

# United States Senate

WASHINGTON, DC 20510

October 16, 2017

Eric M Thorson  
Inspector General  
U.S. Department of Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Inspector General Thorson,

We are writing to request that the Department of the Treasury's Office of the Inspector General initiate an investigation into the misapplication of "Special Government Employee" status with regard to Acting Comptroller of the Currency Keith Noreika.

The Office of the Comptroller of the Currency (OCC) is an independent bureau of the Department of the Treasury. As such, the Comptroller must be nominated by the President and confirmed by the Senate. The Comptroller is responsible for the supervision of more than 1,400 national banks and federal savings associations, as well as about 50 federal branches and agencies of foreign banks in the United States. These institutions comprise nearly two-thirds of the assets of the commercial banking system. The Comptroller of the Currency serves concurrently as a director of the Federal Deposit Insurance Corporation (FDIC) and member of the Financial Stability Oversight Council (FSOC).<sup>1</sup>

At Secretary Mnuchin's request, former Comptroller Thomas Curry announced that he would resign on May 3, 2017.<sup>2</sup> On May 5, 2017, Mr. Noreika began his service as the First Deputy Comptroller and Acting Comptroller of the Currency. Upon the commencement of his service, Mr. Noreika was designated a Special Government Employee (SGE).

An SGE is an officer or employee who is "retained, designated, appointed, or employed to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days."<sup>3</sup>

We've expressed repeated concerns to the OCC about Secretary Mnuchin's decision to bypass the Senate confirmation process and install Mr. Noreika into the position – but we are now facing a more immediate issue. On September 12, 2017, Mr. Noreika served his 130th day in office – as of today, he has served 164 days. Unlike most SGEs, Mr. Noreika serves as the head of a major agency and has obligations outside of normal business hours. We believe that Treasury's interpretation counting only business days towards his service limit is in violation of the law governing SGEs.

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<sup>1</sup> <https://occ.treas.gov/about/who-we-are/comptroller-of-the-currency/keith-noreika.html>

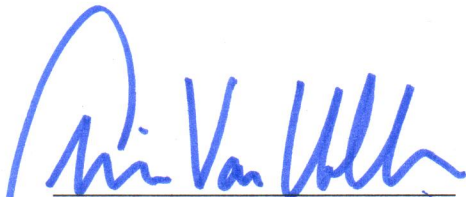
<sup>2</sup> <https://www.occ.gov/news-issuances/news-releases/2017/nr-occ-2017-52.html>

<sup>3</sup> See 18 U.S.C. § 202

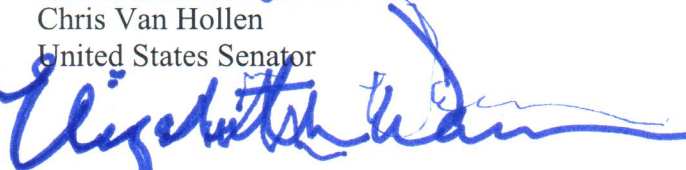
Under a plain-text reading of 18 U.S.C. § 202, Mr. Noreika was required to become a permanent federal employee or step down from his position at the OCC. Neither of these events have occurred. For this reason, we respectfully request that your office open an investigation into the following:

- Is the Department of Treasury and the OCC misapplying the status of SGE to Mr. Noreika? And if so, what are the consequences for Mr. Noreika and the Department?
- Is the Federal Vacancies Reform Act<sup>4</sup> being used properly in this instance?
- As an SGE, Mr. Noreika began his service without his ethics forms being certified, and the President's ethics pledge does not apply to him. When his forms were certified numerous conflicts were cited on his forms. What possible conflicts arose in the five months that Mr. Noreika has served as an SGE?
- What key decisions has Mr. Noreika participated in since September 12, 2017?
- Secretary Mnuchin has not yet fully responded to an information request from May on Mr. Noreika's appointment. In that request, he was asked about Mr. Noreika's authority to be a voting member of the FSOC. On September 29, 2017, the FSOC voted to de-designate AIG as a Systemically Important Financial Institution. Did Mr. Noreika have the authority to vote on the matter?
- Has the Treasury Department installed any other SGEs under Secretary Mnuchin, or is there any plan to do so?

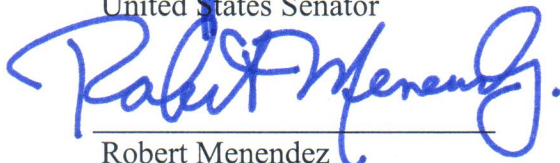
Sincerely,



Chris Van Hollen  
United States Senator



Elizabeth Warren  
United States Senator



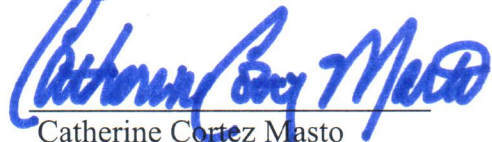
Robert Menendez  
United States Senator



Sherrod Brown  
United States Senator



Jack Reed  
United States Senator



Catherine Cortez Masto  
United States Senator

<sup>4</sup> 5 U.S.C. § 3345