Congress of the United States
Washington, DC 20515

October 16, 2014

The Honorable Michael Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Ms. Robin Ashton
Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, D.C. 20530

Dear Inspector General Horowitz and Ms. Ashton:

We write to request an immediate investigation into the Department of Justice (DOJ) program known as Operation Choke Point and the DOJ officials and staff involved in its creation and execution.

By way of background, Operation Choke Point is a DOJ-initiated effort that aims to force businesses, many of which are licensed and legally-operating, out of the financial services space and therefore, out of business. DOJ officials are working in collusion with federal banking regulators, including but perhaps not limited to the Federal Deposit Insurance Commission, to apply regulatory pressure to financial institutions that offer banking services to specific industries targeted by DOJ. These include the nondeposit lending industry, pawnbrokers, firearms and ammunition manufacturers and retailers, and tobacco retailers, to name a few.

After extensive research, the House Oversight and Government Reform Committee issued a report on May 29, 2014, based on documentation provided to the Committee by DOJ officials. The findings showed an egregious abuse of power that we believe merits your full attention and a formal investigation. First, internal DOJ memoranda show that DOJ staff who conceived of, approved and/or implemented Operation Choke Point questioned the legal authority on which the program was based. The powers granted to DOJ under the *Financial Institutions Reform, Recovery, and Enforcement Act of 1989* (FIRREA) were intended to address issues that pose substantial risk to financial institutions. FIRREA was not meant to address consumer fraud, yet DOJ staff abused FIRREA authority to address consumer fraud issues while conceding in a memorandum that the "financial institutions we are investigating have not suffered any actual losses."

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There is no doubt in our minds that DOJ officials have abused their authority to advance a personal political agenda. One need look no further than a September 2013 presentation made by Joel Sweet, a trial attorney housed in DOJ Civil Division, in which he describes the termination of banking relationships for legal internet payday lenders as a "collateral benefit" of Operation Choke Point. Furthermore, Department officials are perfectly aware that Operation Choke Point is forcing legally-operating businesses out of the financial services space. Included in the internal memoranda obtained by Congress was evidence that senior staff had informed the Attorney General that Operation Choke Point had a detrimental impact on legitimate businesses and that the program was causing banks to exit entire lines of business. Despite this knowledge and admission, and of internal debates over the legitimacy of the program, Operation Choke Point continues.

The result of this initiative has been chilling. We understand, through conversations with senior DOJ officials including Stuart Delery, the now-Acting Associate Attorney General and former Assistant Attorney General for the Civil Division, that more than 50 subpoenas may have been issued to financial institutions serving nondeposit lenders; those 50 subpoenas have produced only one case to date.

Operation Choke Point is a blatant abuse of legal authority on the part of DOJ. You will find the House Oversight and Government Reform Committee report and DOJ memoranda referenced in this letter attached. This situation merits your full and immediate attention, and we request that you launch a comprehensive investigation on Operation Choke Point and the individuals charged with creating and carrying out this unprecedented initiative. We ask that, to the extent possible, you keep Congress informed of your efforts. In the event that we fail to hear from you by November 12, 2014, we request a meeting with you so that Members of Congress can directly express to you our concerns. We appreciate your diligence in this matter and look forward to your prompt response.

Sincerely,

Blaine Luetkemeyer
Member of Congress

Jim Jordan
Member of Congress

Pete Sessions
Member of Congress

Lynn Westmoreland
Member of Congress

Ted Poe
Member of Congress

Cynthia Lummis
Member of Congress

Lee Terry
Member of Congress

Marlin Stutzman
Member of Congress

Paul Gosar
Member of Congress

Dennis Ross
Member of Congress

Stevan Pearce
Member of Congress

Tom Cotton
Member of Congress

Walter B. Jones
Member of Congress

David W. Jolly
Member of Congress

Steve Stivers
Member of Congress

David Schweikert
Member of Congress

Tom Marino
Member of Congress

Luke Messer
Member of Congress

Mick Mulvaney
Member of Congress

Brad R. Wenstrup
Member of Congress