

September 17, 2014

The Honorable Patrick McHenry
The Honorable Al Green
U.S. House Committee on Financial Services
Subcommittee on Oversight and Investigations
2129 Rayburn House Office Building
Washington, DC 20515



Dear Chairman McHenry and Ranking Member Green:

As organizations that share your goals of transparency and accountability in government and applaud your efforts at oversight, we wish to bring to you a matter that needs your urgent attention. On vital issues relating to the government-sponsored enterprises (GSEs) Fannie Mae and Freddie Mac – issues concerning both government spending, private property and contract rights – the Obama Administration continues to shroud information in secrecy.



In 2012, then-Treasury Secretary Timothy Geithner altered the terms of the federal government's conservatorship over Fannie Mae and Freddie Mac. This "Third Amendment" to the Restated Senior Preferred Stock Purchase Agreements will require both GSEs to turn over to the government any net profits they earn indefinitely, even after taxpayers have been paid back in full. Such a taking is a clear violation of property rights belonging to the GSEs' private shareholders – a group that includes American families, seniors and pension beneficiaries. It will also enable unaccountable, off-budget government spending hikes.

AMERICAN COMMITMENT



Not only is this Third Amendment an unprecedented power grab that violates shareholder property rights, but the process used by the Treasury Department to develop the amendment provided neither an opportunity for public comment nor the customary transparency safeguards that permit we the people to hold our government accountable. To this day, the Amendment's provenance remains secret.

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The potential seizure of private assets has spawned numerous lawsuits challenging both its constitutionality and lack of statutory authority. Needless to say, it should be incumbent upon the Treasury Department and any other agencies involved to make public all relevant documents associated with the Amendment's development. Information that comes to light due to the on-going litigation should be made available to the public, but members of Congress also have a responsibility





to the public when they perform the vital function of oversight.

We urge you to demand greater transparency and accountability on this matter by requesting that the Treasury Department turn over to your committee, or otherwise make public, any and all documents shedding light on the alleged need for and legal rationale justifying the Third Amendment, as well as all documents detailing the Amendment’s development and evolution, such as those customarily contained in the administrative docket for an agency rulemaking.

We note that the U.S. Court of Federal Claims recently issued a discovery order in *Fairholme v. United States* – one of the ongoing Third Amendment legal challenges – ordering the government to turn over a similar set of documents to the court. We urge you to request these documents be made public in order to further the rule of law and ensure government accountability.

Thank you for your attention to this crucial matter of government oversight.

Sincerely,

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Competitive Enterprise Institute

James Martin
60 Plus Association

Phil Kerpen
American Commitment

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Americans for Conservative Enterprise

Donald E. Wildmon
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