

September 7, 2012

**AFL-CIO \* AFSCME \* Air Line Pilots Association, International \* Alliance for a Just Society \* American Federation of Government Employees, AFL-CIO \* Americans for Financial Reform \* Blue Green Alliance \* California Reinvestment Coalition \* Center for Responsible Lending \* Center for Science in the Public Interest \* Clean Water Network \* Communications Workers of America \* Consumer Action \* Consumer Federation of America \* Consumers Union \* Demos \* Earthjustice \* Food and Water Watch \* Friends of the Earth \* Government Accountability Project \* Greenpeace \* International Brotherhood of Teamsters \* International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW \* The Leadership Conference on Civil and Human Rights \* League of Conservation Voters \* Main Street Alliance \* National Association of Consumer Advocates \* National Community Reinvestment Coalition \* National Consumer Law Center (on behalf of its low income clients) \* National Consumers League \* National Education Association \* National Employment Law Project \* National Fair Housing Alliance \* National People's Action \* National Women's Health Network \* Natural Resources Defense Council \* New Jersey Work Environment Council \* OMB Watch \* Public Citizen \* SAFER Financial Reform \* Service Employees International Union \* Southern Poverty Law Project \* STOP foodborne illness \* The Institute for Agriculture and Trade Policy \* U.S. Public Interest Research Group (PIRG) \* Union of Concerned Scientists \* United Steel Workers \* Worksafe**

Dear Senator:

We, the undersigned consumer, small business, labor, good government, financial protection, community, health, environmental, and public interest groups - **strongly urge you to oppose S. 3468, the Independent Agency Regulatory Analysis Act of 2012.** This legislation is likely to be marked up in the Senate Homeland Security and Government Affairs Committee; no hearing has been held on this broad reaching legislation which will empower the Executive Branch at the expense of the Legislative Branch. While S. 3468 appears to make modest changes in agency procedure, the proposed legislation actually:

- reduces the accountability of independent agencies to Congress;
- allows the White House to delay or stop the actions of independent agencies;
- places new, unnecessary burdens on resource-strapped agencies; and
- severely hampers the capacity of independent agencies to protect the economy, consumers and small businesses -i.e., to carry out the missions for which they were established.

S.3468 would blur the clear lines of accountability of independent agencies. Unlike executive agencies, independent agencies are intentionally accountable to Congress and are not under the control of the President. Congress chooses to establish independent agencies when it judges that the policy area affected needs to be insulated from the political pressures associated with being

part of the executive branch, and independent agency heads have a defined tenure that is independent of the election cycle. In the authorizing statutes of independent agencies, Congress defines the structure, statutory authority, and requirements an agency must meet to issue a rule; many already have requirements for cost-benefit analyses. S.3468 would have the effect of overriding the specific statutes associated with each separate agency, subject independent agency decisions to executive oversight, and require a preeminent focus on economic impact.

By forcing independent agencies to receive approval for any rules from the White House Office of Information & Regulatory Affairs, S. 3468 would essentially put “independent” agencies under the control of the President. Thus, the legislation would lay the foundation for unprecedented White House influence over independent agencies and could give future administrations the power to stop any independent agency regulations they oppose.

This legislation also allows the White House to require at least thirteen new analyses – in addition to existing cost-benefit analysis requirements. Demanding multiple new analyses of every rule would stretch the budgets of the independent agencies and overwhelm OIRA’s capacity to review the analysis. With a staff of fewer than 50, OIRA is already chronically slow in meeting review deadlines for the executive agencies under its purview. To extend its monitoring authority to independent agencies would delay the promulgation of crucial rules.

Consider, for example, the impact S.3468 would have on the implementation of the Wall Street Reform and Consumer Protection Act. Two years after the passage of the Act, many critical new rules have not been completed. In large part, this is because of the cost-benefit processes independent financial agencies are already required to conduct defined in their organic statutes; the lawsuits brought by the financial industry on cost-benefit grounds have further delayed implementation. S.3468 would add numerous additional cost benefit analysis requirements, including approval by OIRA. S.3486 would add years to the process of getting new financial protections in place, or OIRA could delay them indefinitely. This signature achievement must move through the rulemaking process to completion in order to protect the public.

The reach of S.3486 is sweeping; given the jurisdiction of independent agencies, huge swaths of the economy will be affected by the law. The Securities and Exchange Commission (SEC) is charged with policing Wall Street. The Federal Communications Commission (FCC ) oversees wireless communications, access to the Internet, and is supposed to ensure universal service is available in the digital age. The mission of the Consumer Financial Protection Bureau (CFPB) is to protect the financial security of American families and consumers from a wide range of predatory and deceptive lending practices. The CPSC oversees 15,000 different types of consumer products. The Equal Employment Opportunity Commission (EEOC) makes rules that implement congressional mandates outlawing discrimination based on gender, race and religion, disability, and genetic history. The National Labor Relations Board (NLRB) and the National Mediation Board (NMB), two agencies charged with ensuring that workers have the opportunity to freely decide on whether or not to join a union, would be negatively impacted by this legislation.

We believe that the important work these agencies do requires that they be protected from the calculus of short-term political games. Independent agencies need to remain truly independent in order to establish commonsense standards and safeguards that work for all Americans.

**We strongly urge you to oppose S. 3468.**

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