

July 19, 2017

The Honorable Steven Mnuchin
Secretary of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Mnuchin:

We, the undersigned associations, write to thank you and the Treasury Department for identifying the still-problematic Sec. 385 regulations, among others, as requiring further modifications or rescission in the report mandated by Executive Order 17389.¹ We urge Treasury to act quickly to ease the burden of the Sec. 385 regulations—and ultimately completely rescind the flawed regulatory package—which distort investment and other business decisions, to the detriment of U.S. jobs.

As some of the undersigned noted in a May 1 letter, these regulations will impose excessive and unwarranted compliance and financial burdens on businesses operating in the United States. We were pleased to see the report acknowledge the concerns the business community raised regarding the regulations' effects on inbound investment, the continued challenges that the documentation rules create for all U.S. business, and the need for a longer delay—at minimum—in their effective date.²

However, the process laid out in Executive Order 17389 mandates a second report, released at least 90 days after this report (September 2017), recommending how best to reduce the burden of the identified regulations. It would not be unprecedented for the process to implement those recommendations to take several additional months, potentially pushing past the January 1, 2018 deadline for companies to begin complying with the documentation rule.

Prior to the release of the final report, and the subsequent activity to implement the burden reduction recommendations, it would be particularly important for Treasury to quickly roll back or delay the onerous documentation requirements. This will provide certainty to the U.S. business community and ensure that investment decisions are made in the most economically productive manner, ultimately creating jobs for U.S. workers.

Although this process may alter or rescind the regulations, many companies have already begun to set up the new systems and procedures needed to comply with the complex reporting requirements, and others are facing the deadline to begin this project in the coming months. With each passing day, businesses continue to expend their limited resources—resources that could go to more productive activities in support of innovation, growth, and job creation. If Treasury waits until later this year—or next—to rescind or alter the regulations, or delay the implementation of documentation, companies will be unable to recapture these resources.

¹ Executive Order 17389 directed the Treasury Department to review and identify burdensome tax regulations promulgated by the prior Administration in 2016.

² IRS Notice 2017-38, accessed at: <https://www.irs.gov/pub/irs-drop/n-17-38.pdf>

As we have shared, we remain concerned the regulations create undue financial burdens and complexity on U.S. companies, hindering their ability to invest and create jobs in America. As the process outlined in the executive order continues to play out, we hope that Treasury will seriously consider complete rescission. We appreciate the steps that the Treasury Department has already taken to acknowledge the burdens these regulations impose by identifying them in the report. Thank you again for your leadership on this important issue. We look forward to continuing to support this Administration's efforts to improve the business regulatory environment and eagerly await the conclusion of this process.

Sincerely,

Advanced Medical Technology Association
American Bankers Association
American Chemistry Council
American Council for Capital Formation
American Council of Life Insurers
American Insurance Association
American Petroleum Institute
Association of Global Automakers
Beer Institute
Biotechnology Innovation Organization
Business Roundtable
Information Technology Industry Council
Motion Picture Association of America
Motor & Equipment Manufacturers Association
National Association of Beverage Importers
National Association of Manufacturers
National Foreign Trade Council
Organization for International Investment
Outdoor Power Equipment Institute, Inc.
Plastics Industry Association
Reinsurance Association of America
Retail Industry Leaders Association
Securities Industry and Financial Markets Association
Semiconductor Industry Association