

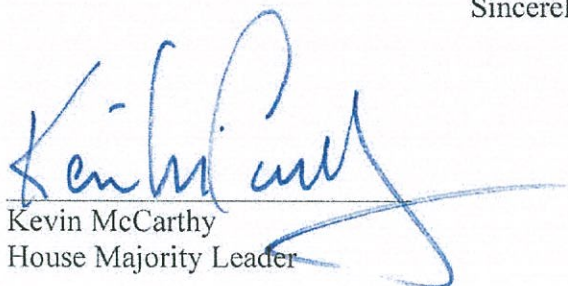
Congress of the United States
Washington, DC 20515

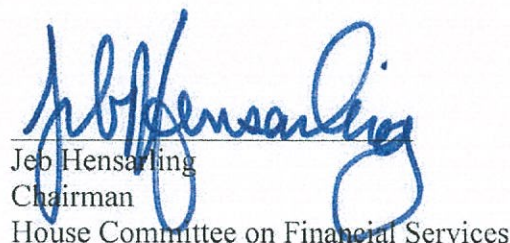
November 15, 2016

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."¹ 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.² Moreover, such forbearance is necessary to afford the recently elected Administration and Congress the opportunity to review and give direction concerning pending rulemakings.³ 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.⁴

Sincerely,


Kevin McCarthy
House Majority Leader

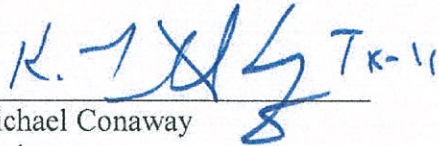

Jeb Hensarling
Chairman
House Committee on Financial Services

¹ 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 (emphasis added).

² 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).

³ 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.

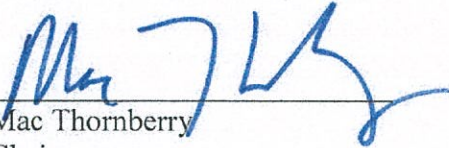
⁴ 5 U.S.C. §§ 601 *et seq.*



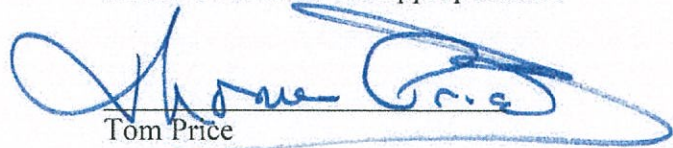
Michael Conaway
Chairman
House Committee on Agriculture



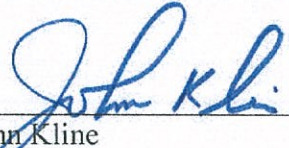
Hal Rogers
Chairman
House Committee on Appropriations



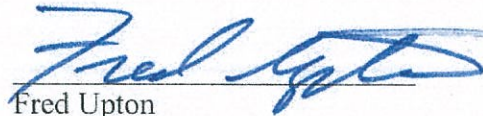
Mac Thornberry
Chairman
House Committee on Armed Services



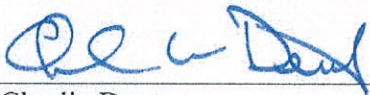
Tom Price
Chairman
House Committee on the Budget



John Kline
Chairman
House Committee on Education and
the Workforce



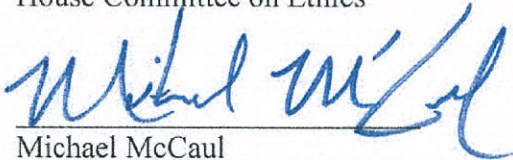
Fred Upton
Chairman
House Committee on Energy and Commerce



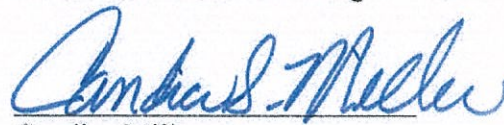
Charlie Dent
Chairman
House Committee on Ethics



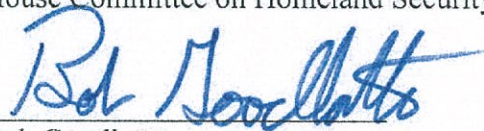
Ed Royce
Chairman
House Committee on Foreign Affairs



Michael McCaul
Chairman
House Committee on Homeland Security



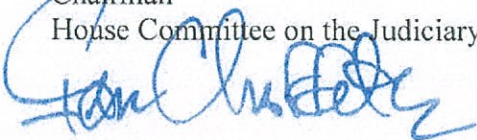
Candice Miller
Chairman
House Committee on House Administration



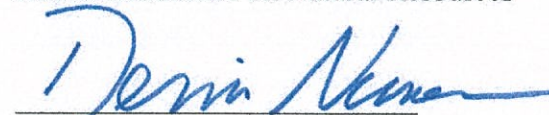
Bob Goodlatte
Chairman
House Committee on the Judiciary



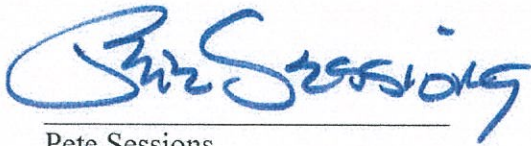
Rob Bishop
Chairman
House Committee on Natural Resources



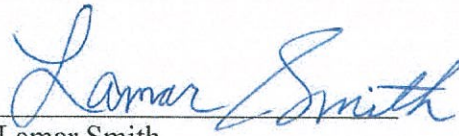
Jason Chaffetz
Chairman
House Committee on Oversight and
Government Reform



Devin Nunes
Chairman
House Permanent
Select Committee on Intelligence



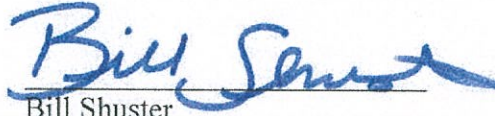
Pete Sessions
Chairman
House Committee on Rules



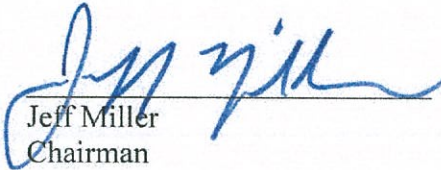
Lamar Smith
Chairman
House Committee on Science,
Space and Technology



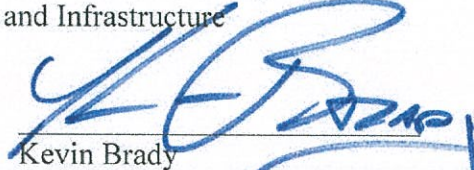
Steve Chabot
Chairman
House Committee on Small Business



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