



For Immediate Release, Friday February 1, 2013

Contacts: Don Stewart, Michael Brumas 202-224-2979; Robert Steurer, Pam Nichols 202-224-8288

## **McConnell, 42 Senators Demand Accountability and Transparency at the Consumer Financial Protection Bureau**

*In letter, Senators say they will oppose any CFPB nominee of any party until accountability is improved*

**WASHINGTON, DC** – In a letter to President Obama, 43 Republican U.S. Senators today said they will continue to oppose the confirmation of any nominee, regardless of party affiliation, to be the director of the Consumer Financial Protection Bureau until key changes are made to ensure accountability and transparency at the bureau.

“As supporters of strong and effective consumer protections, we write to you to reaffirm our concerns over the transparency and accountability of the Consumer Financial Protection Bureau (CFPB). As outlined in our letter of May 2, 2011, we have serious concerns about the lack of congressional oversight of the agency and the lack of normal, democratic checks on its sole director,” according to the letter, which was authored by Senate Republican Leader Mitch McConnell (R-KY) and Sen. Mike Crapo (R-ID), ranking Republican of the Senate Banking, Housing, and Urban Affairs Committee.

The President has renominated Richard Cordray as CFPB director. But last week the U.S. Circuit Court of Appeals for the D.C. Circuit ruled that Obama’s so-called “recess” appointments to the National Labor Relations Board (NLRB) last year are unconstitutional. Although the specific facts of that case involved only the NLRB, Cordray was “recess” appointed at the same time and in the same manner as the alleged NLRB “appointees.” The Circuit Court’s decision, said McConnell, thus applies with equal force to Cordray’s alleged appointment to the CFPB.

As currently organized, the CFPB is insulated from congressional oversight of its actions and its budget, the senators wrote. “Far too much power is vested in the sole CFPB director without any meaningful checks and balances,” according to the letter. The lawmakers again urged the adoption of three reforms:

- Replace the single Director with a board to oversee the Bureau. This would provide the same checks on the ability for a single person to dominate the Bureau that exist at other independent federal agencies.
- Subject the Bureau to the Congressional appropriations process. This would provide oversight and accountability to the American people on how public money is spent.
- Establish a safety-and-soundness check for the prudential financial regulators who oversee the safety and soundness of financial institutions. This would help ensure that excessive regulations do not needlessly cause bank failures.

“We believe these are commonsense reforms that Congress can promptly adopt on a bipartisan basis,” the senators wrote. “It is essential that we address these reforms prior to confirming any nominee to be the Director of the Consumer Financial Protection Bureau.”

Leader McConnell said: “The CFPB as created by the deeply flawed Dodd-Frank Act is one of the least accountable in Washington. Today’s letter reaffirms a commitment by 43 Senators to fix the poorly

thought structure of this agency that has unprecedented reach and control over individual consumer decisions—but an unprecedented lack of oversight and accountability.”

Senator Crapo said: “Until key structural changes are made to the Bureau to ensure accountability and transparency, I will continue my opposition to any nominee for director. The administration should use this as an opportunity to work with us on the critical, commonsense reforms we have identified to them.”

Senator Jerry Moran (R-KS), who today filed legislation (S. 205) that would enact reforms contained in the letter, said: “Allowing a single unelected official to define their own jurisdiction and regulate vast segments of our economy without accountability or restraint is irresponsible regardless of political party. Our commonsense legislation brings a variety of perspectives to the Bureau and gives Congress the oversight authority required for such a powerful agency. We stand ready to work with the president to make certain the CFPB’s mission of consumer protection is both effective and accountable.”

The full text of the letter is provided below. A scanned copy is attached along with the original letter from May 2011.

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February 1, 2013

The Honorable Barack Obama  
The President  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500-0005

Dear Mr. President:

As supporters of strong and effective consumer protections, we write to you to reaffirm our concerns over the transparency and accountability of the Consumer Financial Protection Bureau (CFPB). As outlined in our letter of May 2, 2011, we have serious concerns about the lack of congressional oversight of the agency and the lack of normal, democratic checks on its sole director, who would wield nearly unprecedented powers. Accordingly, we will continue to oppose the consideration of any nominee, regardless of party affiliation, to be the CFPB director until key structural changes are made to ensure accountability and transparency at the Consumer Financial Protection Bureau.

As presently organized, the CFPB is insulated from congressional oversight of its actions and its budget. Far too much power is vested in the sole CFPB director without any meaningful checks and balances. We again urge the adoptions of the following reforms:

1. Establish a bipartisan board of directors to oversee the Consumer Financial Protection Bureau.
2. Subject the Bureau to the annual appropriation process, similar to other federal regulators.
3. Establish a safety-and-soundness check for the prudential regulators.

We believe these are commonsense reforms that Congress can promptly adopt on a bipartisan basis. It is essential that we address these reforms prior to confirming any nominee to be the Director of the Consumer Financial Protection Bureau. We look forward to working with you to address these necessary reforms.

United States Senate  
OFFICE OF THE REPUBLICAN LEADER

February 1, 2013

The Honorable Barack Obama  
The President  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500-0005

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Sincerely,

  
MITCH McCONNELL  
REPUBLICAN LEADER

  
MIKE CRAPO  
UNITED STATES SENATOR

Attachments: Letter of May 2, 2011  
MM/rf



Paul Hitter

Tom Heller

Pat Dooney

Clara Kim

Jack

Dr. Coyle

Will Owen

Raj Johnson

Roy Burt

Jim Flah

Sally Chaulk

John Long

John Long

M. H. (FL)

Kelly Lyette

Richard Shelby

Mike Johnson

Tommy

Randy Paul

John Mc

John Mc

Jerry Moran

Ray Wicker

Pat Rhee

Tom

Orin Hatch

Tommy

John Lauss

Tommy

Michael B. King



Susan Collins

Deb Fischer

Phad Cochran

John Thune

John Brown

Chuck Grassley

Mike Lee

Jeff Sessions

Pat Roberts

Tommy Thompson

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United States Senate  
OFFICE OF THE REPUBLICAN LEADER

May 2, 2011

The Honorable Barack Obama  
The President  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500-0005

Dear Mr. President:

We write to express our concerns about the lack of accountability in the structure of the Consumer Financial Protection Bureau (CFPB). As presently organized, far too much power will be vested in the CFPB director without any effective checks and balances. Accordingly, we will not support the consideration of any nominee, regardless of party affiliation, to be the CFPB director until the structure of the Consumer Financial Protection Bureau is reformed.

The Dodd-Frank Act grants the CFPB director unprecedented authority over financial institutions and main street businesses. The CFPB director will have vast rulemaking, supervisory, investigative and enforcement powers and the authority to regulate any person or business that offers or sells a "financial product or service." This authority will extend to not just traditional financial institutions, but also potentially thousands of entrepreneurs and small businesses.

This authority will directly affect every American household by limiting their choices when purchasing financial products, restricting the availability of credit to consumers, and increasing the cost of goods or services purchased using credit. Furthermore, these regulations could put small banks and businesses at a competitive disadvantage to big banks and businesses, which can more easily absorb compliance costs. How the CFPB director exercises his or her authority therefore will have a profound influence on the future of our economy and job creation.

Despite this broad mandate the Dodd-Frank Act failed to provide any real checks on the CFPB director's powers. Once confirmed, the director effectively answers to no one. The CFPB director will be appointed for a five year term and can only be removed by the President in cases of "inefficiency, neglect of duty, or malfeasance in office." Thus, the director cannot even be removed for poor performance, including enacting ill-conceived regulations.

Moreover, the Dodd-Frank Act grants the director unfettered authority to set the budget of the CFPB. No agency or institution, including Congress, can review the CFPB budget, and no mechanisms were put in place to ensure that the director is effectively managing public money.

While the Financial Stability Oversight Council (FSOC) could vote to stay or set aside a regulation issued by the director, the circumstances under which the council can take such action are so narrow as to make this check illusory. The council can act only if the regulation puts at

risk the safety and soundness of the entire U.S. banking system or the stability of the U.S. financial system. Moreover, the procedural requirements for the FSOC to act are so high that it will be practically impossible for the FSOC to overrule the CFPB director.

To be clear, we support strong and effective consumer protection. The present structure of the Consumer Financial Protection Bureau, however, violates basic principles of accountability and our democratic values. No person should have the unfettered authority presently granted to the director of the Consumer Financial Protection Bureau. Therefore, we believe that the Senate should not consider any nominee to be CFPB director until the CFPB is properly reformed. We urge the adoption of the following reforms:

- **Establish a board of directors to oversee the Consumer Financial Protection Bureau.** To prevent a single individual from dominating the actions of the CFPB it should be governed by a board of directors. Diversifying the leadership of the CFPB would also reduce the potential for the politicization of the CFPB and ensure the consideration of multiple viewpoints in the CFPB's decision-making. This structure is consistent with the organization of the Federal Reserve Board, the Securities and Exchange Commission, and the Federal Deposit Insurance Corporation.
- **Subject the Consumer Financial Protection Bureau to the appropriations process.** To ensure that the CFPB does not engage in wasteful or inappropriate spending and has effective oversight, the CFPB should be subject to the Congressional appropriations process. The Securities and Exchange Commission, Commodity Futures Trading Commission, and the Federal Trade Commission have long been subject to the appropriations process for the same reasons.
- **Establish a safety-and-soundness check for the prudential regulators.** Federal bank regulators should be given meaningful tools to prevent the CFPB's regulations from needlessly causing a bank failure. After all, one of the best consumer protections is a safe and sound bank. Such a check by the prudential regulators will provide a reasonable restraint on the CFPB's authority and ensure that the CFPB's regulations strike the right balance between consumer protection and safety-and-soundness.

We believe these are commonsense reforms that can be promptly adopted by Congress on a bipartisan basis without having to revisit the numerous other flaws with the underlying legislation. We look forward to working with you to adopt these consensus reforms.

Sincerely,



MITCH MCCONNELL  
REPUBLICAN LEADER



RICHARD SHELBY  
UNITED STATES SENATOR



Dail Vittin

Mike Johnson

Terry Moran

Donna

Connie

Kate

Kory

Jim

John

John

John

John

John

John

Mike Crayon

Pat

Lyndy

Lyndy

Sally Chandler

John

Richard B. Sagan

John

John

Kay Bailey Hutchison

John

John

John

John



John M<sup>2</sup>L

Ra Johnson

M. R.

Rand Paul

Winfred E.

Michael B. E.

Olympia Snow

Tom Colman  
Joan Hatch

Chuck Gravelley

Ly. R.

Paul Colman

Susan M. Collins

Boucarh