

United States Senate

WASHINGTON, DC 20510

July 12, 2018

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

Dear Director Mulvaney:

We are extremely alarmed that the Consumer Financial Protection Bureau (CFPB) disbanded the statutorily required Consumer Advisory Board (CAB) on June 6, 2018.¹ We urge you to immediately reassemble the current CAB and provide us with a plan detailing how the CFPB will meet with the advisory board and fulfill its statutory obligations.

The financial crisis was caused, in part, by the fact that there was no single regulator responsible for enforcing consumer protection laws, and the regulators who shared the responsibility failed to do so. In response, Congress created the CFPB to be an independent agency focused exclusively on protecting consumers – like military families, students, and older Americans – from abusive financial practices. The CAB is an integral part of the CFPB’s ability to successfully fulfill its mandate to protect consumers.

As you know, the CAB advises and consults with the CFPB on how the agency can best implement consumer protection laws. The CAB members include representatives from industry, academia, and consumer advocacy organizations; by statute, one of their responsibilities is to inform the CFPB of potential emerging threats to consumers. The advisory board was assembled to provide a balanced perspective, ensuring that neither industry nor consumer advocates dominate.² For example, current membership is comprised of eleven consumer advocates, eleven industry representatives, and three academics.³

As further evidence of the unbiased nature of the CAB, consumer advocates and academics are not alone in expressing their concerns with CFPB’s latest actions. Industry members have also criticized the agency’s decision to ignore experts’ input. In response to your targeting the advisory board, Arjan Schütte, a CAB Member and Managing Partner of Core Innovation Capital, said, “It was a genuine honor to serve on the Consumer Advisory Board for more than a year. But that’s completely immaterial to the systemic irresponsibility I believe Mr. Mulvaney is

¹ 12 U.S.C. § 5494.

² *Id.*

³ Consumer Financial Protection Bureau, Consumer Advisory Board Member Biographies, 2017, https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_CAB-Biographies_2017-2018.pdf.

exhibiting to his duty to protect everyday Americans from harm.”⁴ By dismissing the CAB, the CFPB is deliberately rejecting statutorily required advice from qualified professionals who are volunteering their services to the American public, with no credible explanation as to why the present CAB members are not capable of fulfilling their responsibilities.

Additionally, with no justification, you barred any current CAB members from reapplying, raising concerns that his actions are not motivated by a desire to streamline processes but by animus towards the current board members.

Importantly, you took these actions without ever meeting with the advisory board. Since assuming the mantle at the CFPB, you have failed to convene the CAB once.⁵ In 2018, you canceled two scheduled meetings with the CAB, in spite of the statutory requirement that the advisory board meet twice a year.⁶ You have limited your interactions with the CAB to one twenty-minute phone call, originally scheduled for one hour, on March 6, 2018.⁷

Former CFPB Director Richard Cordray, and many senior staff members, met with the CAB three times a year for two days of meetings. During these meetings, CAB members advised the CFPB on how to best develop regulations over the debt collection industry, highlighted the lack of affordable credit available to minority-owned small businesses, and offered feedback on the agency’s mortgage lending education materials, among other issues.⁸ For almost a year, the CFPB has effectively prevented the CAB from offering the agency their insights as consumer advocates, industry leaders, and academics. Consequently, the Bureau has not fulfilled its obligations under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).

To ensure the CFPB meets its statutory requirements pertaining to the CAB, we urge you to:

- (1) Reassemble the CAB and allow members to finish their terms;
- (2) Provide a detailed plan on how and when the CFPB will meet with the CAB and facilitate communications between the CAB and yourself, as well as with future directors, allowing the board to advise and consult with CFPB as required by Dodd-Frank;
- (3) Provide details of the material covered in the twenty minute call with the CAB on March 6, 2018, and what, if anything, the CFPB learned from the call;
- (4) Provide the comments to the Requests for Information (RFI) on External Engagements that were used to justify disbanding the CAB;⁹
- (5) Provide the names of all individuals and organizations that gave feedback about the composition of the CAB (within and external to the CFPB, including meetings and

⁴ Arjan Schütte, *I was on the CFPB's Consumer Advisory Board. Until Mulvaney fired me*, AMERICAN BANKER, June 12, 2018, <https://www.americanbanker.com/opinion/i-was-on-the-cfpbs-consumer-advisory-board-until-mulvaney-fired-me>.

⁵ Letter from 15 CAB members to CFPB Acting Director Mulvaney, May 25, 2018, available at <http://www.nclc.org/images/pdf/cons-protection/letter-15-cab-re-meeting-cancellation.pdf>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Consumer Financial Protection Bureau, “Transforming the way we engage.” June 6, 2018, <https://www.consumerfinance.gov/about-us/blog/transforming-way-we-engage/>.

exchanges not included in the RFI record that CFPB staff referenced in the June 6th call as contributing to the decision to disband the CAB), the specific feedback offered by each individual and organization, the names of all CFPB staff who participated in the meetings and exchanges, the dates of all the meetings and exchanges, an indication whether they took place electronically, by phone or in person, and, if in person, the location;¹⁰

- (6) Provide a full accounting of your schedule for the following dates: February 28, 2018, March 1, 2018, March 6, 2018, June 6, 2018, and June 7, 2018;
- (7) Clarify, through agency policy or through CAB's charter, that CAB members shall be allowed to serve their full terms unless removed for inefficiency, neglect of duty, or malfeasance; and
- (8) Provide a summary of the composition of the six member CAB outlined in the new advisory board Charter, dated June 2018.¹¹

We look forward to your response by July 26, 2018.

Sincerely,



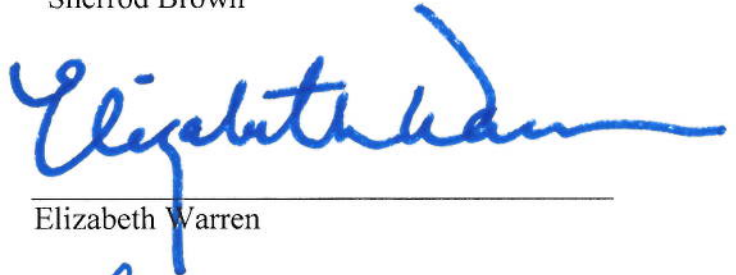
Robert Menendez



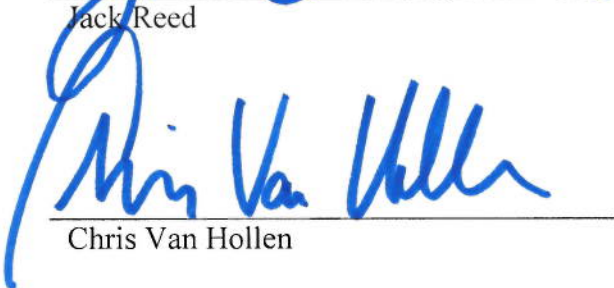
Sherrod Brown



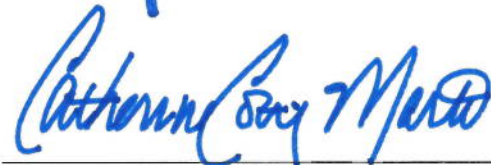
Jack Reed



Elizabeth Warren



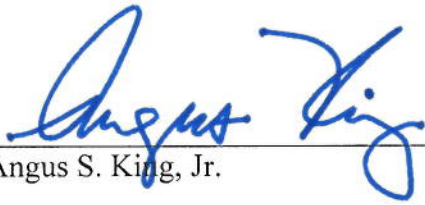
Chris Van Hollen



Catherine Cortez Masto

¹⁰ Anthony Welcher, *06.06.18 11am Advisory Boards and Councils Recorded Call*. In addressing the rationale for dismissing the current advisory boards and councils, Anthony Welcher, Bureau Policy Associate Director for External Affairs, noted, "Process has certainly been in discussion. There have been conversations along the way with different organizations, getting feedback." (Recorded Call at 11am).

¹¹ Consumer Financial Protection Bureau, Charter for Consumer Advisory Board, June 2018.



Angus S. King, Jr.



Dianne Feinstein



Ron Wyden



Kirsten Gillibrand



Mazie Hirono



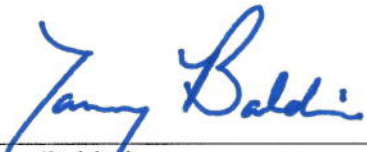
Amy Klobuchar




Richard Blumenthal



Cory A. Booker



Tammy Baldwin



Edward J. Markey



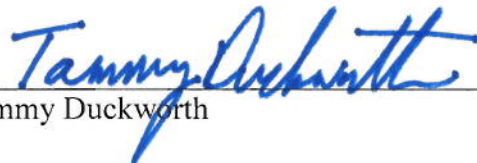
Jeffrey A. Merkley



Tina Smith



Sheldon Whitehouse



Tammy Duckworth



Thomas R. Carper



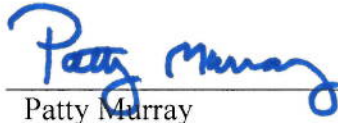
Bernard Sanders



Maria Cantwell



Kamala D. Harris



Patty Murray