MARY L. LANDRIEU, LOUISIANA, CHAIR
OLYMPIA J. SNOWE, MAINE, RANKING MEMBER

JOHN F. KERRY, MASSACHUSETTS
CARL LEVIN, MICHIGAN
TOM HARKIN, IOWA
JOSEPH I. LIEBERMAN, CONNECTICUT
MARIA CANTWELL, WASHINGTON
EVAN BAYH, INDIANA
MARK PRYOR, ARKANSAS
BENJAMIN L. CARDIN, MARYLAND
JEANNE SHAHEEN, NEW HAMPSHIRE
KAY HAGAN, NORTH CAROLINA

CHRISTOPHER S. BOND, MISSOURI
DAVID VITTER, LOUISIANA
JOHN THUNE, SOUTH DAKOTA
MICHAEL ENZI, WYOMING
JOHNNY ISAKSON, GEORGIA
ROGER F. WICKER, MISSISSIPPI
JAMES E. RISCH, IDAHO

DONALD R. CRAVINS, DEMOCRATIC STAFF DIRECTOR AND CHIEF COUNSEL
WALLACE K. HSUEH, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP
WASHINGTON, DC 20510–6350
TELEPHONE: (202) 224–5175 FAX: (202) 224–5619

September 30, 2010

Elizabeth Warren
Assistant to the President
Special Advisor to the Secretary of the Treasury
Consumer Financial Protection Bureau
Department of the Treasury
Washington, D.C. 20220

Dear Professor Warren:

I write today to thank you for your service on the TARP Congressional Oversight Panel and to raise some critical issues in your role as Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau (CFPB). Before you is a monumental task to assist in the creation of a consumer protection agency that will provide robust protections for consumers, help avoid future economic catastrophes, and create transparency in financial markets. As former Chair and now Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I have long worked to reduce the regulatory compliance burden that disproportionately disadvantages smaller firms, threatening their viability and inhibiting their job creation potential. That is precisely why I worked to include several small business protections in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Wall Street Reform Act).

The purpose of my letter is two-fold. First, I respectfully request information about how you and the CFPB will specifically handle the responsibilities flowing from one of my amendments (Senate Amendment Number 3883), which creates small business advocacy review panels within the CFPB. These advisory small business advocacy panels previously applied only to the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA). Since 1996, when these small business panel provisions were passed unanimously in the Senate and signed into law by then-President Clinton, EPA has convened 35 panels and OSHA has convened 9 panels. The findings of these panel reports have helped EPA and OSHA improve the draft proposals by tailoring regulatory approaches to the unique situations of small businesses.

Requiring the CFPB to convene small business advocacy panels is a critical step in protecting the interests of small business. A new report from the Small Business Administration's (SBA) Office of Advocacy released on September 15, 2010, titled, "The Impact of Regulatory Costs on Small Firms," highlights that regulatory compliance costs small firms \$2,830 more on average per employee than it does large firms, representing a 36 percent difference, resulting in negative consequences for the U.S. labor market, small business job creation, and national income. To comply with all Federal regulations, firms with fewer than 20 employees spend \$10,585 per employee, compared to \$7,755 for firms with 500 or more employees. The SBA findings are particularly disconcerting in view of the fact that we just marked the 30th anniversary of the signing of the landmark Regulatory Flexibility Act, created to reduce the burden of federal regulatory compliance on small enterprises.

Second, as the CFPB commences work on one of its top priorities – the improvement of disclosures for mortgages and other financial products, I request that you work closely with the CFPB's small business advocacy review panel at all stages of the process. Under the Wall Street Reform Act, the CFPB is charged with combining and simplifying two overlapping mortgage disclosure forms that the Truth in Lending Act of 1968 and the Real Estate Settlement Procedures Act of 1974 (RESPA) require lenders to provide to applicants. That process commenced on September 21 when the Department of the Treasury hosted a mortgage disclosure forum on behalf of the CFPB to seek input from key stakeholders on the simplification of mortgage disclosure forms.

The small business advocacy panels are designed to address the very issues you will undoubtedly encounter as you move forward with the disclosure improvement process. If recent history is any indication, a significant number of small businesses will be affected by the revised mortgage disclosures. Indeed, in connection with recent RESPA reforms by the Department of Housing and Urban Development (HUD), a substantial number of small businesses and small business trade associations have repeatedly expressed serious concerns about HUD's proposed rules and their burden on small business. Even HUD's own cost analysis noted that total one-time compliance costs to the lending and settlement industry of the proposed RESPA forms will fall predominately on small business. The SBA's Office of Advocacy cautioned HUD that a wide range of small entity representatives from different sectors of the industry had stated that HUD's proposal would be potentially anticompetitive and more costly than HUD's estimates. I bring these examples to your attention so that the CFPB can learn from HUD's experience and consider all relevant factors before issuing proposed model forms.

Therefore, I respectfully request that you promptly provide specific plans for addressing your and the CFPB's roles in helping to carry out vital small business advocacy review panel provisions of the Wall Street Reform Act, and ensuring that the CFPB meets its obligations with regard to small businesses as it works to improve mortgage disclosures. I look forward to hearing from you soon.

Sincerely,

OLYMPIA J. SNOWE
Ranking Member