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SSIC #1235

TO: Renita Marcellin
Senior Policy Advisor
Office of Board Member Tanya Otsuka

FROM: Katherine Easmunt
Acting Chief Ethics Counsel &
Designated Agency Ethics Official
Office of Ethics Counsel

KATHERINE EASMUNT Digitally signed by KATHERINE EASMUNT Date: 2024.03.22 08:01:00 -04'00'

SUBJ: Limited Waiver of Executive Order 13989, Section 1, Paragraph 3

DATE: March 22, 2024

Pursuant to Section 3 of Executive Order 13989, Ethics Commitments by Executive Branch Personnel, January 20, 2021, ("Ethics Pledge" or "Executive Order"), I hereby grant you a limited waiver of the requirements in Section 1, Paragraph 3 (a) and (b). After consultation with the Counsel to the President, I have determined that this waiver is necessary and in the public interest to enable you to effectively carry out your duties as Senior Policy Advisor for Tanya Otsuka, Board Member of the National Credit Union Administration (NCUA). This memorandum memorializes the terms of the waiver.

Background Information and Need for a Waiver

The Executive Order requires all covered political appointees in the Biden-Harris Administration to abide by several commitments. In particular, Section 1, Paragraph 3 bars an appointee who was registered under the Lobbying Disclosure Act during the two years prior to appointment from participating in a particular matter or the specific issue area in which a particular matter falls if the appointee lobbied on that particular matter during the two years prior to appointment. A waiver of the Executive Order's restrictions may be granted when the literal application of the restriction is inconsistent with the restriction's purpose or when it is in the public interest to grant a waiver.

From September 2021 to your appointment at the NCUA, you worked for Americans for Financial Reform (AFR). You served first as a Senior Banking Policy Analyst and then as Legislative and Advocacy Director. You represented AFR before federal regulatory agencies, Congress, and public and private sector organizations. In this position, you served as a federally registered lobbyist for AFR and lobbied on a range of issues of interest to the credit union movement. You did not lobby the NCUA during the two years prior to your appointment. However, under the terms of the Executive Order, for the two years following your appointment

at the NCUA, absent a waiver, you would be prohibited from participating in particular matters in the "specific issue area" on which your lobbied.

AFR is a nonprofit organization under Section 501(c)(4) of the Internal Revenue Code whose mission is to "to eliminate inequity and systemic racism in the financial system in service of a just and sustainable economy." AFR is also a nonpartisan organization that brings together a network of more than 200 groups – their stated goal is to build a financial system that serves the economy and the nation as a whole. AFR's primary issues are consumer finance, capital markets and digital assets, hedge and private equity funds, housing and mortgages, systemic risk and Wall Street, student lending, and climate financial regulation. As part of its work, some AFR employees are lobbyists registered under the Lobbying Disclosure Act. You were registered as a lobbyist for AFR in the issue areas of banking, consumer safety and protection, housing, and taxation.

As part of the federal financial institution regulatory agency community, the NCUA regulates, charters, and supervises all federal credit unions and insures members' deposits in all federally insured credit unions to the limits of federal law. The NCUA protects credit union members, maintains the safety and soundness of the credit union system, safeguards the Share Insurance Fund, and promotes financial inclusion. Each NCUA Board Member is staffed by a Senior Policy Advisor who provides advice on the full range of the NCUA's activities.

Analysis of Factors for Granting a Waiver

In making this assessment, I have considered the factors set forth in Section 3 of the Executive Order. These factors include: (i) the government's need for the individual's services, including the existence of special circumstances related to national security, the economy, public health, or the environment; (ii) the uniqueness of the individual's qualifications to meet the government's needs; (iii) the scope and nature of the individual's prior lobbying activities, including whether such activities were de minimis or rendered on behalf of a nonprofit organization; and (iv) the extent to which the purposes of the restriction may be satisfied through other limitations on the individual's services. Under these circumstances, these factors demonstrate that is in the public interest to grant you a limited waiver of the requirements of Section 1, Paragraph 3 of the Executive Order to enable you to effectively carry out your duties as Senior Policy Advisor to Board Member Otsuka.

Government Need: The NCUA has a critical need for your services as Senior Policy Advisor to Board Member Otsuka. Each Board Member is afforded only one Senior Policy Advisor, rendering a need for that relationship to be reliable in both substance and steadfastness. In this role, your work will focus on ensuring the safety and soundness of the credit unions, consumer protection issues such as overdraft fees, decreasing banking deserts and access to banking services, and building upon the existing regulations for credit unions such as increased third-party oversight, all issues of critical importance to NCUA and Board Member Otsuka. Your background and experience working on these issues are essential to supporting many of the important issues on which the NCUA and Board Member Otsuka will focus.

Your private-sector experience at two of the largest banks in the country and as a financial institution regulatory expert in the nonprofit sector will support the NCUA's mission of ensuing that U.S. system of cooperative credit remains safe and sound through supervision and examination that is focused on risks to the broader system and the Share Insurance Fund. Your actuarial science degree provides you with a foundation in using data to identify and assess risk. You also have a background in trading, investment, and capital markets. While at AFR, you worked on prudential regulatory and systemic risk issues, including corporate governance and financial stability. You have personal experience testifying before Congress on bank capital and have a strong understanding of capital requirements, including risk-based capital, which is applicable to large credit unions.

You bring an important perspective and direct work experience on Bank Secrecy Act (BSA) compliance, which is an area of supervisory interest for the NCUA.[1] At JPMorgan Chase & Co., you analyzed complex anti-money laundering (AML) and BSA regulations and screened transactions for BSA/AML risks. You also advised on Know Your Customer (KYC), sanctions, and due diligence requirements to account for risks.

Importantly, you bring a wealth of knowledge with respect to consumer financial protection, which is one of NCUA's supervisory priorities[2] and an important focus area for Board Member Otsuka. You are well-versed in payments and technology, which play critical roles in the functioning of the credit union system. Your experience includes working on issues related to overdraft programs and fees, the Truth in Lending Act/Regulation Z, and the Electronic Funds Transfer Act/Regulation E; testifying before Congress on payment scams and digital wallets; and speaking at a national payments conference. From your experience at private sector financial institutions and your work at AFR on data privacy and transferability under Section 1033 of the Dodd-Frank Act, digital assets, and stablecoin, you have developed a strong understanding of the risks and benefits of financial technology, with a focus on consumer protection.

Board Member Otsuka also plans to focus on ensuring that small credit unions can serve their members and that underserved communities, such as minority, rural, and low-income communities, have access to safe and affordable financial products at community-based institutions. Your skills and experience will be instrumental to supporting these priorities. In your role at AFR, you worked with a broad coalition of stakeholders to raise awareness of how less-regulated financial institutions and the commingling of banking and commerce can harm consumers and have an anticompetitive effect on community banks and credit unions. Your work on bank merger policy has informed your understanding of banking deserts and community needs. You also have experience with small business lending issues, including familiarity with Section 1071 of the Dodd-Frank Act and the issues facing women- and minority-owned businesses. In your prior role at JP Morgan Chase, you chaired your team's Diversity & Inclusion program to raise awareness on past and present inequitable banking practices, such as banking deserts in rural communities, lack of access to credit for Black and Brown communities, and redlining. This knowledge and experience will also allow you to make significant contributions to increasing diversity, equity, inclusion, and access both at the NCUA and

[1] NCUA's 2024 Supervisory Priorities | NCUA
[2] NCUA's 2024 Supervisory Priorities | NCUA

throughout the credit union system, which is an important priority for both Board Member Otsuka and the NCUA.

Board Member Otsuka appreciates your strong understanding of prudential regulation and consumer protection and is confident that you bring an important perspective on how financial services and regulatory policies can affect consumers and credit union members. Furthermore, you and Board Member Otsuka have prior experience working together on various issues in the financial regulatory arena, through which you have developed a sense of trust and respect that will prove invaluable to the roles at the NCUA. Your unique background and experience in the financial services industry, nonpartisan research and policy work, and consumer and civil rights advocacy will be critical to supporting Board Member Otsuka's work at the NCUA.

Unique Qualifications: As described above, your educational and professional background make you uniquely qualified for this role. You completed your undergraduate studies in Actuarial Sciences at Baruch College and later earned a Master of Public Policy from Georgetown University. You developed banking industry knowledge and skills while working for two of the largest U.S. banks, Bank of America Corp. and JPMorgan Chase & Co. For the latter, you served two stints; first, as a subject-matter expert on sanctions policies and procedure, and second as a Compliance Relationship Partner focused on AML/BSA and the KYC process. In September of 2021, you transitioned to banking policy and served as the Advocacy and Legislative Director and Senior Banking Policy Analyst at AFR. Through internships at the White House, with Members of Congress, and Senators and through positions with local and national political campaigns and a Washington, D.C. think tank, you also cultivated critical coalition building skills in support of policies and legislation important to consumers and individuals and families of lesser access and means.

Prior Non-Profit Lobbying Activity: Your prior lobbying activity is for AFR, a non-profit organization focused on consumers, lower to middle income individuals, and Wall Street accountability. You did not lobby on behalf of paying clients and did not receive additional fees beyond your AFR salary for work on behalf of any individual client. While at AFR, you did lobby on a broad range of issues relevant to the NCUA, however you did not lobby the NCUA during the two years prior to your appointment. Furthermore, only about 30% of your time was spent lobbying and less than 3% of your time was directed towards the executive branch. The majority of your time at AFR, rather, was spent advising AFR's internal policy analysts on the creation of legislative strategies for their various policy goals, including conducting research and building coalitions. The volume and scope of lobbying activity you engaged in at AFR is not of the type that the Executive Order intended to reach in protecting the public trust.

Other Limitations: As noted above, without this waiver you would be unable to capably and effectively perform the duties of the position. Notably, you do not have a financial interest in AFR. You are not seeking a waiver for Paragraph 2 of the Ethics Pledge and will comply with the requirement that you refrain from participating in any particular matter involving specific parties that is directly and substantially related to your former employer, AFR, for two years after your appointment.

Waiver Granted

In order for Board Member Otsuka to effectively fulfill the NCUA duties for which she was nominated by the President and confirmed by the Senate, it is in the public interest that she be able to select the Senior Policy Advisor that will best support her. Board Member Otsuka has determined that you are the best qualified candidate to serve as her Senior Policy Advisor, and you must be able to perform the full range of duties in this position. Accordingly, I grant you a limited waiver of the restrictions in Section 1, Paragraph 3 of the Executive Order to enable you to effectively carry out your duties as Senior Policy Advisor to Board Member Otsuka.

Pursuant to this waiver, you may participate in any particular matter on which your lobbied for AFR within the two years prior to your appointment, and in specific issue areas in which that particular matter falls. This waiver does not otherwise affect your obligation to comply with all other applicable government ethics rules and provisions of the Executive Order. Specifically, this waiver does not permit you to participate in any particular matters involving specific parties directly affecting the financial interests of AFR, including but not limited to contracts or grants.