

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

April 22, 2013

Ms. Meredith Fuchs
Associate Director and General Counsel
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552


Dear Ms. Fuchs:

I take note that Richard Cordray will be testifying before the Senate Banking Committee on Tuesday, April 23rd on the Bureau of Consumer Financial Protection's (CFPB) semi-annual report. As you know, Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) requires the Director of the CFPB to appear before the Committee on Financial Services at a hearing to provide testimony on this report. Section 1011 of this law further specifies that the Director of the CFPB must be appointed to that position with the advice and consent of the Senate.

No nominee has been confirmed to be the Director of the CFPB. President Obama purported to recess appoint several individuals to federal offices on January 4, 2012. However, in a recent decision by the U.S. Court of Appeals for the District of Columbia Circuit, the court unanimously found that three appointments to the National Labor Relations Board were unconstitutional. *Noel Canning v. NLRB*, No. 12-1115, slip. op. (D.C. Cir. Jan. 25, 2013). Because Mr. Cordray was appointed on the same day and in the exact same manner as these unconstitutional appointments, it is clear, as a number of legal scholars have concluded, that Mr. Cordray's appointment was also unconstitutional. Absent contrary guidance from the United States Supreme Court, Mr. Cordray does not meet the statutory requirements of a validly-serving Director of the CFPB, and cannot be recognized as such.

The Committee on Financial Services stands ready to accept the testimony of the Director of the CFPB on the semi-annual report as soon as an individual validly holds this position. Until then, the Committee intends to continue to conduct rigorous oversight of the CFPB's activities, and will expect the CFPB's cooperation in those efforts, including making other employees available to testify at Committee hearings and responding fully to Committee requests for documents and information.

Yours Respectfully,



JEB HENSARLING
Chairman

cc: The Honorable Maxine Waters