

# One Minute Memo®



## Under New Leadership, CFPB No Longer Interested in Pushing the Envelope on Consumer Protection Laws

*By Tonya Esposito, Esther Slater McDonald, and Dallin Wilson*

On January 23, 2018, the Consumer Financial Protection Bureau's ("CFPB") Acting Director, Mick Mulvaney, issued a [mission statement](#) to the CFPB redirecting the agency's mission and focus. Mulvaney emphasized that the law mandates the enforcement of consumer protection laws and that, although things would be different under new leadership, the CFPB will continue to fulfill its mandate.

Mulvaney made clear that he did not see the CFPB as the "good guys" out to fight the "bad guys," but instead he noted that the agency would treat both consumers and financial services companies fairly and equally. To that end, the CFPB will focus its enforcement efforts on quantifiable and unavoidable harm to the consumer. Where no such harm exists, the agency will not go looking for excuses to bring lawsuits.

With regards to regulation, Mulvaney promised formal rulemaking on which financial institutions and other regulated businesses can rely and less regulation by enforcement. The CFPB will prioritize its efforts on debt collection because of the high number of consumer complaints on that issue. In contrast, Mulvaney noted that only 0.9% of complaints received by the CFPB related to prepaid credit cards and only 2% to payday lending. As such, less focus will be given to those areas.

Mulvaney also promised "a lot more math in our future," a reference to the Dodd Frank Act's requirement to consider the potential costs and benefits to consumers and covered persons. Mulvaney indicated that a true consideration of costs and benefits likely requires more quantitative analyses into the impact the agency's actions have on the public.

Mulvaney's mission statement suggests that unlike under his predecessor, the CFPB will no longer "push the envelope." Instead, the CFPB will enforce the law in furtherance of its congressional mandate by regulating more through rulemaking and less through ad hoc enforcement actions. Enforcement through rulemaking should result in a more balanced and fair approach that considers the interests of consumers and businesses alike, while providing certainty and stability with regards to the country's consumer protection laws. Moreover, focusing enforcement on quantifiable harm to consumers is good for

business because businesses can focus more on providing services that comply with existing law without concern for what might be coming down the pike from the agency. Time will tell what impact Mulvaney's leadership will have on the future of the CFPB, consumers, and financial services providers.

[Tonya Esposito](#) is a partner in Seyfarth Shaw's Washington, D.C. office, [Esther Slater McDonald](#) is senior counsel in Seyfarth Shaw's Atlanta office, and [Dallin Wilson](#) is an associate in Seyfarth Shaw's Boston office. If you have questions, contact Tonya Esposito at [tesposito@seyfarth.com](mailto:tesposito@seyfarth.com), Esther Slater McDonald at [emcdonald@seyfarth.com](mailto:emcdonald@seyfarth.com), or Dallin Wilson at [dwilson@seyfarth.com](mailto:dwilson@seyfarth.com).

[www.seyfarth.com](http://www.seyfarth.com)



Attorney Advertising. This One Minute Memo is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

---

**Seyfarth Shaw LLP One Minute Memo® | January 29, 2018**

©2018 Seyfarth Shaw LLP. All rights reserved. "Seyfarth Shaw" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). Prior results do not guarantee a similar outcome.