Rep. Foster saying that the NPR has too much confidence in pricing accurately reflecting risk. Ms. Kraninger said that the proposal still requires lenders to consider and verify debt and income; Rep. Foster pressed the Bureau to better define "consideration" requirements. As noted, Reps. Hill and Emmer worried that the proposed QM overhaul would weaken underwriting standards and shift lending to FHA. Rep. Barr (R-KY) suggested the rulemaking will benefit portfolio lenders. Rep. Stivers (R-OH) urged the CFPB to extend the GSE patch for 12 to 18 months after the QM rule is finalized; Ms. Kraninger urged comment.
- **Alternative Data:** Rep Gonzalez (R-OH) asked how the Bureau could go beyond interagency guidance ([see FSM Report FCRA29](#)) to promote alternative data underwriting by addressing lender concerns about disparate impact. Ms. Kraninger said that the Bureau's innovation policies ([see FSM Report FINTECH27](#)) and recent RFI on combating discrimination promote alternative data underwriting, but said that the Bureau will issue more guidance if needed. She is not seeking legislation.
- **HMDA:** Rep. Gonzalez (D-TX) asked whether HMDA data can be improved; Ms. Kraninger said that the Bureau plans to disclose how it analyzes HMDA data for fair-lending enforcement to improve compliance.

- **Small Business Data Collection:** Rep. Williams (R-TX) asked how the CFPB will implement a Dodd-Frank mandated rulemaking requiring reporting on credit applications by women- and minority-owned small businesses ([see FSM Report CONSUMER14](#)) without hindering credit access; Ms. Kraninger shares his concern. She also said that the Bureau will release an outline of the rule addressing Small Business Regulatory Enforcement Fairness Act issues on September 15. Rep. Wexton (D-VA) accused the director of “slow-walking” the rulemaking.
- **Credit Reporting:** Reps. Waters and Casten (D-IL) criticized CFPB pandemic credit reporting guidance; Ms. Kraninger defended it. Reps. Sherman and Vargas (D-CA) said that the CFPB must ensure that CARES Act forbearance is not in credit reports, saying that FHFA is charging higher premiums to borrowers with forbearance; Ms. Kraninger promised to review this. Reps. Huizenga (R-MI) and Tipton (R-CO) oppose banning all negative credit reporting during the pandemic; Ms. Kraninger agreed that credit reports must be accurate.
- **Structure:** Reps. Wagner, Luetkemeyer, Emmer, and Huizenga pushed legislation to turn the CFPB into a commission and subject it to the appropriations process. Ms. Kraninger said that she would welcome action that lowers the political “temperature” surrounding the Bureau, but stressed that any action is up to Congress.
- **Small Dollar Lending:** Reps. Velázquez (D-NY), Himes (D-CT), and McAdams (D-UT) criticized the repeal of the payday rule’s underwriting provisions; Director Kraninger and Rep. McHenry defended it. Reps. Budd (R-NC) and Kustoff (R-TN) said that the Bureau should also reconsider the rule’s payment provisions; Ms. Kraninger said that these would be reviewed in five years unless it is clear that their implementation is raising concerns.
- **Complaints:** Rep. Velázquez pushed the CFPB to reduce the sixty-day period financial institutions have to respond to consumer complaints; Mr. Kraninger defended the current requirement by pointing to complex complaints.
- **Enforcement:** Reps. Waters, Porter (D-CA), and Casten pressed the CFPB to increase its enforcement activity; Ms. Kraninger said enforcement activity is ongoing. Rep. Waters said that HFSC will review CFPB enforcement actions.
- **Systemic Racism:** Rep. Cleaver (D-MO) asked whether systemic racism exists; Ms. Kraninger said that it does, saying that she must strive to remove it from the financial system.