

December 18, 2017

Leandra English  
Acting Director  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

The Honorable Mick Mulvaney  
Director  
Office of Management and Budget  
725 17<sup>th</sup> Street, NW  
Washington, DC 20503

Dear Acting Director English and OMB Director Mulvaney,

I am writing to seek information about the review of enforcement actions initiated by Mr. Mulvaney at the Consumer Financial Protection Bureau (CFPB). Mr. Mulvaney has not answered my earlier letter inquiring into whether he – or the staff he has brought over from OMB – have complied with CFPB's ethics rules and resolved any potential conflicts of interest. It would be very troubling if Mr. Mulvaney and his political staff were issuing orders affecting ongoing litigation decisions made by career staff. But it would be even more troubling if they were doing so while leaving Congress and the American people in the dark about whether they maintain a financial interest in any of the companies involved in the cases they are reviewing.

According to public reports, Mr. Mulvaney is reviewing 28 enforcement matters currently in litigation, 14 matters in which the CFPB has completed its investigation and is in negotiations with a regulated entity, and 90 ongoing investigations.<sup>1</sup> The results of this review so far appear to have resulted in letting companies off the hook even if they have defrauded consumers. In one case where a judge has already ordered Nationwide Biweekly Administration and Loan Payment Administration and its owner to pay \$7.9 million in penalties for deceptive mortgage practices, the CFPB reversed an earlier decision and allowed Nationwide Biweekly to postpone paying their penalty without posting a bond.<sup>2</sup>

<sup>1</sup> <https://www.washingtontimes.com/news/2017/nov/30/mick-mulvaney-seeks-more-trump-appointees-help-him/>

<sup>2</sup> <https://www.bna.com/mulvaney-puts-early-n73014472800/>

At Mr. Mulvaney's behest, the CFPB has also suspended pursuit of a Civil Investigative Demand it issued to Nexus, a company that may have engaged in unfair or deceptive practices in obtaining bonds for immigrants so that they can be released from immigration custody.<sup>3</sup>

Even Wells Fargo is reportedly catching a break from the CFPB – despite admitting to opening 3.5 million fake accounts, charging nearly 200,000 customers unnecessary fees,<sup>4</sup> and charging 570,000 customers for car insurance they didn't need.<sup>5</sup> In early November, under former Director Richard Cordray, the CFPB reportedly approved the terms of a settlement with Wells Fargo in a separate case related to fees the bank unlawfully charged more than 100,000 borrowers in order to secure mortgage rates.<sup>6</sup> But, according to reports, the settlement is now "on ice" as Director Mulvaney "review[s] whether Wells Fargo should pay" the proposed fine.<sup>7</sup>

Congress and the American people have no idea who is conducting the reviews of these enforcement actions, or their rationale for making decisions about them. We have no way of knowing whether Mr. Mulvaney or any of the political staff that he has brought with him have conflicts of interest. Without information about who is conducting these reviews or how they are doing so, there is no way of ensuring that CFPB is acting lawfully or that this sensitive information is being appropriately protected. Given these concerns, I ask that Mr. Mulvaney answer to following questions no later than December 29, 2017.

1. What is the objective of your review of enforcement matters?
  - a. Which cases among the 28 currently in litigation have you or your staff reviewed?
  - b. Who is conducting these reviews? Please provide their name, title, and job description.
  - c. What is the rationale for choosing which cases to review?
  - d. What actions are you considering during your review, and what criteria are you using to determine how to proceed with these actions?
  - e. Have you rescinded the settle-or-sue authority given by Director Cordray with respect to any case?
  - f. Have you instructed the Division of Supervision, Enforcement and Fair Lending to drop any investigations that were ongoing as a result of this review?
2. What additional information is under review by you or your staff?
  - a. Are you or your staff reviewing any CFPB bank examination information? If so, what is the objective of your review of examination reports?
  - b. Which examination reports have been reviewed?
  - c. Who has been involved in this review? Please provide their job descriptions.

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<sup>3</sup> <https://www.bna.com/mulvaney-puts-early-n73014472800/>

<sup>4</sup> <http://money.cnn.com/2017/08/31/investing/wells-fargo-fake-accounts/index.html>

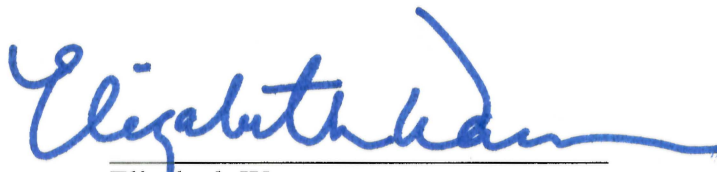
<sup>5</sup> <http://money.cnn.com/2017/11/14/investing/wells-fargo-repossess-cars-military/index.html>

<sup>6</sup> <https://www.reuters.com/article/us-usa-trump-wells-fargo-exclusive/exclusive-wells-fargo-sanctions-are-on-ice-under-trump-official-sources-idUSKBN1E12Y5>

<sup>7</sup> Id.

- d. Have the regulated entities been made aware of this review?
  - e. Has anybody taking part in the review made edits to any examination report?
3. For all personnel involved in your reviews who were not employed by the CFPB prior to November 24, please indicate whether they are a full-time CFPB employee, whether they concurrently hold any other jobs, and under what authority they were appointed.
- a. For all involved personnel please indicate whether and when they became fully compliant with the Supplemental Standards of Ethical Conduct for Employees of the Bureau of Consumer Financial Protection.<sup>8</sup>
  - b. For all involved personnel, please provide a list of entities they are disqualified from working on pursuant to 5 C.F.R. § 9401.111.

Sincerely,



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Elizabeth Warren  
United States Senator

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<sup>8</sup> 5 CFR 9401.