

United States Senate

WASHINGTON, DC 20510

May 2, 2018

Mr. Mark Bialek
Inspector General
Office of Inspector General
c/o Board of Governors of the Federal Reserve System
20th St. and Constitution Ave. N.W.
Mail Stop K-300
Washington, D.C. 20551

Dear Mr. Bialek,

We write to request the Office of the Inspector General open a comprehensive investigation into press reports that Mick Mulvaney, the Director of the Office of Management and Budget and “acting director” installed by President Trump to head the Consumer Financial Protection Bureau has delayed or dismissed rulemaking and investigations into predatory activities by payday lenders.

According to recent press articles and a report from Allied Progress, “*Trump’s Payday: How Payday Lenders Courted Donald Trump from Candidate to President-elect and How They Plan to Cash In,*”¹ Acting Director Mulvaney has taken numerous actions to benefit payday and installment lenders. Mr. Mulvaney delayed implementation of the agency’s “Payday Rule” designed to protect consumers from predatory lending practices. He also withdrew a lawsuit against four deceptive payday lenders who were making illegal loans – charging interest rates at least 950% percent -- in at least fifteen states. He discontinued an investigation into World Acceptance Corporation, a high-cost installment lender, which engaged in aggressive collection practices and trapped customers with years of debt.²

These actions have unwound years of careful and collaborative work by the Consumer Bureau. A 2014 report by the Consumer Bureau found that most payday loan borrowers cannot afford to repay their loans. Eighty percent of customers roll the balance over into a new payday loan within 14 days of it coming due, incurring new fees.³ Half of all payday loans are made to

¹ Allied Progress. “Trump’s Payday: How Payday Lenders Courted Donald Trump from Candidate to President-elect and How They Plan to Cash In.” *Allied Progress*. April 2018. Available at: <https://www.scribd.com/document/376527804/Payday-Lenders-Gather-at-Trump-Resort-to-Cement-Years-Long-Courtship>

² Berry, Kate. “CFPB Ddrops probe into lender that gave to Mulvaney’s campaigns.” *American Banker*. January 23, 2018. Available at: <https://www.americanbanker.com/news/cfpb-drops-probe-into-lender-that-gave-to-mulvaney-campaigns>

³ Consumer Financial Protection Bureau. “CFPB Data Point: Payday Lending.” *The Consumer Financial Protection Bureau*. March 2014. Available at: http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf

borrowers who roll over their loans at least ten times. Under the leadership of the previous Director, the Consumer Bureau issued the Payday Rule to put an end to predatory debt traps by requiring lenders to ensure that consumers can actually afford to pay off their payday loans. The rule was supported by state regulators, consumer advocates and faith leaders. It was completed with the input of payday lenders and small dollar lenders as well. On the day the rule was set to take effect, Mr. Mulvaney announced his plan to strip those protections from consumers. We request you look into if the Consumer Bureau's recent actions are connected to Mr. Mulvaney's close ties with the payday loan industry, which gave him nearly \$63,000 in campaign contributions while he was a Member of Congress, including \$4,500 from the World Acceptance Corporation political action committee.

Shortly after the case against World Acceptance Corporation was dropped, emails showed that the former CEO of the payday lender contacted Mr. Mulvaney seeking to be appointed as Director of the Consumer Bureau. In her email, Janet Matricciani touted her experience at Countrywide Financial, the subprime mortgage factory, as a reason why she should get the job. She wrote, "I would love to apply for the position of director of the CFPB. Who better than me understand the need to treat consumers respectfully and honestly, and the equal need to offer credit to lower income consumers in order to help them manage their daily lives?"⁴ She also noted that she "always enjoyed" interactions with Mulvaney "on business and regulatory situations ever since [she] became CEO." Please consider if Mr. Mulvaney sought to promote or hire Ms. Matricciani or other subprime mortgage lenders or payday lenders at the Bureau.

We believe you should also investigate the role that his eight political staff played in the withdrawal of the payday rule and the dismissal of investigations and litigation against payday lenders. Please consider those that have been made public and those that might not have been made public. Please consider if Mr. Mulvaney and the Consumer Bureau staff completed a cost-benefit analysis prior to delaying the payday lending rule.

Please include if there were any explicit warnings from legal counsel about possible ethics violations for Mr. Mulvaney to participate in enforcement actions and litigation decisions against a firm in which he accepted contributions. Federal ethics rules have long prohibited government employees from working on matters that benefit them personally.⁵ This report raises concerns that Mr. Mulvaney may be dismissing enforcement actions against payday lending firms that have long supported his campaigns.

⁴ Thomsen, Jacqueline. "Ex-CEO of Company Investigated by CFPB Sought Top Position at the Agency: Report." *The Hill*. March 6, 2018. Available at: <http://thehill.com/policy/finance/376996-ex-ceo-of-company-investigated-by-consumer-protection-agency-pitched-herself>

Associated Press. "Former payday lender CEO now wants to run the CFPB." *CBS News*. March 6, 2018. Available at: <https://www.cbsnews.com/news/former-payday-lender-ceo-now-wants-to-run-the-cfpb/>

Dugan, Kevin. "Payday lender sent cold email to Mick Mulvaney for CFPB gig." *New York Post*. March 6, 2018. Available at: <https://nypost.com/2018/03/06/payday-lender-sent-cold-email-to-mick-mulvaney-for-cfpb-gig/>.

⁵ The United States Department of Justice. "Misuse of Position and Government Resources." *The U.S Department of Justice Departmental Ethics Office*. Accessed February 5, 2018. Available at: <https://www.justice.gov/jmd/misuse-position-and-government-resources>

We also request you consider Mr. Mulvaney's statements at an American Bankers Association conference where he urged bankers to donate to candidates who supported their policy goals to gain meetings and access.⁶ Please consider the schedule Mr. Mulvaney has maintained while at the CFPB. Are there correlations between the people and firms he met with and those that provided him, the President or elected officials campaign contributions? How many meetings has he had prior to his statement with firms and consumer advocacy groups that made no campaign contributions to him, the President or elected officials? Also, consider if he violated the Hatch Act by urging people to donate to his political allies.

An Inspector General investigation is warranted due to Mr. Mulvaney's recent public statements and actions. He has evaded Congressional oversight by not responding to at least 100 questions from Members of Congress.⁷ When he testified before the House Financial Services Committee and the Senate Banking Committee, he stated that his interpretation of the law only required him to appear twice a year before the Committee but that he is not required to answer any questions. He stated, "I believe it would be my statutory right to just sit here and twiddle my thumbs while you all ask questions." For those reasons, a robust investigation into any conflicts of interest is required.

We appreciate your timely attention to these potential violations, and we ask that you keep our staff apprised of the progress of your investigation.

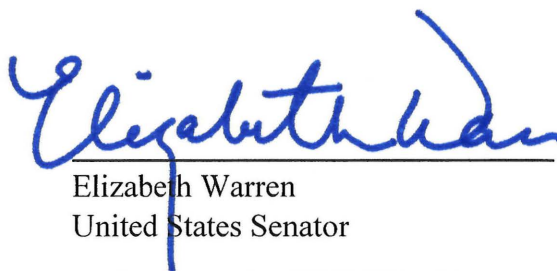
Sincerely,



Catherine Cortez Masto
United States Senator



Sherrod Brown
United States Senator



Elizabeth Warren
United States Senator



Tina Smith
United States Senator

⁶ Donnelly, Grace. "CFPB Director Mick Mulvaney Urges Bankers to Pay for Influence." *Fortune*. April 25, 2018. Available at: <http://fortune.com/2018/04/25/cfpb-mick-mulvaney-pay-to-play/>

⁷ The Office of Senator Elizabeth Warren. "Warren Presses Mick Mulvaney on Failure to Respond to Dozens of Questions about His Questionable Actions and Leadership at Consumer Agency." *The Office of Senator Elizabeth Warren*. March 16, 2018. Available at: <https://www.warren.senate.gov/oversight/letters/warren-presses-mick-mulvaney-on-failure-to-respond-to-dozens-of-questions-about-his-questionable-actions-and-leadership-at-consumer-agency>;

White, Gillian B. "Mick Mulvaney Is Quickly Deregulating the Financial Industry." *The Atlantic*. January 5, 2018. Available at: <https://www.theatlantic.com/business/archive/2018/01/cfpb-gop-trump/549755/>