

Cortez Masto, Senate Banking Democrats Raise Concerns about Apparent Political Power Grab at OCC

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Thursday, May 11, 2017

New bank regulator has been installed without vetting and raises serious conflicts of interest

Washington, D.C. – U.S. Senator Catherine Cortez Masto (D-Nev.) and six fellow members of the Senate Banking Committee – Ranking Member Sherrod Brown (D-Ohio) and U.S. Senators Chris Van Hollen (D-Md.), Elizabeth Warren (D-Mass.), Robert Menéndez (D-N.J.), Brian Schatz (D-Hawaii), and Jack Reed (D-R.I.) – wrote a letter to Treasury Secretary Mnuchin highlighting their concerns about his decision to install Keith Noreika as the acting head of the Office of the Comptroller of the Currency (OCC) without Senate confirmation.

In the letter, the senators questioned Mr. Noreika’s legal authority, his ability to be independent, and Secretary Mnuchin’s complete circumvention of the Senate confirmation process for the role leading the OCC, an office which oversees over 2,000 national banks and is charged with protecting consumers and ensuring the safety and soundness of financial institutions.

“We are deeply concerned by your decision to replace Thomas Curry, the head of the Office of the Comptroller of the Currency (OCC), with Keith Noreika, an acting head from outside the OCC,” **the Senators wrote**. “The Comptroller of the Currency must be nominated by the President and confirmed by the Senate. President Trump has not named a nominee for this position. Yet you have chosen to replace the current head with an acting head who is unvetted, has obvious conflicts of interest, and lacks the experience to run an agency that employs almost 4,000 individuals and oversees over 2,000 national banks, both large and small.”

The full text of the letter is below.

Dear Secretary Mnuchin,

We are deeply concerned by your decision to replace Thomas Curry, the head of the Office of the Comptroller of the Currency (OCC), with Keith Noreika, an acting head from outside the OCC.

The Comptroller of the Currency must be nominated by the President and confirmed by the Senate. President Trump has not named a nominee for this position. Yet you have chosen to replace the current head with an acting head who is unvetted, has obvious conflicts of interest, and lacks the experience to run an agency that employs almost 4,000 individuals and oversees over 2,000 national banks, both large and small.

As we learn more about the administration's decision to install Mr. Noreika, we ask you to respond to the following questions no later than May 17:

Legal Authority

- Can you describe the authorities of a First Deputy Comptroller and enumerate the differences between a First Deputy Comptroller appointed to the position of Comptroller as opposed to a Comptroller who has been confirmed by the Senate? Will there be any limits on his duties and authorities as Acting Comptroller of the Currency?
- Will Mr. Noreika be serving as Acting Comptroller or as a counselor from the Department of Treasury?
- As a "special government employee," will he be limited in any capacity from undertaking the duties to run the agency?
- Will Mr. Noreika have the authority to sign enforcement orders in his new capacity? If he does not have this authority, how does the OCC plan on executing enforcement orders during his tenure?
- Will Mr. Noreika have the authority to close financial institutions regulated by the OCC? If he does not have this authority, how does the OCC plan on closing undercapitalized financial institutions during his tenure?
- Will Mr. Noreika have the authority to authorize mergers and approve new charters? If he does not have this authority, how does the OCC plan on approving mergers and new bank charters during his tenure?
- Will Mr. Noreika be a voting member of the Financial Stability and Oversight Council (FSOC)? If he does not have this authority, how does the OCC plan to have a voice at the FSOC?

Independence

- Has Mr. Noreika signed an ethics agreement? If so, please provide a copy. In addition, does President Trump's "ethics pledge" apply to Mr. Noreika?
- Mr. Noreika has represented numerous clients in the financial services industry, including companies with substantial pending or potential matters before the OCC. In order to avoid any potential impropriety (or the appearance of it), is Mr. Noreika required to recuse himself from any matters which may result in a conflict or the appearance of a conflict?

- Please provide a detailed list of any such recusals that will be required of Mr. Noreika, based upon his disclosure of financial interests or prior representation.
- Has Mr. Noreika been granted any exemptions or waivers related to matters involving his work for previous clients?
- Is it your understanding that Mr. Noreika will continue to serve as First Deputy Comptroller following the nomination and confirmation of Mr. Curry's successor? Does Mr. Noreika plan to return to his legal practice after his time at the OCC?

Circumventing Confirmation

- When was the last time a Treasury Secretary appointed someone from outside the OCC to lead the agency? Please describe the process for installing that person at the OCC.
- Why wasn't Mr. Noreika simply nominated for the position of Comptroller?
- What are the administration's plans for nominating a new Comptroller of the Currency, and when will the Senate Banking Committee receive nomination papers for the nominee?
- Why didn't the administration choose an individual already within the OCC as Acting Comptroller during this period of transition?

At a time when our financial institutions have recovered from the 2008 crisis but working families continue to struggle, the OCC's work on consumer protection and financial stability is more important than ever. We see no reason to disrupt the agency's operations by replacing a strong, independent leader like Comptroller Curry with an untested outsider who has not been confirmed by the Senate.

Thank you for your attention to this matter.

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Issues:

General