

United States Senate

WASHINGTON, DC 20510

November 29, 2017

Mr. Mick Mulvaney
Consumer Financial Protection Bureau
1700 G St. N.W.
Washington, D.C. 20552

Dear Mr. Mulvaney:

Congratulations on your appointment to serve as Acting Director of the Consumer Financial Protection Bureau (CFPB). We write because we are disturbed by efforts of a rogue CFPB employee to serve as Acting Director of your agency despite President Trump's designation of you as Acting CFPB Director. Unfortunately, this rogue employee is trying to follow former CFPB Director Cordray's example and run the agency as an unaccountable fourth branch of government. Should this employee prevail in court and successfully serve as Acting Director, we would support legislative efforts to invalidate any new rules finalized by the agency during this employee's service, including the use of the Congressional Review Act. We would also fight to ensure that Congress defunds the CFPB until this employee has relinquished control of the CFPB.

This effort to stay on as Acting Director is especially concerning because more is at stake than interpreting the Federal Vacancies Reform Act of 1998. Successful control of the CFPB would give this employee – as the single head of an independent agency who refuses to answer to the President – great, unconstitutional power to shape regulatory policy. As a recent Treasury Report argued, the CFPB faces “few of the traditional checks and balances necessary to restrain regulatory abuses and arbitrary decision-making,” including the annual appropriations process.¹ As Judge Kavanaugh explained in *PHH Corporation v. CFPB*:²

[T]he single-Director structure of the CFPB represents a gross departure from settled historical practice. Never before has an independent agency exercising substantial executive authority been headed by just one person.

These recent events are a clear demonstration of the dangers of the CFPB's unconstitutional, unaccountable structure. We believe in protecting consumers but disagreement about how to do so must not come at the expense of our constitution. Our nation's founders instituted multiple checks and balances on the unrestrained use of executive power. This

¹ Steven T. Mnuchin & Craig S. Phillips, A Financial System That Creates Economic Opportunities: Banks and Credit Unions, U.S. Department of Treasury 80 (June 2017), <https://www.treasury.gov/press-center/press-releases/Documents/A%20Financial%20System.pdf> (“Treasury Report”).

² *PHH Corp. v. CFPB*, No. 15-1177, at 9-10 (D.C. Cir. Oct. 11, 2016) (emphasis in original).

outrageous attempt to subvert your appointment as Acting Director of the CFPB violates those foundational principles.

Thank you for your consideration. We look forward to working with you as Acting Director of the CFPB.

Sincerely,



Ben Sasse
United States Senator



Johnny Isakson
United States Senator



Ted Cruz
United States Senator



Rand Paul
United States Senator



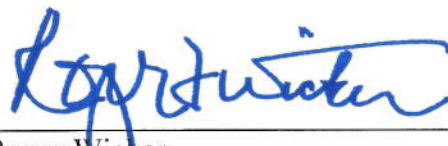
James M. Inhofe
United States Senator



Dan Sullivan
United States Senator



Mike Lee
United States Senator



Roger Wicker
United States Senator

A handwritten signature in blue ink, reading "Michael B. Enzi". The signature is fluid and cursive, with a horizontal line drawn underneath the name.

Michael B. Enzi
United States Senator