

United States House of Representatives  
Committee on Financial Services  
Washington, D.C. 20515

April 23, 2013

The Honorable Jeb Hensarling  
Chairman  
Committee on Financial Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Hensarling:

I write to express my concern with your letter to the Director of the Consumer Financial Protection Bureau (CFPB), Richard Cordray, dated April 22, 2013, which states your intent to prohibit him from appearing before the Committee to deliver the statutorily mandated semi-annual testimony on the activities of the Bureau.

As you conceded in correspondence with the CFPB, no court has addressed the legitimacy of the President's appointment of Director Cordray. Not only is the decision by the U.S. Court of Appeals for the District of Columbia Circuit in the *Noel Canning v. National Labor Relations Board* (NLRB) case limited to the NLRB, but the case is actively being litigated. The notion that some legal scholars dispute the constitutionality of Director Cordray's appointment does not in fact make it "clear," as your letter claims, that the constitutionality of Director Cordray's appointment is currently invalid or will be inevitably overturned. To the contrary, the DC Circuit's decision contradicts 150 years of precedent. It also contradicts more than 280 recess appointments made by both Republicans and Democrats since 1987. Therefore, it is inappropriate and unwarranted to prematurely and unilaterally conclude that the *Noel Canning* case warrants blocking Director Cordray from fulfilling his statutory obligation to testify before the Committee.

Whether or not Republican Members support the mission of the CFPB, the decision to bar Director Cordray from testifying will impede Congressional oversight of the Bureau. Director Cordray plays a critical role in guiding the Bureau and all Members deserve the opportunity to engage with him on the steps he is taking to implement the CFPB's mandate to make the market for consumer financial products and services as fair, transparent, and competitive as possible. Until the Supreme Court rules on the constitutionality of Director Cordray's appointment as part of the *National Bank of Big Spring et al v. Geithner et.al* case, or any other case that directly challenges the constitutionality of Director Cordray's appointment, he is the Director of the CFPB and must be treated as such.

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I respectfully urge you to reconsider your position on this important matter, and request that you schedule a hearing in the coming weeks to allow Director Cordray to deliver the CFPB's semi-annual testimony to the Committee in accordance with his statutorily mandated duty. If you choose to continue to ignore the law, then I am prepared to use the rules of the Committee to provide the Director the opportunity to give testimony before the Committee.

Sincerely,

A handwritten signature in cursive script that reads "Maxine Waters". The signature is written in black ink and has a long horizontal line extending to the right from the end of the name.

RANKING MEMBER

Maxine Waters

cc: The Honorable Richard Cordray