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ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

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October 16, 2014

The Honorable Janet Y. Yellen
Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Ms. Yellen:

The Committee on Oversight and Government Reform continues its oversight of a multiple federal agency initiative forcing banks to terminate the accounts of legal businesses disfavored by the Administration.[1] Within the Department of Justice this initiative is known as "Operation Choke Point."[2] Documents produced to the Committee suggest substantial involvement by federal banking regulators, and we write to request your assistance with this oversight.

The Federal Reserve Board is the primary supervisor and regulator of bank holding companies and state-chartered banks that are members of the Federal Reserve System. In the course of its investigation of Operation Choke Point, the Committee has learned that federal regulators are pressuring banks to terminate relationships with legal yet disfavored industries, without regard to the legitimacy or risk profile of individual companies. For example, one letter from a Regional Director of the Federal Deposit Insurance Corporation effectively ordered a target bank to terminate all relationships with payday lenders:

> The FDIC continually assesses the risk and appropriateness of the business lines and activities of our supervised institutions. We have recently become aware of [Bank's] involvement in activities related to payday lending, specifically, the processing of transactions on behalf of [Payday Lender]. As a result, the FDIC and [State Banking regulator] conducted a joint Compliance and Risk Management visitation of your bank as of [date].
>
> The focus of our visitation was on the risk associated with this relationship, compliance with consumer protection laws and regulations, and the effectiveness of Board and senior management due diligence and oversight of this relationship and the corresponding payday lending-related activities. It is our view that payday loans are costly, and offer limited utility for consumers, as compared to traditional loan products. Furthermore, the relationship carries a high degree of risk to the

[1] *See generally* STAFF REPORT, H. COMM. ON OVERSIGHT AND GOV'T REFORM, THE DEPARTMENT OF JUSTICE'S "OPERATION CHOKE POINT": ILLEGALLY CHOKING OFF LEGITIMATE BUSINESSES? (May 29, 2014).
[2] *Id.*

> institution, including third-party, reputational, compliance, and legal risk, which may expose the bank to individual and class actions by borrowers and local regulatory authorities. Consequently, we have generally found that activities related to payday lending are unacceptable for an insured depository institution.[3]

There is evidence that the Federal Reserve Board may be operating in a similar manner. On August 8, 2014, SunTrust Bank – a state-chartered member of the Federal Reserve System supervised and regulated by the Federal Reserve Board – issued a statement in response to several well-publicized account closures: "We have decided to discontinue banking relationships with three types of businesses – specifically payday lenders, pawn shops and dedicated check-cashers – **due to compliance requirements**."[4] [emphasis added] SunTrust Bank is the 17th largest bank in the United States, with more than 400,000 small business clients.[5] The Board's enforcement of a compliance regime that forces banks to sever all relations with legal and legitimate customers is totally unacceptable.

So that the Committee may better understand the Federal Reserve's supervisory and regulatory policies with respect to legal and legitimate bank customers, we request that you provide the following information:

1. All documents and communications from January 1, 2012, to the present between employees of the Federal Reserve and employees of the Civil Division of the Department of Justice.

2. All documents and communications from January 1, 2012, to the present referring or relating to Operation Choke Point.

3. All documents and communications from January 1, 2012, to the present referring or relating to firearms and ammunitions businesses and any financial institution's relationship with firearms or ammunition businesses.

4. All documents and communications from January 1, 2012, to the present referring or relating to short-term lending and any financial institution's relationship with short-term lenders.

5. All documents and communications from January 1, 2012, to the present referring or relating to money services businesses and any financial institution's relationship with money services businesses.

6. All documents and communications from January 1, 2012, to the present referring or relating to tobacco-related businesses and to any financial institution's relationship with tobacco-related businesses.

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[3] Letter from a Regional Director, Federal Deposit Insurance Corporation, to Members of the Board Directors of an FDIC-supervised bank, Feb. 15, 2013, FDICICR0085 (on file with Committee staff).
[4] Press Release, SunTrust Banks, Inc., SunTrust Statement on Certain Account Closures (Aug. 8, 2014).
[5] *Id.*; Federal Financial Institutions Examination Council, National Information Center, Holding Companies with Assets Greater than $10 Billion, *available at* http://www.ffiec.gov/nicpubweb/nicweb/top50form.aspx (SunTrust Banks, Inc. is the holding company for SunTrust Bank).

7. All documents and communications from January 1, 2012, to the present referring or relating to pawn shops and any financial institution's relationship with pawn shops.

8. All instructions, guidance, or manuals for bank examination or supervision by the Federal Reserve Board from January 1, 2012, to the present.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

Please provide all responsive material as soon as possible, but no later than 5:00 p.m. on October 30, 2014. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers to receive all documents **in electronic format**.

If you have any questions about this request, please contact Brian Daner or Michael Kiko of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,

Darrell Issa
Chairman

Jim Jordan
Chairman
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Matthew A. Cartwright, Ranking Minority Member
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs

The Honorable Stanley Fischer, Vice Chairman
Board of Governors of the Federal Reserve System

The Honorable Daniel K. Tarullo, Member
Board of Governors of the Federal Reserve System

The Honorable Jerome H. Powell, Member
Board of Governors of the Federal Reserve System

The Honorable Lael Brainard, Member
Board of Governors of the Federal Reserve System

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Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.

3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.

4. Documents produced in electronic format should also be organized, identified, and indexed electronically.

5. Electronic document productions should be prepared according to the following standards:

   (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

   (b) Document numbers in the load file should match document Bates numbers and TIF file names.

   (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

   (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

   BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT,CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.

8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.

11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.

15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.

16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.

18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.

7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.