

May 28, 2020

Submitted to eRulemaking Portal

Director Kathleen L. Kraninger
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Request for Information from Taskforce on Federal Consumer Financial Law, Docket No.
CFPB-2020-0013

Dear Director Kraninger,

I am submitting this response to the request for information regarding the Taskforce on Federal Consumer Financial Law.¹

The RFI issued by the CFPB on April 1, 2020 is ridiculously timed, leaves the decisions about recommendations to be made to Congress in the hands of only 5 individuals, none of whom have ever represented the interests of consumers,² and gives the task force too little time to fully, thoughtfully, and fairly consider the vast amounts of research that has already been done regarding the questions posed. Most importantly, any recommendations by this taskforce, given its composition and deadlines, and the timing of the request, could not possibly take into consideration the opinions and views of the thousands of attorneys and advocates, like me, who have spent their careers on the frontline helping consumers who have been taken advantage of by consumer markets and actors at devastating personal cost to them.

Frankly, it is clear that this RFI takes shameless advantage of the Coronavirus pandemic in order to hurriedly suggest changes gutting consumer protections while the country's attention is fully focused on getting through the pandemic day to day. It also takes shameless advantage of the fact that those of us trying to help consumers deal with the immediate consequences of the worst financial crisis since the Great Depression would not have time to participate fully even if given the chance (which this RFI does not), thereby giving the Bureau political cover to act as if there was some sort of consensus. As a former employee of the CFPB I am ashamed by such a blatantly underhanded move.

If the CFPB truly wanted the input of the many parties concerned with the welfare of consumers, and not just those who favor de-regulation, and regulation by disclosure rather than policing dangerous and abusive conduct, it would have issued an RFI AFTER the pandemic was under control, and after a significant amount of outreach for diverse opinions through various means, and the task would be left to a much larger and more diverse group.

¹ CFPB, Request for Information: Assist the Taskforce on Federal Consumer Financial Law, 85 Fed.Reg.18214 (Apr. 1, 2014), <https://www.regulations.gov/document?D=CFPB-2020-0013-0001>.

² Evan Weinberger, Bloomberg Law, Financial Watchdog's Conflicted Task Force Earning Top Dollar (May 11, 2020) ("E. Weinberger, Conflicted Task Force"), <https://news.bloomberglaw.com/banking-law/financial-watchdogs-conflicted-task-force-earning-top-dollar> (noting that the Taskforce has no consumer representation and "consists of five outside conservative academics and industry lawyers who have represented payday lenders in CFPB enforcement actions and consumer litigation, as well as banks and other companies in regulatory matters.").

The National Commission on Consumer Finance, to which the CFPB refers as an “inspiration” for the RFI, was a robust process that lasted several years.³ The Commission was bi-partisan, and had a large staff of approximately 35 individuals and a bevy of student assistants.⁴ The Commission’s work included public hearings, numerous meetings at which diverse opinions and views were shared by consumer organizations, individuals, and businesses alike, and thousands of questionnaires.⁵

The questions posed in the RFI are vast and fundamental, and implicate consumer protection theory and practice, and the entire history of consumer market regulation since at least the late 1960s. The questions posed by the RFI have been addressed in numerous studies and academic articles spanning several decades that could not be ignored in any legitimate process. (A quick Westlaw search reveals 93 law review articles with the words “consumer choice” in the title; 318 with the words “debt collection” in the title; 115 with the words “consumer fraud” in the title; and 29 with the words “mortgage servicing” in the title – just to name a few.) Not a single one of these studies, let alone all of them, could have been completed in the 60-day window given for response to the RFI, and no doubt many of them shed light on the questions posed by the RFI.

Finally, the RFI makes me wonder if anyone at the CFPB has bothered to look at the responses submitted to the CFPB in 2018 in response to the 12 RFIs issued under Acting Director Mick Mulvaney, many of which deal significantly with the questions posed in the current RFI.⁶ Many consumer advocates, including myself, spent long hours preparing detailed and lengthy responses to those RFI’s: responses that were prepared at a time when our attention was not diverted to helping ourselves, our families, our employers, our students, our clients, and the nation’s consumers survive the first global pandemic in 100 years.

The CFPB should be focusing its efforts now on protecting consumers from the many harms that lurk during the pandemic, not on trying to “sneak one by” with a short-window RFI issued during a pandemic that seeks to reconsider and undermine 5 decades of progress in protecting consumers. Finally, I want to make clear that by responding to the RFI I am in no way endorsing its legitimacy.

Sincerely,

Cathy Lesser Mansfield
Senior Instructor in Law
Case Western Reserve University School of Law

³ The commission was fully appointed by November 7, 1969 and submitted its final report on December 31, 1972. *Consumer Credit in the United States: Report of the National Commission on Consumer Finance* (1972) pp. iii; vii.

⁴ *Consumer Credit in the United States: Report of the National Commission on Consumer Finance* (1972) p. vi.

⁵ *Consumer Credit in the United States: Report of the National Commission on Consumer Finance* (1972) pp. vii; vii.

⁶ <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/call-for-evidence/>