

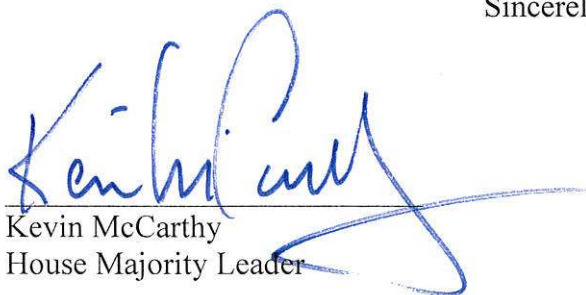
**Congress of the United States**  
**Washington, DC 20515**

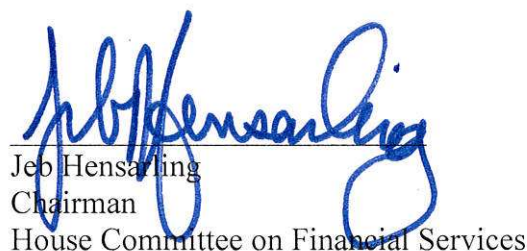
November 15, 2016

Dear Secretaries, Administrators, Directors and Commissioners:

Earlier this year, President Obama's Chief of Staff stated that the Administration will "do audacious executive action throughout the course of the rest of the year."<sup>1</sup> As you are aware, such action often involves the exercise of substantial policymaking discretion and could have far-reaching impacts on the American people and economy. Considering these potential consequences, we write to caution you against finalizing pending rules or regulations in the Administration's last days. By refraining from acting with undue haste, you will ensure that agency staff may fully assess the costs and benefits of rules, making it less likely that unintended consequences will harm consumers and businesses.<sup>2</sup> Moreover, such forbearance is necessary to afford the recently elected Administration and Congress the opportunity to review and give direction concerning pending rulemakings.<sup>3</sup> Should you ignore this counsel, please be aware that we will work with our colleagues to ensure that Congress scrutinizes your actions – and, if appropriate, overturns them – pursuant to the Congressional Review Act.<sup>4</sup>

Sincerely,

  
Kevin McCarthy  
House Majority Leader

  
Jeb Hensarling  
Chairman  
House Committee on Financial Services

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<sup>1</sup> David Cook, *White House chief of staff promises 'audacious executive action'*, CHRISTIAN SCIENCE MONITOR (Jan. 13, 2016), [http://www.csmonitor.com/USA/Politics/monitor\\_breakfast/2016/0113/White-House-chief-of-staff-promises-audacious-executive-action](http://www.csmonitor.com/USA/Politics/monitor_breakfast/2016/0113/White-House-chief-of-staff-promises-audacious-executive-action) (emphasis added).


<sup>2</sup> Other aspects of the rulemaking process are diminished when administrations issue "midnight" rules, lowering the quality of the final product. The Office of Information and Regulatory Affairs (OIRA) has limited opportunity to review "midnight" rules, "and neither agency nor OIRA personnel have sufficiently strong incentives or latitude to conduct searching analyses of whether the rules should or should not be issued or modified." H. COMM. ON THE JUDICIARY, MIDNIGHT RULES RELIEF ACT OF 2016, H. Rep. No. 114-782, pt. 1, at 2 (2016).


<sup>3</sup> On January 20, 2009, President Obama's Chief of Staff requested that the heads of executive departments and agencies refrain from finalizing new rules, writing that "[i]t is important that [the President's] appointees and designees have the opportunity to review and approve any new or pending regulations." We respectfully submit that the sentiment animating President Obama's guidance is as applicable today as it was almost eight years ago, and that democratic accountability requires that all agencies – even so-called independent agencies – temporarily refrain from finalizing rules.


<sup>4</sup> 5 U.S.C. §§ 601 *et seq.*


  
Michael Conaway  
Chairman  
House Committee on Agriculture

  
Hal Rogers  
Chairman  
House Committee on Appropriations

  
Mac Thornberry  
Chairman  
House Committee on Armed Services

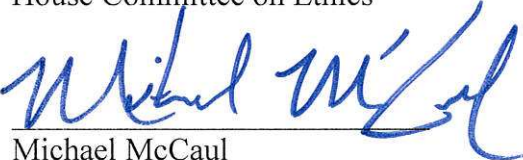
  
Tom Price  
Chairman  
House Committee on the Budget


  
John Kline  
Chairman  
House Committee on Education and  
the Workforce


  
Fred Upton  
Chairman  
House Committee on Energy and Commerce

  
Charlie Dent  
Chairman  
House Committee on Ethics


  
Ed Royce  
Chairman  
House Committee on Foreign Affairs

  
Michael McCaul  
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Candice Miller  
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House Committee on House Administration

  
Bob Goodlatte  
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Rob Bishop  
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Jason Chaffetz  
Chairman  
House Committee on Oversight and  
Government Reform

  
Devin Nunes  
Chairman  
House Permanent  
Select Committee on Intelligence



Pete Sessions  
Chairman  
House Committee on Rules



Lamar Smith  
Chairman  
House Committee on Science,  
Space and Technology



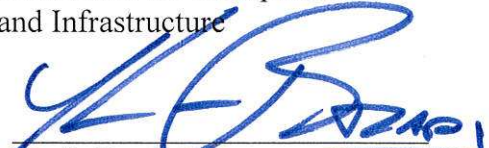
Steve Chabot  
Chairman  
House Committee on Small Business



Bill Shuster  
Chairman  
Committee on Transportation  
and Infrastructure



Jeff Miller  
Chairman  
House Committee on Veterans' Affairs



Kevin Brady  
Chairman  
House Committee on Ways and Means

CC: All Federal Executive and Independent Agencies