JEB HENSARLING, TX, CHAIRMAN

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

MAXINE WATERS, CA, RANKING MEMBER

April 3, 2017

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

Dear Secretary Mnuchin:

**Re: Committee Intent to Control Congressional Records**

I write on behalf of the Committee on Financial Services of the U.S. House of Representatives ("Committee") to inform you and in your role as Chairman of the Financial Stability Oversight Council, ("FSOC") of the Committee's practices and procedures during the 115th Congress.

As you may be aware, the Committee has legislative and oversight jurisdiction over the FSOC, pursuant to U.S. House of Representatives Rule X.1(h). Accordingly, the Committee's Members and staff may communicate with you and the FSOC in connection with various legislative, oversight, and investigative matters. Because of the often sensitive and confidential nature of such communications, and in order to ensure the unfettered flow of information necessary to assist the Committee in performing its important legislative and oversight functions, the Committee intends to retain control of all such communications, and will be entrusting them to the FSOC only for use in handling those matters. Likewise, any documents created or compiled by the FSOC in connection with any responses to such Committee communications, including but not limited to any replies to the Committee, are also records of the Committee and remain subject to the Committee's control.

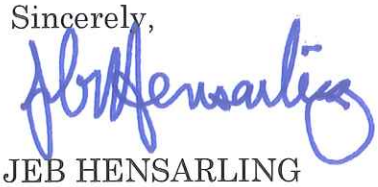
All such documents and communications constitute congressional records, not "agency records," for purposes of the Freedom of Information Act, and remain subject to congressional control even when in the physical possession of the FSOC. As such, they should be segregated from FSOC records, and access to them should be limited to FSOC personnel who need such access for purposes of providing information or assistance to the Committee. Additionally, such congressional records are subject to the absolute protections of the Speech or Debate Clause of the Constitution, U.S. Const. art. I, § 6, cl. 1.

Accordingly, the Committee expects that the FSOC will decline to produce any such congressional records in response to a request under the Freedom of Information Act or any other provision of law or agreement, on the grounds that such documents (i) are not the FSOC's documents to produce, and (ii) are constitutionally privileged, in addition to any other grounds the FSOC may assert.

It is the Committee's policy to include a legend on its legislative, oversight, and investigative correspondence to the FSOC reflecting its intent to retain control of all such communications and responsive documents. The legend is included as a matter of best practice, but accidental failure to include the legend on a particular legislative, oversight, or investigative communication is immaterial, because the Committee intends to retain control over all such communications and any documents created or compiled in response thereto.

To ensure that the FSOC and the Committee efficiently communicate in the future regarding the maintenance, confidentiality, and disposition of the Committee's congressional records, by no later than May 1, 2017, please respond to the Committee in writing to confirm that the FSOC will decline to produce any congressional records in response to a request under the Freedom of Information Act or any other provision of law or agreement, that the FSOC will discuss said request with the Committee, that the FSOC has policies and procedures in place to address this issue, and that these policies and procedures have been shared with appropriate FSOC personnel. If you have any questions regarding this request, please have your staff contact Brett Sisto of the Committee staff at (202) 225-7502. We look forward to working with them in the future.

Sincerely,



JEB HENSARLING
Chairman

cc: The Honorable Maxine Waters, Ranking Member