

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

December 17, 2019

The Honorable Kathleen L. Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Kraninger:

The Committee on Financial Services (Committee) is reviewing the Consumer Financial Protection Bureau's (Consumer Bureau) process for selecting the assistant director for enforcement (Enforcement Director). The Consumer Bureau has not had a permanent Enforcement Director since Kristen Donoghue resigned in May 2019.¹ According to recent media reports, Thomas G. Ward is the "lead candidate" for the Enforcement Director position.² Mr. Ward is a political appointee that currently serves as the deputy assistant attorney general overseeing the torts branch in the Civil Division of the Department of Justice.³

According to the job description previously posted on the Consumer Bureau's website, Enforcement Director is an excepted service position. Federal law prohibits the appointment of individuals to the excepted service based on political affiliation.⁴ On February 23, 2018, the acting director of the Office of Personnel Management (OPM) issued a memorandum to the heads of all executive departments and agencies reiterating that "political appointees . . . must not be given preference or special advantages . . . [and that] OPM requires agencies to seek our approval prior to appointing any current or former political appointee to a

¹ American Banker, *CFPB's Assistant Director for Enforcement Resigns: Sources*, available at <https://www.americanbanker.com/news/cfpbs-assistant-enforcement-chief-resigns-sources>. Cara Petersen is currently an acting Enforcement Director. <https://www.consumerfinance.gov/about-us/the-bureau/bureau-structure/>

² Bloomberg Law, *DOJ Tort Litigator Said to Be Favorite to Lead CFPB Enforcement*, Dec. 5, 2019, available at <https://www.consumerfinance.gov/about-us/the-bureau/bureau-structure/>
<https://news.bloomberglaw.com/banking-law/doj-tort-litigator-said-to-be-favorite-to-lead-cfpb-enforcement>

³ *Id.*

⁴ 5 U.S.C §2302

permanent position (without time limits) in the civil service.”⁵ The memorandum also explicitly stated that an agency must obtain “written authorization” from OPM prior to appointing a current political appointee to a non-political excepted service position.⁶ OPM guidance requires that the Consumer Bureau submit certain information and documentation when seeking to hire a current or former political appointee for a non-political excepted service position such as Enforcement Director.⁷

The potential selection of Mr. Ward for Enforcement Director raises serious concerns about whether the Consumer Bureau has adhered to civil service laws and OPM guidance governing the hiring of political appointees into career positions. The Committee’s oversight duties include ensuring that personnel actions in the civil service remain free from improper political influence and comply with all relevant civil service laws, rules and regulations.⁸ Accordingly, please provide the information and records requested in Schedule A of the enclosed request by no later than January 7, 2020.

To expedite our review, we ask that you provide responsive records as they are identified, rather than waiting to submit all records in a single production. A second enclosure with this letter provides additional instructions for responding to the Committee’s request.

Additionally, please provide to the Committee your written acknowledgment of this letter within five days of its receipt. We ask that you please make your staff and counsel available to meet and confer within five days of receipt of this letter to discuss the enclosed production schedule.

Please address any questions regarding this request to Carolyn Hahn at (202) 225-4247.

Sincerely,



MAXINE WATERS
CHAIRWOMAN

⁵ Kathleen M. McGettigan, Acting Director, *Memorandum For: Heads of Executive Departments and Agencies, Political Appointees and Career Civil Service Positions*, February 23, 2018, available at <https://www.chcoc.gov/content/political-appointees-and-career-civil-service-positions-3>.

⁶ *Id.*

⁷ OPM Agency Pre-Appointment Request Checklist Non-Political Excepted Service Positions, available at https://www.chcoc.gov/sites/default/files/Attachment%20-%20Agency%20Pre-Appointment%20Checklist%20for%20Non-Political%20Excepted%20service%20Positions_0.pdf

⁸ Rule X, Rules of the House of Representatives, 116th Congress.

cc: The Honorable Dale Carbaniss
Director
U.S. Office of Personnel Management
1900 E Street, NW
Washington, D.C. 20415

The Honorable Patrick McHenry, Ranking Member

Exhibit A

In accordance with the attached schedule and instructions, the Committee requests that you, the Consumer Bureau, produce, in unredacted form, all Records described below:

1. All Communications between the Consumer Bureau and OPM referring or related to the hiring of an Enforcement Director since May 20, 2019;
2. All Communications between the Consumer Bureau and any Employee at the Department of Justice referring or related to the hiring of Mr. Ward as Enforcement Director since May 20, 2019; and
3. Any communications between Thomas Ward and any Employee at the Consumer Bureau regarding any employment opportunity or employment application.