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United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

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September 8, 2010

Dr. Winslow L. Sargeant
Chief Counsel for Advocacy
United States Small Business Administration
409 3rd Street, SW
Washington, D.C. 20416

Dear Dr. Sargeant,

As you assume your leadership tenure at the U.S. Small Business Administration's Office of Advocacy, I urge you to focus intently on the core mission for that office: ensuring that the voice of small business is heard loudly and clearly during the federal regulatory process. 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 growth and creation potential.

I wholeheartedly agree with the following statement made by the National Federation of Independent Business on August 20 in response to your recess appointment by President Obama to serve as Chief Counsel for Advocacy: "[The SBA Office of Advocacy] is charged with ensuring that regulators consider how the rules and regulations enforced by the federal government impact small businesses. Small businesses don't have lawyers on staff whose sole responsibility is to make sure the business is compliant with the vast number of regulations issued by the federal government. They are overwhelmed by the mountains of paperwork they have to submit to the government, and ... regulatory compliance costs small businesses 45 percent more than big business."

That is precisely why I worked to include several timely small business protections to the Dodd-Frank Wall Street Reform and Consumer Protection Act (H.R. 4173), which President Obama signed into law on July 21, 2010. I supported this measure because it will provide critical protections for consumers, prevent future Wall Street bailouts, and promote transparency within financial markets.


I write today to request information about how you and the Office of Advocacy will specifically handle the responsibilities from one of my amendments (Senate Amendment Number 3883), which creates small business advocacy review panels within the newly created Consumer Financial Protection Bureau (CFPB). These small business advocacy review panels – also known as "SBREFA" panels – will help to ensure small business fairness and regulatory transparency, by designating the CFPB as a "covered agency" under the Regulatory Flexibility

Act (RFA), so that small business review panel provisions would apply to the Bureau's rulemaking process. 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, the EPA has convened 35 panels and OSHA has convened nine 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 these small business advocacy panels any time a potential rule it is considering will significantly impact a substantial number of small businesses is a critical step in protecting the interests of small business. However, it is incumbent upon the SBA Office of Advocacy to ensure that these panels are effectively utilized by the CFPB. As you may be aware, the Office of Advocacy will play a key role, working with the promulgating agencies, to select "small entity representatives" to participate on these small business advocacy review panels. Historically, the Office of Advocacy has been a strong supporter of the SBREFA panel process, stating, "[t]he panel process...enhances, the regular notice-and-comment process." Moreover, previous Office of Advocacy research has found that small business review panels have facilitated "revisions or adjustments to be made to an agency draft rule that mitigated its potentially adverse effects on small entities, but did not compromise the rule's public policy objective."

Therefore, I respectfully request, within two weeks receipt of this letter, that you provide your specific plans are for addressing the Office of Advocacy's role in helping to carry out these vital small business advocacy review panel provisions of the Wall Street Reform bill, and ensuring that the CFPB meets its obligations under the Regulatory Flexibility Act. Thank you for your consideration of my request.

Sincerely,



OLYMPIA J. SNOWE
United States Senator