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Consumer Bureau Already Overreaching, Critics Say

By Catherine Hollander

Even in its infancy, the Consumer Financial Protection Bureau is facing scrutiny for every move it makes.

The response on Thursday to a proposed rule first mentioned several months ago revealed just how deep concerns over the agency and its intentions will go.

The rule would place large debt collectors and consumer-reporting agencies under CFPB supervision. Under the 2010 Dodd-Frank financial-reform law, which created the agency, the CFPB can supervise nonbank entities in certain markets as well as those it defines as "larger participants" in nonbank markets for consumer financial products or services. Thursday's rule is its first attempt to define those.

But the proposal was a long time coming. In June, the bureau put out an advance notice detailing possible nonbank entities it could scrutinize. Debt collectors and consumer-reporting agencies topped the list.

"The debt-collection industry and the credit-reporting industry are two of the largest industries that impact consumers outside of the banking industry," said Lauren Saunders, managing attorney at the National Consumer Law Center. "So it's no surprise that they would be the first places that the CFPB would start in terms of defining the nonbanks that are not already clearly covered."

It wasn't a surprise either that the agency exempted debt collectors with less than $10 million in annual receipts and reporting agencies with less than $7 million. The bureau's first director, Richard Cordray, took the reins last month, allowing the CFPB to assume its full authorities for the first time. And Cordray has said publicly that "small businesses" won't be subject to CFPB supervision.

But concerns over the proposed rule were far-ranging.

Mark Calabria, director of financial-regulation studies at the **Cato Institute,** worries that CFPB involvement in consumer-reporting agencies could politicize consumers' credit scores. He also expressed concerns that the CFPB may expect too much of the nonbank entities it supervises. Banks have had years of experience in being audited and documenting every single thing they do, said Calabria. Debt collectors and consumer-reporting agencies have not.

What the move did signal with certainty was a CFPB determined to be forceful right off the batand a taste of the pushback.

The bureau, which has never been popular among GOP lawmakers, has only faced sharper scrutiny in the wake of Cordray's appointment. Some charged that his recess appointment was unconstitutional. And others have raised questions about just what, exactly, the new bureau plans to bring under its authority, which was left ambiguous in the legislation that created it.

"That's the difficulty in the entire new regulatory regime. Uncertainty breeds a lot of what-ifs, and the clear mandate of the agency is to look at certain areas," said Edward Mills, an analyst at FBR Capital Markets. "But that does not prevent people from being kind of concerned and lobbying aggressively to ensure that there is a finite answer that they are excluded from either supervision or from certain requirements as this process plays out."

Cordray said on Thursday that the proposed rule was the first of many related to nonbank supervision of "larger participants." The CFPB may also seek to place prepaid cards, money-service businesses, and other kinds of consumer lending under its supervision. It has until July 21, the two-year anniversary of Dodd-Frank, to propose rules defining which of these areas qualify.