

Congress of the United States
Washington, DC 20515

September 17, 2010

The Honorable Robert Bauer
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Bauer:

President Obama has recently named Elizabeth Warren as Assistant to the President and Special Adviser to the Secretary of the Treasury on the Consumer Financial Protection Bureau (CFPB). He has also asked her “to take on the job to get the new CFPB started—right now.”¹ The CFPB is a new federal agency created by the Dodd–Frank Wall Street Reform and Consumer Protection Act² to regulate the offering and provision of consumer financial products and services. Professor Warren, who teaches at Harvard Law School and chairs the Congressional Oversight Panel, “will lead a staff of 30 Treasury Department officials figuring out how to get the watchdog off the ground.”³ As we understand it, Professor Warren will report directly to President Obama and Secretary Geithner. This is an unusual arrangement.

In making this appointment, the President bypassed the Senate confirmation process. Furthermore, by giving Professor Warren responsibilities at both the White House and the Treasury Department, he is undermining Congressional oversight while giving her substantive authority over the CFPB. This is unprecedented. Since the CFPB is “arguably the most significant new financial industry regulator since the U.S. Commodity Futures Trading Commission was created in 1974,”⁴ Congressional oversight is essential and required. If Professor Warren is not required to testify before Congress and is able to use claims of executive privilege to prevent disclosure of information relating to CFPB operations and its documents, Congress will not be able to perform its proper oversight function. This is particularly troubling in light of the Administration’s decision to set a “transfer date” of July 21, 2011 for formally standing up the CFPB. For the next ten months, it appears the CFPB will exist in a murky status that seems designed to obstruct Congressional and public scrutiny of its operations.

¹ Elizabeth Warren, *Fighting to Protect Consumers*, The White House Blog (Sept. 17, 2010), <http://www.whitehouse.gov/blog/2010/09/17/fighting-protect-consumers>.

² Public Law 111-203.

³ Paul Wiseman, *Warren Still in Contention for Top Spot at Consumer Bureau*, USA TODAY, Sept. 15, 2010.

⁴ Daniel Indiviglio, *3 Oddities of Warren’s Appointment as Consumer Financial Protection Czar*, THE ATLANTIC, Sept. 16, 2010.

President Obama has committed “to making his administration the most open and transparent in history.”⁵ At the outset of his presidency, he reiterated that “the way to make government accountable is make it transparent so that the American people can know exactly what decisions are being made, how they’re being made, and whether their interests are being well served.”⁶ He went on to state as follows:

I will also hold myself as President to a new standard of openness. Going forward, anytime the American people want to know something that I or a former President wants to withhold, we will have to consult with the Attorney General and the White House Counsel, whose business it is to ensure compliance with the rule of law. Information will not be withheld just because I say so. It will be withheld because a separate authority believes my request is well grounded in the Constitution.⁷

The President further urged federal agencies “to adopt a presumption in favor of disclosure.”⁸

To better understand how Professor Warren’s appointment will accommodate the need for legitimate oversight of the CFPB, we ask that you disclose her specific responsibilities and supervisory authority, which agency will pay her salary, and where she will file her mandatory financial disclosure statement. We also ask that the White House pledge to make Professor Warren available for testimony before all relevant Congressional committees.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. The Committee on Financial Services has jurisdiction over banking, economic stabilization, and money and credit (including consumer credit) as set forth in House Rule X.

⁵ The White House Blog, Change Has Come To WhiteHouse.gov, http://www.whitehouse.gov/blog/change_has_come_to_whitehouse-gov/ (Jan. 20, 2009).

⁶ Remarks by The President in Welcoming Senior Staff and Cabinet Secretaries to the White House, http://www.whitehouse.gov/the_press_office/RemarksofthePresidentinWelcomingSeniorStaffandCabinetSecretariestotheWhiteHouse/ (Jan. 21, 2009).

⁷ *Id.*

⁸ Memorandum for the Heads of Departments and Agencies regarding Freedom of Information Act, http://www.whitehouse.gov/the_press_office/Freedom_of_Information_Act/ (Jan 21, 2009).

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We look forward to your response by September 27, 2010. Thank you for attention to this important matter. Please contact the Oversight and Government Reform Committee staff at (202) 225-5074 or the Financial Services Committee staff at (202) 225-7502 with any questions.

Sincerely,



Darrell Issa
Ranking Member
Committee on Oversight and
Government Reform



Spencer Bachus
Ranking Member
Committee on Financial Services

cc: The Honorable Edolphus Towns, Chairman
Committee on Oversight and Government Reform
The Honorable Barney Frank, Chairman
Committee on Financial Services
The Honorable Timothy F. Geithner, Secretary of the Treasury