

UO

Udi Ofer <[REDACTED]>

To: p [REDACTED]

June 20, 2019

Dear Prem Watsa,

I am writing because Fairfax Financial owns Crum & Forster, one of the largest bail bond insurance companies in the United States. I am writing to let you know that we are requesting that Fairfax Financial divest from the bail bond industry because of the role that the industry plays in perpetuating the problem of mass incarceration in the United States.

Every year in the United States, millions of people are forced to pay cash bail after an arrest or have no way to return home while fighting their case. This is despite the fact that they are presumed innocent and have not been convicted of a crime. To avoid being incarcerated while their cases go through the courts (which can sometimes take months or even years), people who cannot afford to post the bail amount have no choice but to take out a loan from a for-profit bail bonds company, including paying that company a non-refundable fee. The financial burden of this fee harms individuals, families, and whole communities. What's more, it disproportionately affects Black, Latino, and low-income communities.

For-profit bail bond companies and bail insurers take advantage of the urgency of detention to bind people to contracts that can mean debt and payments that last far longer than any court proceedings, trapping people in cycles of debt. [A 2017 ACLU and Color Of Change report on the bail insurance industry. Selling Off Our Freedom, is available here.](#)

Because of this, a growing, bipartisan reform movement has sought to reform pretrial detention and eliminate for-profit bail. [A June 2018 report by AM Best, an insurance rating agency, asked whether 2017 was the "tipping point" for the bail surety industry:](#)

"State and federal lawmakers have proposed numerous bills aimed at reducing money bail as a means of pretrial detainment. With extensive reforms either enacted in 2017 or currently under consideration in a majority of states, a decided shift away from requiring money bail seems to be at hand. This appears to be particularly true with regard to misdemeanor and low-level felony cases and is likely going to be the rule more than the exception in the future. The impact could result in a significant shrinking of the surety bond market's bail bonds segment."

In other words, given a shrinking market, investments in bail surety companies are likely to be challenged going forward.

In addition, as bail insurance companies spend heavily in an attempt to defend their business, they are likely to draw increasing headline risk for themselves and their investors.

For example, in August 2018, the State of California adopted a sweeping bail reform law that eliminates for-profit bail.^[1] Just days after the reform was signed into law, a number of bail bond and bail surety companies contributed millions of dollars to roll back the reform through a referendum.

In October 2018, the *Washington Post* published a lengthy investigative story, "[Private-equity money backs an effort to overturn California law intended to help the poor.](#)" which looked at contributions to the effort by Endeavour Capital, a private equity firm that owns Aladdin Bail Bonds and Seaview Insurance.

Following the *Washington Post* story, Endeavour Capital has drawn greater scrutiny and concern from investors. A February 2019 article in *Responsible Investor*, "[Denmark's ATP and US pension funds under pressure over links to US bail bond industry.](#)" highlighted the growing concern by Endeavour Capital's investors regarding the firm's bail bond and bail surety investments. Indeed, following the revelations about Endeavour Capital's bail bond investments, multiple past investors have announced that they do not intend to contribute to Endeavour Capital's next private equity fund.

As such, we believe Fairfax Financial should exit its investments in the bail bond and bail surety industries in the United States.

Please do not hesitate to contact me if you would like to discuss this matter further.

Sincerely,

Udi Ofer

Deputy National Political Director
Director, Campaign for Smart Justice
American Civil Liberties Union
125 Broad Street, New York, NY 10004

 