

Congress of the United States

Washington, DC 20515

February 28, 2023

Brian M. Tomney
Office of Inspector General
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

Dear Mr. Tomney:

We are writing, in the wake of reports of widespread and frequent cases of financial conflicts of interest and ethically questionable behavior by senior government officials across the executive branch, to ask that you conduct a detailed review of these matters at the Federal Housing Finance Agency. Because these reports raise broad questions about whether federal ethics rules, and agencies' implementation of them, are adequate to protect the public interest and the public's trust, we are asking you in your capacity as federal Inspector General (IG) to conduct this review, and coordinate with your colleagues to fully assess these matters.

An investigation by *The Wall Street Journal* identified conflicts of interest across 50 federal agencies, finding that one in five senior federal employees “disclosed stock investments in companies while those same companies were lobbying their agencies for favorable policies.”¹ These stock investments by government officials ranged from defense contractors² to Big Tech companies³ to pharmaceutical companies.⁴ They appear to run rampant in the executive branch and threaten to undermine fair and effective governance – and it seems clear that current ethics rules are not doing enough to stop them.

In light of these reports, we are asking your office to conduct a broad and meticulous review of financial conflicts of interest at the Federal Housing Finance Agency, and the effectiveness of existing rules and laws to prevent such conflicts. This review should include: (1) examining the strength and efficacy of the existing ethics rules and their implementation by ethics officials and administrators in your agency, (2) identifying any potential ethics violations and cases where agency officials' behavior may have raised questions about ethics and conflicts of interest even though they may not have violated current ethics rules, and (3) compiling

¹ Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

² *Id.*

³ *Id.*

⁴ *Id.*

recommendations for how ethics laws and regulations can be strengthened to crack down on corruption and improve the public’s confidence in federal government decision-making.

We introduced sweeping ethics legislation, the *Anti-Corruption and Public Integrity Act*,⁵ that would address these problems at the source by boosting transparency, strengthening ethics rules, and fixing federal open records laws. Your agency-wide review would help inform this legislation, and would be consistent with IGs’ role of “promot[ing] ... effectiveness in the administration of, and ... prevent[ing] and detect[ing] fraud and abuse” in agency programs.⁶

The *Wall Street Journal* investigation reviewed over 31,000 financial disclosure forms filed by senior Executive branch officials from 2016 through 2021, identifying about 850,000 financial assets and over 315,000 trades of senior government officials with enormous power over the day-to-day lives of every American.⁷ Although federal financial conflict of interest law prevents executive branch officials from “participating in a government matter that will have a direct and predictable effect on their financial interests,” the law appears to have been frequently circumvented or outright overlooked by officials across the executive branch.⁸ Even in cases where no law was broken, many officials violated “the spirit behind the law,”⁹ adding to widespread issues of soft corruption in the executive branch.

Alarming, these conflicts of interest continued and may have even accelerated with the onset of the COVID-19 pandemic, potentially revealing that federal government officials were using an unprecedented public health crisis for personal enrichment.¹⁰ In January 2020, when the public was “largely unaware” of the threat, officials at the Department of Health and Human Services reported “60% more sales of stocks and funds in January than the average over the previous 12 months.”¹¹ In addition, approximately 240 officials at agencies involved in the COVID-19 vaccine rollout reported owning “between \$9 million and \$28 million in

⁵ S. 5070 (116th Congress), <https://www.congress.gov/bill/116th-congress/senate-bill/5070>; Office of Senator Elizabeth Warren, “Warren and Jayapal Reintroduce the Anti-Corruption & Public Integrity Act,” press release, December 18, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-and-jayapal-reintroduce-the-anti-corruption-and-public-integrity-act>.

⁶ Inspector General Act of 1978, Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, <https://uscode.house.gov/view.xhtml?path=/prelim@title5/title5a/node20&edition=prelim>.

⁷ Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

⁸ 18 U.S.C. 208; Federal Times, “What are the insider-trading rules for federal employees?,” Molly Weisner, September 26, 2022, <https://www.federaltimes.com/federal-oversight/congress/2022/09/26/what-are-the-insider-trading-rules-for-federal-workers/>.

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stocks of drug, manufacturing and biotechnology companies that won federal contracts related to Covid-19 in 2020 and 2021.”¹²

Although the *Wall Street Journal* investigation covered only 50 of the federal agencies,¹³ the scope and breadth of corruption and conflicts of interest revealed significant deficiencies across the executive branch. These included:

- More than 200 senior officials at the Environmental Protection Agency, nearly one in three, disclosed investments in companies that were lobbying the agency. One official and his husband reported “more than 100 trades in energy and mining companies” while working for the agency in a role that “gave him a front-row seat to deliberations about environmental regulations relating to energy.”¹⁴
- The Regional Director of the National Labor Relation Board’s (NLRB) Oakland, California branch, reported owning and purchasing Tesla stock in 2019 and 2020, while the NLRB had ongoing cases against the company.¹⁵ While continuing to purchase Tesla stock, she led the NLRB’s Oakland office in dismissing charges against the company for further worker’s rights violations in 2021.¹⁶ In this case, ethics officials found that she had “violat[ed] federal law,” but federal prosecutors declined to take the case.¹⁷
- In January 2020, the Principal Deputy Director at the National Institutes of Health’s National Institute of Allergy and Infectious Diseases sold off hundreds of thousands of dollars in stock in at least 10 transactions, all while receiving non-public information about the severity of the approaching COVID-19 pandemic.¹⁸ According to *The Wall Street Journal*, “each holding he sold fell sharply in the market downturn that soon followed, as the public and investors started paying attention to the threat posed by Covid-19.”¹⁹
- At the Department of Defense, at least 15 officials owned stock in the Chinese e-commerce company Alibaba Group Holding Ltd. while the Department was in discussions over whether to blacklist the company.²⁰ One official who was involved in

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¹⁴ *Id.*

¹⁵ *Id.*

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¹⁷ *Id.*

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these conversations sold his stock soon after the blacklist was released without Alibaba, boosting the company's worth, and just one day before defense officials attempted to reverse the decision.²¹

- At the Federal Deposit Insurance Corporation, senior officials including the Deputy Chief Information Officer and members of the Senior Leadership Team pushed the agency to change an existing contract for cloud services to award it instead to Microsoft's Azure cloud platform, while owning between \$15,001 and \$80,000 in Microsoft stock.²² One senior adviser, who later served as the acting Deputy Chief Information Officer and helped implement the updated contract, reported that her husband worked at Microsoft in its cloud products division and owned vested stock options worth between \$50,001 and \$100,000.²³
- A top Treasury Department official, with the approval of the Department's ethics officials, held more than \$100,000 in stock in each of the four major Big Tech companies throughout his tenure.²⁴ In his role, he pushed for "major" tax cuts for corporations in 2017 through the *Tax Cuts and Jobs Act*, legislation that saved them billions in potential taxes.²⁵ By the time he left the Department, "the share prices of Amazon, Apple and Facebook were up 74%, 21% and 16%, respectively, from the time of his confirmation."²⁶
- A senior advisor for the U.S. Trade Representative held over \$1 million in Amazon stock while working on digital trade agreements that would directly benefit companies like the tech giant.²⁷ While still holding the stock, and without intervention from the agency, he gave a briefing to Amazon and other Big Tech lobbyists on "the administration's priorities, including the digital trade matter."²⁸ After ethics officials warned him about his growing conflicts of interest and refused to allow him to keep

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²² Wall Street Journal, "When Federal Officials Help Companies – and Their Own Financial Interests," Rebecca Ballhaus, Brody Mullins, and James V. Grimaldi, December 30, 2022, <https://www.wsj.com/articles/when-federal-officials-help-companiesand-their-own-financial-interests-11672419851>.

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²⁵ *Id.*; The Motley Fool, "Here's How Much Money Amazon Saved From Trump's Tax Cuts," Jeremy Bowman, October 18, 2020, <https://www.fool.com/investing/2020/10/18/heres-how-much-money-amazon-saved-trumps-tax-cuts/>.

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- At the Department of Energy (DOE), the husband of a “lead adviser” on a contract between the Production Office of the National Nuclear Security Administration (NNSA) and a consortium of companies that ran nuclear-related facilities for the agency served as a consultant for and was eligible to receive a performance-based bonus from one of the companies.³⁰ While ethics officials were aware of the conflict, the DOE official was granted a waiver to continue overseeing the contract.³¹
- A Food and Drug Administration (FDA) executive ran the agency’s planning office while owning stock in “about 70 pharmaceutical, diagnostics, medical device, and food companies” including Pfizer Inc., Takeda Pharmaceutical Company Ltd., and Sanofi SA.³² After the FDA’s Office of Ethics and Integrity told him he would need to sell the stocks from the agency’s prohibited list, he chose to retire instead.³³
- An economist at the Commodity Futures Trading Commission (CFTC) and her husband made “more than 9,500 trades in 2020—an average of about 38 each trading day,” including trades that shorted stocks, despite the practice explicitly being prohibited for CFTC employees.³⁴ Ethics officials at the agency approved the behavior because the commission “could possibly be sued [...] if we said no.”³⁵

The findings of *The Wall Street Journal*’s investigation into conflicts of interest in the executive branch are deeply concerning and threaten to undermine the work the federal government does for the American public every day. These conflicts were widespread – but not restricted – to the Trump Administration. While the Biden Administration has taken steps to crack down on lobbying influence and the revolving door in the executive branch,³⁶ this investigation reveals a number of unaddressed concerns. While some agencies have taken positive steps to re-evaluate their policies in the months since these conflicts were made public,³⁷ this issue requires a whole-of-government response conducted transparently and publicly.

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³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ White House, “Executive Order on Ethics Commitments by Executive Branch Personnel,” press release, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ethics-commitments-by-executive-branch-personnel/>.

³⁷ Wall Street Journal, “U.S. Agencies Seek Tougher Rules, Internal Probes on Stock Trading by Federal Officials,” Rebecca Ballhaus and Brody Mullins, February 7, 2023, <https://www.wsj.com/articles/u-s-agencies-seek-tougher-rules-internal-probes-on-stock-trading-by-federal-officials-11675789424>.

We have long been concerned by the acceptance of soft corruption by some senior officials, particularly their ability to use nonpublic information to enrich their own stock portfolios. In the fiscal year 2020 *National Defense Authorization Act*, Senator Warren secured a provision to prohibit senior procurement officials and Senate-confirmed appointees from owning stocks in the top 10 recipients of Department of Defense contracts.³⁸ Since October 2021, Senator Warren has been investigating egregious conflicts of interest and ethics lapses at the Federal Reserve.³⁹

Last Congress, we reintroduced sweeping ethics legislation, our *Anti-Corruption and Public Integrity Act*,⁴⁰ that would address these problems at the source by boosting transparency, strengthening ethics rules and enforcement, and fixing federal open records laws. Specifically, the legislation would ban individual stock ownership by Members of Congress, Cabinet Secretaries, senior government officials, federal judges, White House staff, and other senior agency officials while in office. It would prohibit all government officials from holding or trading stock where its value might be influenced by their agency, department, or actions. And it would require senior government officials and White House staff to divest from privately owned assets that could present conflicts, including large companies and commercial real estate. This far-reaching legislation would also tighten conflict of interest and recusal requirements and shut the revolving door between industry and government.

To inform the future refinement of this legislation, and address the government-wide ethics and conflicts of interest problems identified in the Wall Street Journal investigation, we are requesting that you conduct a review of the ethics policies and practices of your agency. The review should address the following questions:

1. Do officials at your agency have financial holdings or engage in trading activity that present potential conflicts of interest? If so, what is the scope and nature of these conflicts among agency staff?
2. How do agency ethics officials determine whether officials' financial holdings and their trading activity create a conflict of interest or otherwise violate federal ethics laws?
3. Have officials at your agency violated federal conflict of interest rules as a result of their financial holdings and trading activity?

³⁸ 10 U.S.C. 988.

³⁹ Letter from Senator Warren to The Honorable Jerome Powell, October 21, 2021, <https://www.warren.senate.gov/imo/media/doc/2021.10.21%20Letter%20to%20Powell%20re%20Ethics%20Officials%20Warnings.pdf>.

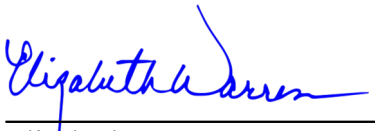
⁴⁰ S. 5315 (117th Congress), <https://www.congress.gov/bill/117th-congress/senate-bill/5315>; Office of Senator Elizabeth Warren, "Warren and Jayapal Reintroduce the Anti-Corruption & Public Integrity Act," press release, December 18, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-and-jayapal-reintroduce-the-anti-corruption-and-public-integrity-act>.

4. Are federal ethics rules and implementation of these rules by agency officials adequate? Specifically, are there cases where agency officials' financial holdings and trading activity create conflicts of interest or appear to create such conflicts, despite the fact that they do not appear to violate current federal or agency-level rules and regulations?

We also ask that you provide specific recommendations for Congress and for the executive branch to strengthen and improve federal ethics laws and rules, eliminate financial conflicts of interest, and improve the public's trust in government.

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator



Pramila Jayapal
Member of Congress

Congress of the United States

Washington, DC 20515

February 28, 2023

The Honorable Rae Oliver Davis
Office of Investigation
Department of Housing and Urban Development
Room 8274
451 7th Street Southwest
Washington, DC 20410

Dear Ms. Davis:

We are writing, in the wake of reports of widespread and frequent cases of financial conflicts of interest and ethically questionable behavior by senior government officials across the executive branch, to ask that you conduct a detailed review of these matters at the Department of Housing and Urban Development. Because these reports raise broad questions about whether federal ethics rules, and agencies' implementation of them, are adequate to protect the public interest and the public's trust, we are asking you in your capacity as federal Inspector General (IG) to conduct this review, and coordinate with your colleagues to fully assess these matters.

An investigation by *The Wall Street Journal* identified conflicts of interest across 50 federal agencies, finding that one in five senior federal employees "disclosed stock investments in companies while those same companies were lobbying their agencies for favorable policies."¹ These stock investments by government officials ranged from defense contractors² to Big Tech companies³ to pharmaceutical companies.⁴ They appear to run rampant in the executive branch and threaten to undermine fair and effective governance – and it seems clear that current ethics rules are not doing enough to stop them.

In light of these reports, we are asking your office to conduct a broad and meticulous review of financial conflicts of interest at the Department of Housing and Urban Development, and the effectiveness of existing rules and laws to prevent such conflicts. This review should include: (1) examining the strength and efficacy of the existing ethics rules and their implementation by ethics officials and administrators in your agency, (2) identifying any potential ethics violations and cases where agency officials' behavior may have raised questions about ethics and conflicts of interest even though they may not have violated current ethics rules, and (3) compiling recommendations for how ethics laws and regulations can be strengthened to crack down on corruption and improve the public's confidence in federal government decision-making.

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Alarming, these conflicts of interest continued and may have even accelerated with the onset of the COVID-19 pandemic, potentially revealing that federal government officials were using an unprecedented public health crisis for personal enrichment.¹⁰ In January 2020, when the public was "largely unaware" of the threat, officials at the Department of Health and Human Services reported "60% more sales of stocks and funds in January than the average over the previous 12 months."¹¹ In addition, approximately 240 officials at agencies involved in the COVID-19 vaccine rollout reported owning "between \$9 million and \$28 million in stocks of drug, manufacturing and biotechnology companies that won federal contracts related to Covid-19 in 2020 and 2021."¹²

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We have long been concerned by the acceptance of soft corruption by some senior officials, particularly their ability to use nonpublic information to enrich their own stock portfolios. In the fiscal year 2020 *National Defense Authorization Act*, Senator Warren secured a provision to prohibit senior procurement officials and Senate-confirmed appointees from owning stocks in the top 10 recipients of Department of Defense contracts.³⁸ Since October 2021, Senator Warren has been investigating egregious conflicts of interest and ethics lapses at the Federal Reserve.³⁹

³⁰ *Id.*

³¹ *Id.*

³² Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ White House, “Executive Order on Ethics Commitments by Executive Branch Personnel,” press release, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ethics-commitments-by-executive-branch-personnel/>.

³⁷ Wall Street Journal, “U.S. Agencies Seek Tougher Rules, Internal Probes on Stock Trading by Federal Officials,” Rebecca Ballhaus and Brody Mullins, February 7, 2023, <https://www.wsj.com/articles/u-s-agencies-look-tougher-rules-internal-probes-on-stock-trading-by-federal-officials-11675789424>.

³⁸ 10 U.S.C. 988.

³⁹ Letter from Senator Warren to The Honorable Jerome Powell, October 21, 2021, <https://www.warren.senate.gov/imo/media/doc/2021.10.21%20Letter%20to%20Powell%20re%20Ethics>

Last Congress, we reintroduced sweeping ethics legislation, our *Anti-Corruption and Public Integrity Act*,⁴⁰ that would address these problems at the source by boosting transparency, strengthening ethics rules and enforcement, and fixing federal open records laws. Specifically, the legislation would ban individual stock ownership by Members of Congress, Cabinet Secretaries, senior government officials, federal judges, White House staff, and other senior agency officials while in office. It would prohibit all government officials from holding or trading stock where its value might be influenced by their agency, department, or actions. And it would require senior government officials and White House staff to divest from privately owned assets that could present conflicts, including large companies and commercial real estate. This far-reaching legislation would also tighten conflict of interest and recusal requirements and shut the revolving door between industry and government.

To inform the future refinement of this legislation, and address the government-wide ethics and conflicts of interest problems identified in the Wall Street Journal investigation, we are requesting that you conduct a review of the ethics policies and practices of your agency. The review should address the following questions:

1. Do officials at your agency have financial holdings or engage in trading activity that present potential conflicts of interest? If so, what is the scope and nature of these conflicts among agency staff?
2. How do agency ethics officials determine whether officials' financial holdings and their trading activity create a conflict of interest or otherwise violate federal ethics laws?
3. Have officials at your agency violated federal conflict of interest rules as a result of their financial holdings and trading activity?
4. Are federal ethics rules and implementation of these rules by agency officials adequate? Specifically, are there cases where agency officials' financial holdings and trading activity create conflicts of interest or appear to create such conflicts, despite the fact that they do not appear to violate current federal or agency-level rules and regulations?

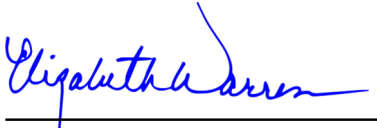
We also ask that you provide specific recommendations for Congress and for the executive branch to strengthen and improve federal ethics laws and rules, eliminate financial conflicts of interest, and improve the public's trust in government.

Thank you for your attention to this matter.

Sincerely,

[%20Officials%20Warnings.pdf](#).

⁴⁰ S. 5315 (117th Congress), <https://www.congress.gov/bill/117th-congress/senate-bill/5315>; Office of Senator Elizabeth Warren, "Warren and Jayapal Reintroduce the Anti-Corruption & Public Integrity Act," press release, December 18, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-and-jayapal-reintroduce-the-anti-corruption-and-public-integrity-act>.



Elizabeth Warren
United States Senator



Pramila Jayapal
Member of Congress

Congress of the United States

Washington, DC 20515

February 28, 2023

Acting Inspector General Richard K. Delmar
Office of the Inspector General
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Mr. Delmar:

We are writing, in the wake of reports of widespread and frequent cases of financial conflicts of interest and ethically questionable behavior by senior government officials across the executive branch, to ask that you conduct a detailed review of these matters at the Department of the Treasury. Because these reports raise broad questions about whether federal ethics rules, and agencies' implementation of them, are adequate to protect the public interest and the public's trust, we are asking you in your capacity as federal Inspector General (IG) to conduct this review, and coordinate with your colleagues to fully assess these matters.

An investigation by *The Wall Street Journal* identified conflicts of interest across 50 federal agencies, finding that one in five senior federal employees "disclosed stock investments in companies while those same companies were lobbying their agencies for favorable policies."¹ These stock investments by government officials ranged from defense contractors² to Big Tech companies³ to pharmaceutical companies.⁴ They appear to run rampant in the executive branch and threaten to undermine fair and effective governance – and it seems clear that current ethics rules are not doing enough to stop them.

In light of these reports, we are asking your office to conduct a broad and meticulous review of financial conflicts of interest at the Department of the Treasury, and the effectiveness of existing rules and laws to prevent such conflicts. This review should include: (1) examining the strength and efficacy of the existing ethics rules and their implementation by ethics officials and administrators in your agency, (2) identifying any potential ethics violations and cases where agency officials' behavior may have raised questions about ethics and conflicts of interest even though they may not have violated current ethics rules, and (3) compiling recommendations for how ethics laws and regulations can be strengthened to crack down on corruption and improve the public's confidence in federal government decision-making.

We introduced sweeping ethics legislation, the *Anti-Corruption and Public Integrity Act*,⁵ that would address these problems at the source by boosting transparency, strengthening ethics

¹ Wall Street Journal, "Federal Officials Trade Stock in Companies Their Agencies Oversee," Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

² *Id.*

³ *Id.*

⁴ *Id.*

rules, and fixing federal open records laws. Your agency-wide review would help inform this legislation, and would be consistent with IGs' role of "promot[ing] ... effectiveness in the administration of, and ... prevent[ing] and detect[ing] fraud and abuse" in agency programs.⁶

The *Wall Street Journal* investigation reviewed over 31,000 financial disclosure forms filed by senior Executive branch officials from 2016 through 2021, identifying about 850,000 financial assets and over 315,000 trades of senior government officials with enormous power over the day-to-day lives of every American.⁷ Although federal financial conflict of interest law prevents executive branch officials from "participating in a government matter that will have a direct and predictable effect on their financial interests," the law appears to have been frequently circumvented or outright overlooked by officials across the executive branch.⁸ Even in cases where no law was broken, many officials violated "the spirit behind the law,"⁹ adding to widespread issues of soft corruption in the executive branch.

Alarming, these conflicts of interest continued and may have even accelerated with the onset of the COVID-19 pandemic, potentially revealing that federal government officials were using an unprecedented public health crisis for personal enrichment.¹⁰ In January 2020, when the public was "largely unaware" of the threat, officials at the Department of Health and Human Services reported "60% more sales of stocks and funds in January than the average over the previous 12 months."¹¹ In addition, approximately 240 officials at agencies involved in the COVID-19 vaccine rollout reported owning "between \$9 million and \$28 million in stocks of drug, manufacturing and biotechnology companies that won federal contracts related to Covid-19 in 2020 and 2021."¹²

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⁶ Inspector General Act of 1978, Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101,

<https://uscode.house.gov/view.xhtml?path=/prelim@title5/title5a/node20&edition=prelim>.

⁷ Wall Street Journal, "Federal Officials Trade Stock in Companies Their Agencies Oversee," Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

⁸ 18 U.S.C. 208; Federal Times, "What are the insider-trading rules for federal employees?," Molly Weisner, September 26, 2022, <https://www.federaltimes.com/federal-oversight/congress/2022/09/26/what-are-the-insider-trading-rules-for-federal-workers/>.

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¹⁰ Wall Street Journal, "As Covid Hit, Washington Officials Traded Stocks With Exquisite Timing," Rebecca Ballhaus, Joe Palazzolo, Brody Mullins, Chad Day, and John West, October 19, 2022, <https://www.wsj.com/articles/covid-washington-officials-stocks-trading-markets-stimulus-11666192404?page=1>.

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Although the *Wall Street Journal* investigation covered only 50 of the federal agencies,¹³ the scope and breadth of corruption and conflicts of interest revealed significant deficiencies across the executive branch. These included:

- More than 200 senior officials at the Environmental Protection Agency, nearly one in three, disclosed investments in companies that were lobbying the agency. One official and his husband reported “more than 100 trades in energy and mining companies” while working for the agency in a role that “gave him a front-row seat to deliberations about environmental regulations relating to energy.”¹⁴
- The Regional Director of the National Labor Relation Board’s (NLRB) Oakland, California branch, reported owning and purchasing Tesla stock in 2019 and 2020, while the NLRB had ongoing cases against the company.¹⁵ While continuing to purchase Tesla stock, she led the NLRB’s Oakland office in dismissing charges against the company for further worker’s rights violations in 2021.¹⁶ In this case, ethics officials found that she had “violat[ed] federal law,” but federal prosecutors declined to take the case.¹⁷
- In January 2020, the Principal Deputy Director at the National Institutes of Health’s National Institute of Allergy and Infectious Diseases sold off hundreds of thousands of dollars in stock in at least 10 transactions, all while receiving non-public information about the severity of the approaching COVID-19 pandemic.¹⁸ According to *The Wall Street Journal*, “each holding he sold fell sharply in the market downturn that soon followed, as the public and investors started paying attention to the threat posed by Covid-19.”¹⁹
- At the Department of Defense, at least 15 officials owned stock in the Chinese e-commerce company Alibaba Group Holding Ltd. while the Department was in discussions over whether to blacklist the company.²⁰ One official who was involved in these conversations sold his stock soon after the blacklist was released without Alibaba, boosting the company’s worth, and just one day before defense officials attempted to reverse the decision.²¹

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¹⁴ *Id.*

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²¹ *Id.*

- At the Federal Deposit Insurance Corporation, senior officials including the Deputy Chief Information Officer and members of the Senior Leadership Team pushed the agency to change an existing contract for cloud services to award it instead to Microsoft’s Azure cloud platform, while owning between \$15,001 and \$80,000 in Microsoft stock.²² One senior adviser, who later served as the acting Deputy Chief Information Officer and helped implement the updated contract, reported that her husband worked at Microsoft in its cloud products division and owned vested stock options worth between \$50,001 and \$100,000.²³
- A top Treasury Department official, with the approval of the Department’s ethics officials, held more than \$100,000 in stock in each of the four major Big Tech companies throughout his tenure.²⁴ In his role, he pushed for “major” tax cuts for corporations in 2017 through the *Tax Cuts and Jobs Act*, legislation that saved them billions in potential taxes.²⁵ By the time he left the Department, “the share prices of Amazon, Apple and Facebook were up 74%, 21% and 16%, respectively, from the time of his confirmation.”²⁶
- A senior advisor for the U.S. Trade Representative held over \$1 million in Amazon stock while working on digital trade agreements that would directly benefit companies like the tech giant.²⁷ While still holding the stock, and without intervention from the agency, he gave a briefing to Amazon and other Big Tech lobbyists on “the administration’s priorities, including the digital trade matter.”²⁸ After ethics officials warned him about his growing conflicts of interest and refused to allow him to keep his stock while serving in the advisory role, he stepped down rather than follow the guidelines.²⁹
- At the Department of Energy (DOE), the husband of a “lead adviser” on a contract between the Production Office of the National Nuclear Security Administration (NNSA) and a consortium of companies that ran nuclear-related facilities for the agency served as a consultant for and was eligible to receive a performance-based

²² Wall Street Journal, “When Federal Officials Help Companies – and Their Own Financial Interests,” Rebecca Ballhaus, Brody Mullins, and James V. Grimaldi, December 30, 2022, <https://www.wsj.com/articles/when-federal-officials-help-companiesand-their-own-financial-interests-11672419851>.

²³ *Id.*

²⁴ Wall Street Journal, “The \$1 Million Amazon Conflict: Washington’s Ethics Czars Struggle to Enforce Stock-Trading Laws,” Brody Mullins, Rebecca Ballhaus, and Joe Palazzolo, October 21, 2022, <https://www.wsj.com/articles/the-1-million-amazon-conflict-washingtons-ethics-czars-struggle-to-enforce-stock-trading-laws-11666360815>.

²⁵ *Id.*; The Motley Fool, “Here’s How Much Money Amazon Saved From Trump’s Tax Cuts,” Jeremy Bowman, October 18, 2020, <https://www.fool.com/investing/2020/10/18/heres-how-much-money-amazon-saved-trumps-tax-cuts/>.

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²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

bonus from one of the companies.³⁰ While ethics officials were aware of the conflict, the DOE official was granted a waiver to continue overseeing the contract.³¹

- A Food and Drug Administration (FDA) executive ran the agency’s planning office while owning stock in “about 70 pharmaceutical, diagnostics, medical device, and food companies” including Pfizer Inc., Takeda Pharmaceutical Company Ltd., and Sanofi SA.³² After the FDA’s Office of Ethics and Integrity told him he would need to sell the stocks from the agency’s prohibited list, he chose to retire instead.³³
- An economist at the Commodity Futures Trading Commission (CFTC) and her husband made “more than 9,500 trades in 2020—an average of about 38 each trading day,” including trades that shorted stocks, despite the practice explicitly being prohibited for CFTC employees.³⁴ Ethics officials at the agency approved the behavior because the commission “could possibly be sued [...] if we said no.”³⁵

The findings of *The Wall Street Journal*’s investigation into conflicts of interest in the executive branch are deeply concerning and threaten to undermine the work the federal government does for the American public every day. These conflicts were widespread – but not restricted – to the Trump Administration. While the Biden Administration has taken steps to crack down on lobbying influence and the revolving door in the executive branch,³⁶ this investigation reveals a number of unaddressed concerns. While some agencies have taken positive steps to re-evaluate their policies in the months since these conflicts were made public,³⁷ this issue requires a whole-of-government response conducted transparently and publicly.

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³³ *Id.*

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³⁶ White House, “Executive Order on Ethics Commitments by Executive Branch Personnel,” press release, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ethics-commitments-by-executive-branch-personnel/>.

³⁷ Wall Street Journal, “U.S. Agencies Seek Tougher Rules, Internal Probes on Stock Trading by Federal Officials,” Rebecca Ballhaus and Brody Mullins, February 7, 2023, <https://www.wsj.com/articles/u-s-agencies-look-tougher-rules-internal-probes-on-stock-trading-by-federal-officials-11675789424>.

³⁸ 10 U.S.C. 988.

³⁹ Letter from Senator Warren to The Honorable Jerome Powell, October 21, 2021, <https://www.warren.senate.gov/imo/media/doc/2021.10.21%20Letter%20to%20Powell%20re%20Ethics>

Last Congress, we reintroduced sweeping ethics legislation, our *Anti-Corruption and Public Integrity Act*,⁴⁰ that would address these problems at the source by boosting transparency, strengthening ethics rules and enforcement, and fixing federal open records laws. Specifically, the legislation would ban individual stock ownership by Members of Congress, Cabinet Secretaries, senior government officials, federal judges, White House staff, and other senior agency officials while in office. It would prohibit all government officials from holding or trading stock where its value might be influenced by their agency, department, or actions. And it would require senior government officials and White House staff to divest from privately owned assets that could present conflicts, including large companies and commercial real estate. This far-reaching legislation would also tighten conflict of interest and recusal requirements and shut the revolving door between industry and government.

To inform the future refinement of this legislation, and address the government-wide ethics and conflicts of interest problems identified in the Wall Street Journal investigation, we are requesting that you conduct a review of the ethics policies and practices of your agency. The review should address the following questions:

1. Do officials at your agency have financial holdings or engage in trading activity that present potential conflicts of interest? If so, what is the scope and nature of these conflicts among agency staff?
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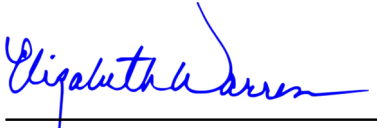
We also ask that you provide specific recommendations for Congress and for the executive branch to strengthen and improve federal ethics laws and rules, eliminate financial conflicts of interest, and improve the public's trust in government.

Thank you for your attention to this matter.

Sincerely,

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Elizabeth Warren
United States Senator



Pramila Jayapal
Member of Congress

Congress of the United States

Washington, DC 20515

February 28, 2023

Inspector General Christi A. Grimm
Office of Inspector General
Department of Health & Human Services
330 Independence Avenue, SW
Washington, DC 20201

Dear Ms. Grimm:

We are writing, in the wake of reports of widespread and frequent cases of financial conflicts of interest and ethically questionable behavior by senior government officials across the executive branch, to ask that you conduct a detailed review of these matters at the Department of Health & Human Services. Because these reports raise broad questions about whether federal ethics rules, and agencies' implementation of them, are adequate to protect the public interest and the public's trust, we are asking you in your capacity as federal Inspector General (IG) to conduct this review, and coordinate with your colleagues to fully assess these matters.

An investigation by *The Wall Street Journal* identified conflicts of interest across 50 federal agencies, finding that one in five senior federal employees "disclosed stock investments in companies while those same companies were lobbying their agencies for favorable policies."¹ These stock investments by government officials ranged from defense contractors² to Big Tech companies³ to pharmaceutical companies.⁴ They appear to run rampant in the executive branch and threaten to undermine fair and effective governance – and it seems clear that current ethics rules are not doing enough to stop them.

In light of these reports, we are asking your office to conduct a broad and meticulous review of financial conflicts of interest at the Department of Health & Human Services, and the effectiveness of existing rules and laws to prevent such conflicts. This review should include: (1) examining the strength and efficacy of the existing ethics rules and their implementation by ethics officials and administrators in your agency, (2) identifying any potential ethics violations and cases where agency officials' behavior may have raised questions about ethics and conflicts of interest even though they may not have violated current ethics rules, and (3) compiling recommendations for how ethics laws and regulations can be strengthened to crack down on corruption and improve the public's confidence in federal government decision-making.

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Alarming, these conflicts of interest continued and may have even accelerated with the onset of the COVID-19 pandemic, potentially revealing that federal government officials were using an unprecedented public health crisis for personal enrichment.¹⁰ In January 2020, when the public was "largely unaware" of the threat, officials at the Department of Health and Human Services reported "60% more sales of stocks and funds in January than the average over the previous 12 months."¹¹ In addition, approximately 240 officials at agencies involved in the COVID-19 vaccine rollout reported owning "between \$9 million and \$28 million in stocks of drug, manufacturing and biotechnology companies that won federal contracts related to Covid-19 in 2020 and 2021."¹²

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¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Wall Street Journal, “As Covid Hit, Washington Officials Traded Stocks With Exquisite Timing,” Rebecca Ballhaus, Joe Palazzolo, Brody Mullins, Chad Day, and John West, October 19, 2022, <https://www.wsj.com/articles/covid-washington-officials-stocks-trading-markets-stimulus-11666192404?page=1>.

¹⁹ *Id.*

²⁰ Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

²¹ *Id.*

- At the Federal Deposit Insurance Corporation, senior officials including the Deputy Chief Information Officer and members of the Senior Leadership Team pushed the agency to change an existing contract for cloud services to award it instead to Microsoft’s Azure cloud platform, while owning between \$15,001 and \$80,000 in Microsoft stock.²² One senior adviser, who later served as the acting Deputy Chief Information Officer and helped implement the updated contract, reported that her husband worked at Microsoft in its cloud products division and owned vested stock options worth between \$50,001 and \$100,000.²³
- A top Treasury Department official, with the approval of the Department’s ethics officials, held more than \$100,000 in stock in each of the four major Big Tech companies throughout his tenure.²⁴ In his role, he pushed for “major” tax cuts for corporations in 2017 through the *Tax Cuts and Jobs Act*, legislation that saved them billions in potential taxes.²⁵ By the time he left the Department, “the share prices of Amazon, Apple and Facebook were up 74%, 21% and 16%, respectively, from the time of his confirmation.”²⁶
- A senior advisor for the U.S. Trade Representative held over \$1 million in Amazon stock while working on digital trade agreements that would directly benefit companies like the tech giant.²⁷ While still holding the stock, and without intervention from the agency, he gave a briefing to Amazon and other Big Tech lobbyists on “the administration’s priorities, including the digital trade matter.”²⁸ After ethics officials warned him about his growing conflicts of interest and refused to allow him to keep his stock while serving in the advisory role, he stepped down rather than follow the guidelines.²⁹
- At the Department of Energy (DOE), the husband of a “lead adviser” on a contract between the Production Office of the National Nuclear Security Administration (NNSA) and a consortium of companies that ran nuclear-related facilities for the agency served as a consultant for and was eligible to receive a performance-based

²² Wall Street Journal, “When Federal Officials Help Companies – and Their Own Financial Interests,” Rebecca Ballhaus, Brody Mullins, and James V. Grimaldi, December 30, 2022, <https://www.wsj.com/articles/when-federal-officials-help-companiesand-their-own-financial-interests-11672419851>.

²³ *Id.*

²⁴ Wall Street Journal, “The \$1 Million Amazon Conflict: Washington’s Ethics Czars Struggle to Enforce Stock-Trading Laws,” Brody Mullins, Rebecca Ballhaus, and Joe Palazzolo, October 21, 2022, <https://www.wsj.com/articles/the-1-million-amazon-conflict-washingtons-ethics-czars-struggle-to-enforce-stock-trading-laws-11666360815>.

²⁵ *Id.*; The Motley Fool, “Here’s How Much Money Amazon Saved From Trump’s Tax Cuts,” Jeremy Bowman, October 18, 2020, <https://www.fool.com/investing/2020/10/18/heres-how-much-money-amazon-saved-trumps-tax-cuts/>.

²⁶ Wall Street Journal, “The \$1 Million Amazon Conflict: Washington’s Ethics Czars Struggle to Enforce Stock-Trading Laws,” Brody Mullins, Rebecca Ballhaus, and Joe Palazzolo, October 21, 2022, <https://www.wsj.com/articles/the-1-million-amazon-conflict-washingtons-ethics-czars-struggle-to-enforce-stock-trading-laws-11666360815>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

bonus from one of the companies.³⁰ While ethics officials were aware of the conflict, the DOE official was granted a waiver to continue overseeing the contract.³¹

- A Food and Drug Administration (FDA) executive ran the agency’s planning office while owning stock in “about 70 pharmaceutical, diagnostics, medical device, and food companies” including Pfizer Inc., Takeda Pharmaceutical Company Ltd., and Sanofi SA.³² After the FDA’s Office of Ethics and Integrity told him he would need to sell the stocks from the agency’s prohibited list, he chose to retire instead.³³
- An economist at the Commodity Futures Trading Commission (CFTC) and her husband made “more than 9,500 trades in 2020—an average of about 38 each trading day,” including trades that shorted stocks, despite the practice explicitly being prohibited for CFTC employees.³⁴ Ethics officials at the agency approved the behavior because the commission “could possibly be sued [...] if we said no.”³⁵

The findings of *The Wall Street Journal*’s investigation into conflicts of interest in the executive branch are deeply concerning and threaten to undermine the work the federal government does for the American public every day. These conflicts were widespread – but not restricted – to the Trump Administration. While the Biden Administration has taken steps to crack down on lobbying influence and the revolving door in the executive branch,³⁶ this investigation reveals a number of unaddressed concerns. While some agencies have taken positive steps to re-evaluate their policies in the months since these conflicts were made public,³⁷ this issue requires a whole-of-government response conducted transparently and publicly.

We have long been concerned by the acceptance of soft corruption by some senior officials, particularly their ability to use nonpublic information to enrich their own stock portfolios. In the fiscal year 2020 *National Defense Authorization Act*, Senator Warren secured a provision to prohibit senior procurement officials and Senate-confirmed appointees from owning stocks in the top 10 recipients of Department of Defense contracts.³⁸ Since October 2021, Senator Warren has been investigating egregious conflicts of interest and ethics lapses at the Federal Reserve.³⁹

³⁰ *Id.*

³¹ *Id.*

³² Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ White House, “Executive Order on Ethics Commitments by Executive Branch Personnel,” press release, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ethics-commitments-by-executive-branch-personnel/>.

³⁷ Wall Street Journal, “U.S. Agencies Seek Tougher Rules, Internal Probes on Stock Trading by Federal Officials,” Rebecca Ballhaus and Brody Mullins, February 7, 2023, <https://www.wsj.com/articles/u-s-agencies-look-tougher-rules-internal-probes-on-stock-trading-by-federal-officials-11675789424>.

³⁸ 10 U.S.C. 988.

³⁹ Letter from Senator Warren to The Honorable Jerome Powell, October 21, 2021, <https://www.warren.senate.gov/imo/media/doc/2021.10.21%20Letter%20to%20Powell%20re%20Ethics>

Last Congress, we reintroduced sweeping ethics legislation, our *Anti-Corruption and Public Integrity Act*,⁴⁰ that would address these problems at the source by boosting transparency, strengthening ethics rules and enforcement, and fixing federal open records laws. Specifically, the legislation would ban individual stock ownership by Members of Congress, Cabinet Secretaries, senior government officials, federal judges, White House staff, and other senior agency officials while in office. It would prohibit all government officials from holding or trading stock where its value might be influenced by their agency, department, or actions. And it would require senior government officials and White House staff to divest from privately owned assets that could present conflicts, including large companies and commercial real estate. This far-reaching legislation would also tighten conflict of interest and recusal requirements and shut the revolving door between industry and government.

To inform the future refinement of this legislation, and address the government-wide ethics and conflicts of interest problems identified in the Wall Street Journal investigation, we are requesting that you conduct a review of the ethics policies and practices of your agency. The review should address the following questions:

1. Do officials at your agency have financial holdings or engage in trading activity that present potential conflicts of interest? If so, what is the scope and nature of these conflicts among agency staff?
2. How do agency ethics officials determine whether officials' financial holdings and their trading activity create a conflict of interest or otherwise violate federal ethics laws?
3. Have officials at your agency violated federal conflict of interest rules as a result of their financial holdings and trading activity?
4. Are federal ethics rules and implementation of these rules by agency officials adequate? Specifically, are there cases where agency officials' financial holdings and trading activity create conflicts of interest or appear to create such conflicts, despite the fact that they do not appear to violate current federal or agency-level rules and regulations?

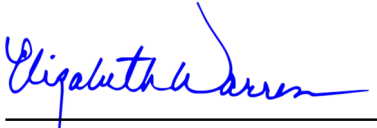
We also ask that you provide specific recommendations for Congress and for the executive branch to strengthen and improve federal ethics laws and rules, eliminate financial conflicts of interest, and improve the public's trust in government.

Thank you for your attention to this matter.

Sincerely,

[%20Officials%20Warnings.pdf](#).

⁴⁰ S. 5315 (117th Congress), <https://www.congress.gov/bill/117th-congress/senate-bill/5315>; Office of Senator Elizabeth Warren, "Warren and Jayapal Reintroduce the Anti-Corruption & Public Integrity Act," press release, December 18, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-and-jayapal-reintroduce-the-anti-corruption-and-public-integrity-act>.



Elizabeth Warren
United States Senator



Pramila Jayapal
Member of Congress

Congress of the United States

Washington, DC 20515

February 28, 2023

Tyler Smith
Office of Inspector General
Federal Deposit Insurance Corporation
3501 Fairfax Drive Arlington, Virginia 22226

Dear Mr. Smith:

We are writing, in the wake of reports of widespread and frequent cases of financial conflicts of interest and ethically questionable behavior by senior government officials across the executive branch, to ask that you conduct a detailed review of these matters at the Federal Deposit Insurance Corporation. Because these reports raise broad questions about whether federal ethics rules, and agencies' implementation of them, are adequate to protect the public interest and the public's trust, we are asking you in your capacity as federal Inspector General (IG) to conduct this review, and coordinate with your colleagues to fully assess these matters.

An investigation by *The Wall Street Journal* identified conflicts of interest across 50 federal agencies, finding that one in five senior federal employees "disclosed stock investments in companies while those same companies were lobbying their agencies for favorable policies."¹ These stock investments by government officials ranged from defense contractors² to Big Tech companies³ to pharmaceutical companies.⁴ They appear to run rampant in the executive branch and threaten to undermine fair and effective governance – and it seems clear that current ethics rules are not doing enough to stop them.

In light of these reports, we are asking your office to conduct a broad and meticulous review of financial conflicts of interest at the Federal Deposit Insurance Corporation, and the effectiveness of existing rules and laws to prevent such conflicts. This review should include: (1) examining the strength and efficacy of the existing ethics rules and their implementation by ethics officials and administrators in your agency, (2) identifying any potential ethics violations and cases where agency officials' behavior may have raised questions about ethics and conflicts of interest even though they may not have violated current ethics rules, and (3) compiling recommendations for how ethics laws and regulations can be strengthened to crack down on corruption and improve the public's confidence in federal government decision-making.

¹ Wall Street Journal, "Federal Officials Trade Stock in Companies Their Agencies Oversee," Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

² *Id.*

³ *Id.*

⁴ *Id.*

We introduced sweeping ethics legislation, the *Anti-Corruption and Public Integrity Act*,⁵ that would address these problems at the source by boosting transparency, strengthening ethics rules, and fixing federal open records laws. Your agency-wide review would help inform this legislation, and would be consistent with IGs' role of "promot[ing] ... effectiveness in the administration of, and ... prevent[ing] and detect[ing] fraud and abuse" in agency programs.⁶

The *Wall Street Journal* investigation reviewed over 31,000 financial disclosure forms filed by senior Executive branch officials from 2016 through 2021, identifying about 850,000 financial assets and over 315,000 trades of senior government officials with enormous power over the day-to-day lives of every American.⁷ Although federal financial conflict of interest law prevents executive branch officials from "participating in a government matter that will have a direct and predictable effect on their financial interests," the law appears to have been frequently circumvented or outright overlooked by officials across the executive branch.⁸ Even in cases where no law was broken, many officials violated "the spirit behind the law,"⁹ adding to widespread issues of soft corruption in the executive branch.

Alarming, these conflicts of interest continued and may have even accelerated with the onset of the COVID-19 pandemic, potentially revealing that federal government officials were using an unprecedented public health crisis for personal enrichment.¹⁰ In January 2020, when the public was "largely unaware" of the threat, officials at the Department of Health and Human Services reported "60% more sales of stocks and funds in January than the average over the previous 12 months."¹¹ In addition, approximately 240 officials at agencies involved in the COVID-19 vaccine rollout reported owning "between \$9 million and \$28 million in

⁵ S. 5070 (116th Congress), <https://www.congress.gov/bill/116th-congress/senate-bill/5070>; Office of Senator Elizabeth Warren, "Warren and Jayapal Reintroduce the Anti-Corruption & Public Integrity Act," press release, December 18, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-and-jayapal-reintroduce-the-anti-corruption-and-public-integrity-act>.

⁶ Inspector General Act of 1978, Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, <https://uscode.house.gov/view.xhtml?path=/prelim@title5/title5a/node20&edition=prelim>.

⁷ Wall Street Journal, "Federal Officials Trade Stock in Companies Their Agencies Oversee," Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

⁸ 18 U.S.C. 208; Federal Times, "What are the insider-trading rules for federal employees?," Molly Weisner, September 26, 2022, <https://www.federaltimes.com/federal-oversight/congress/2022/09/26/what-are-the-insider-trading-rules-for-federal-workers/>.

⁹ Wall Street Journal, "Federal Officials Trade Stock in Companies Their Agencies Oversee," Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

¹⁰ Wall Street Journal, "As Covid Hit, Washington Officials Traded Stocks With Exquisite Timing," Rebecca Ballhaus, Joe Palazzolo, Brody Mullins, Chad Day, and John West, October 19, 2022, <https://www.wsj.com/articles/covid-washington-officials-stocks-trading-markets-stimulus-11666192404?page=1>.

¹¹ *Id.*

stocks of drug, manufacturing and biotechnology companies that won federal contracts related to Covid-19 in 2020 and 2021.”¹²

Although the *Wall Street Journal* investigation covered only 50 of the federal agencies,¹³ the scope and breadth of corruption and conflicts of interest revealed significant deficiencies across the executive branch. These included:

- More than 200 senior officials at the Environmental Protection Agency, nearly one in three, disclosed investments in companies that were lobbying the agency. One official and his husband reported “more than 100 trades in energy and mining companies” while working for the agency in a role that “gave him a front-row seat to deliberations about environmental regulations relating to energy.”¹⁴
- The Regional Director of the National Labor Relation Board’s (NLRB) Oakland, California branch, reported owning and purchasing Tesla stock in 2019 and 2020, while the NLRB had ongoing cases against the company.¹⁵ While continuing to purchase Tesla stock, she led the NLRB’s Oakland office in dismissing charges against the company for further worker’s rights violations in 2021.¹⁶ In this case, ethics officials found that she had “violat[ed] federal law,” but federal prosecutors declined to take the case.¹⁷
- In January 2020, the Principal Deputy Director at the National Institutes of Health’s National Institute of Allergy and Infectious Diseases sold off hundreds of thousands of dollars in stock in at least 10 transactions, all while receiving non-public information about the severity of the approaching COVID-19 pandemic.¹⁸ According to *The Wall Street Journal*, “each holding he sold fell sharply in the market downturn that soon followed, as the public and investors started paying attention to the threat posed by Covid-19.”¹⁹
- At the Department of Defense, at least 15 officials owned stock in the Chinese e-commerce company Alibaba Group Holding Ltd. while the Department was in discussions over whether to blacklist the company.²⁰ One official who was involved in

¹² *Id.*

¹³ Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Wall Street Journal, “As Covid Hit, Washington Officials Traded Stocks With Exquisite Timing,” Rebecca Ballhaus, Joe Palazzolo, Brody Mullins, Chad Day, and John West, October 19, 2022, <https://www.wsj.com/articles/covid-washington-officials-stocks-trading-markets-stimulus-11666192404?page=1>.

¹⁹ *Id.*

²⁰ Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022,

these conversations sold his stock soon after the blacklist was released without Alibaba, boosting the company's worth, and just one day before defense officials attempted to reverse the decision.²¹

- At the Federal Deposit Insurance Corporation, senior officials including the Deputy Chief Information Officer and members of the Senior Leadership Team pushed the agency to change an existing contract for cloud services to award it instead to Microsoft's Azure cloud platform, while owning between \$15,001 and \$80,000 in Microsoft stock.²² One senior adviser, who later served as the acting Deputy Chief Information Officer and helped implement the updated contract, reported that her husband worked at Microsoft in its cloud products division and owned vested stock options worth between \$50,001 and \$100,000.²³
- A top Treasury Department official, with the approval of the Department's ethics officials, held more than \$100,000 in stock in each of the four major Big Tech companies throughout his tenure.²⁴ In his role, he pushed for "major" tax cuts for corporations in 2017 through the *Tax Cuts and Jobs Act*, legislation that saved them billions in potential taxes.²⁵ By the time he left the Department, "the share prices of Amazon, Apple and Facebook were up 74%, 21% and 16%, respectively, from the time of his confirmation."²⁶
- A senior advisor for the U.S. Trade Representative held over \$1 million in Amazon stock while working on digital trade agreements that would directly benefit companies like the tech giant.²⁷ While still holding the stock, and without intervention from the agency, he gave a briefing to Amazon and other Big Tech lobbyists on "the administration's priorities, including the digital trade matter."²⁸ After ethics officials warned him about his growing conflicts of interest and refused to allow him to keep

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²¹ *Id.*

²² Wall Street Journal, "When Federal Officials Help Companies – and Their Own Financial Interests," Rebecca Ballhaus, Brody Mullins, and James V. Grimaldi, December 30, 2022, <https://www.wsj.com/articles/when-federal-officials-help-companiesand-their-own-financial-interests-11672419851>.

²³ *Id.*

²⁴ Wall Street Journal, "The \$1 Million Amazon Conflict: Washington's Ethics Czars Struggle to Enforce Stock-Trading Laws," Brody Mullins, Rebecca Ballhaus, and Joe Palazzolo, October 21, 2022, <https://www.wsj.com/articles/the-1-million-amazon-conflict-washingtons-ethics-czars-struggle-to-enforce-stock-trading-laws-11666360815>.

²⁵ *Id.*; The Motley Fool, "Here's How Much Money Amazon Saved From Trump's Tax Cuts," Jeremy Bowman, October 18, 2020, <https://www.fool.com/investing/2020/10/18/heres-how-much-money-amazon-saved-trumps-tax-cuts/>.

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his stock while serving in the advisory role, he stepped down rather than follow the guidelines.²⁹

- At the Department of Energy (DOE), the husband of a “lead adviser” on a contract between the Production Office of the National Nuclear Security Administration (NNSA) and a consortium of companies that ran nuclear-related facilities for the agency served as a consultant for and was eligible to receive a performance-based bonus from one of the companies.³⁰ While ethics officials were aware of the conflict, the DOE official was granted a waiver to continue overseeing the contract.³¹
- A Food and Drug Administration (FDA) executive ran the agency’s planning office while owning stock in “about 70 pharmaceutical, diagnostics, medical device, and food companies” including Pfizer Inc., Takeda Pharmaceutical Company Ltd., and Sanofi SA.³² After the FDA’s Office of Ethics and Integrity told him he would need to sell the stocks from the agency’s prohibited list, he chose to retire instead.³³
- An economist at the Commodity Futures Trading Commission (CFTC) and her husband made “more than 9,500 trades in 2020—an average of about 38 each trading day,” including trades that shorted stocks, despite the practice explicitly being prohibited for CFTC employees.³⁴ Ethics officials at the agency approved the behavior because the commission “could possibly be sued [...] if we said no.”³⁵

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²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ White House, “Executive Order on Ethics Commitments by Executive Branch Personnel,” press release, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ethics-commitments-by-executive-branch-personnel/>.

³⁷ Wall Street Journal, “U.S. Agencies Seek Tougher Rules, Internal Probes on Stock Trading by Federal Officials,” Rebecca Ballhaus and Brody Mullins, February 7, 2023, <https://www.wsj.com/articles/u-s-agencies-seek-tougher-rules-internal-probes-on-stock-trading-by-federal-officials-11675789424>.

We have long been concerned by the acceptance of soft corruption by some senior officials, particularly their ability to use nonpublic information to enrich their own stock portfolios. In the fiscal year 2020 *National Defense Authorization Act*, Senator Warren secured a provision to prohibit senior procurement officials and Senate-confirmed appointees from owning stocks in the top 10 recipients of Department of Defense contracts.³⁸ Since October 2021, Senator Warren has been investigating egregious conflicts of interest and ethics lapses at the Federal Reserve.³⁹

Last Congress, we reintroduced sweeping ethics legislation, our *Anti-Corruption and Public Integrity Act*,⁴⁰ that would address these problems at the source by boosting transparency, strengthening ethics rules and enforcement, and fixing federal open records laws. Specifically, the legislation would ban individual stock ownership by Members of Congress, Cabinet Secretaries, senior government officials, federal judges, White House staff, and other senior agency officials while in office. It would prohibit all government officials from holding or trading stock where its value might be influenced by their agency, department, or actions. And it would require senior government officials and White House staff to divest from privately owned assets that could present conflicts, including large companies and commercial real estate. This far-reaching legislation would also tighten conflict of interest and recusal requirements and shut the revolving door between industry and government.

To inform the future refinement of this legislation, and address the government-wide ethics and conflicts of interest problems identified in the Wall Street Journal investigation, we are requesting that you conduct a review of the ethics policies and practices of your agency. The review should address the following questions:

1. Do officials at your agency have financial holdings or engage in trading activity that present potential conflicts of interest? If so, what is the scope and nature of these conflicts among agency staff?
2. How do agency ethics officials determine whether officials' financial holdings and their trading activity create a conflict of interest or otherwise violate federal ethics laws?
3. Have officials at your agency violated federal conflict of interest rules as a result of their financial holdings and trading activity?

³⁸ 10 U.S.C. 988.

³⁹ Letter from Senator Warren to The Honorable Jerome Powell, October 21, 2021, <https://www.warren.senate.gov/imo/media/doc/2021.10.21%20Letter%20to%20Powell%20re%20Ethics%20Officials%20Warnings.pdf>.


⁴⁰ S. 5315 (117th Congress), <https://www.congress.gov/bill/117th-congress/senate-bill/5315>; Office of Senator Elizabeth Warren, "Warren and Jayapal Reintroduce the Anti-Corruption & Public Integrity Act," press release, December 18, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-and-jayapal-reintroduce-the-anti-corruption-and-public-integrity-act>.

4. Are federal ethics rules and implementation of these rules by agency officials adequate? Specifically, are there cases where agency officials' financial holdings and trading activity create conflicts of interest or appear to create such conflicts, despite the fact that they do not appear to violate current federal or agency-level rules and regulations?

We also ask that you provide specific recommendations for Congress and for the executive branch to strengthen and improve federal ethics laws and rules, eliminate financial conflicts of interest, and improve the public's trust in government.

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator



Pramila Jayapal
Member of Congress

Congress of the United States

Washington, DC 20515

February 28, 2023

Inspector General Teri L. Donaldson
Office of Inspector General
Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Ms. Donaldson:

We are writing, in the wake of reports of widespread and frequent cases of financial conflicts of interest and ethically questionable behavior by senior government officials across the executive branch, to ask that you conduct a detailed review of these matters at the Department of Energy. Because these reports raise broad questions about whether federal ethics rules, and agencies' implementation of them, are adequate to protect the public interest and the public's trust, we are asking you in your capacity as federal Inspector General (IG) to conduct this review, and coordinate with your colleagues to fully assess these matters.

An investigation by *The Wall Street Journal* identified conflicts of interest across 50 federal agencies, finding that one in five senior federal employees “disclosed stock investments in companies while those same companies were lobbying their agencies for favorable policies.”¹ These stock investments by government officials ranged from defense contractors² to Big Tech companies³ to pharmaceutical companies.⁴ They appear to run rampant in the executive branch and threaten to undermine fair and effective governance – and it seems clear that current ethics rules are not doing enough to stop them.

In light of these reports, we are asking your office to conduct a broad and meticulous review of financial conflicts of interest at the Department of Energy, and the effectiveness of existing rules and laws to prevent such conflicts. This review should include: (1) examining the strength and efficacy of the existing ethics rules and their implementation by ethics officials and administrators in your agency, (2) identifying any potential ethics violations and cases where agency officials' behavior may have raised questions about ethics and conflicts of interest even though they may not have violated current ethics rules, and (3) compiling

¹ Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

² *Id.*

³ *Id.*

⁴ *Id.*

recommendations for how ethics laws and regulations can be strengthened to crack down on corruption and improve the public’s confidence in federal government decision-making.

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The *Wall Street Journal* investigation reviewed over 31,000 financial disclosure forms filed by senior Executive branch officials from 2016 through 2021, identifying about 850,000 financial assets and over 315,000 trades of senior government officials with enormous power over the day-to-day lives of every American.⁷ Although federal financial conflict of interest law prevents executive branch officials from “participating in a government matter that will have a direct and predictable effect on their financial interests,” the law appears to have been frequently circumvented or outright overlooked by officials across the executive branch.⁸ Even in cases where no law was broken, many officials violated “the spirit behind the law,”⁹ adding to widespread issues of soft corruption in the executive branch.

Alarming, these conflicts of interest continued and may have even accelerated with the onset of the COVID-19 pandemic, potentially revealing that federal government officials were using an unprecedented public health crisis for personal enrichment.¹⁰ In January 2020, when the public was “largely unaware” of the threat, officials at the Department of Health and Human Services reported “60% more sales of stocks and funds in January than the average over the previous 12 months.”¹¹ In addition, approximately 240 officials at agencies involved in the COVID-19 vaccine rollout reported owning “between \$9 million and \$28 million in

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⁶ Inspector General Act of 1978, Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, <https://uscode.house.gov/view.xhtml?path=/prelim@title5/title5a/node20&edition=prelim>.

⁷ Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

⁸ 18 U.S.C. 208; Federal Times, “What are the insider-trading rules for federal employees?,” Molly Weisner, September 26, 2022, <https://www.federaltimes.com/federal-oversight/congress/2022/09/26/what-are-the-insider-trading-rules-for-federal-workers/>.

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³³ *Id.*

³⁴ *Id.*

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³⁶ White House, “Executive Order on Ethics Commitments by Executive Branch Personnel,” press release, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ethics-commitments-by-executive-branch-personnel/>.

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We have long been concerned by the acceptance of soft corruption by some senior officials, particularly their ability to use nonpublic information to enrich their own stock portfolios. In the fiscal year 2020 *National Defense Authorization Act*, Senator Warren secured a provision to prohibit senior procurement officials and Senate-confirmed appointees from owning stocks in the top 10 recipients of Department of Defense contracts.³⁸ Since October 2021, Senator Warren has been investigating egregious conflicts of interest and ethics lapses at the Federal Reserve.³⁹

Last Congress, we reintroduced sweeping ethics legislation, our *Anti-Corruption and Public Integrity Act*,⁴⁰ that would address these problems at the source by boosting transparency, strengthening ethics rules and enforcement, and fixing federal open records laws. Specifically, the legislation would ban individual stock ownership by Members of Congress, Cabinet Secretaries, senior government officials, federal judges, White House staff, and other senior agency officials while in office. It would prohibit all government officials from holding or trading stock where its value might be influenced by their agency, department, or actions. And it would require senior government officials and White House staff to divest from privately owned assets that could present conflicts, including large companies and commercial real estate. This far-reaching legislation would also tighten conflict of interest and recusal requirements and shut the revolving door between industry and government.

To inform the future refinement of this legislation, and address the government-wide ethics and conflicts of interest problems identified in the Wall Street Journal investigation, we are requesting that you conduct a review of the ethics policies and practices of your agency. The review should address the following questions:

1. Do officials at your agency have financial holdings or engage in trading activity that present potential conflicts of interest? If so, what is the scope and nature of these conflicts among agency staff?
2. How do agency ethics officials determine whether officials' financial holdings and their trading activity create a conflict of interest or otherwise violate federal ethics laws?
3. Have officials at your agency violated federal conflict of interest rules as a result of their financial holdings and trading activity?

³⁸ 10 U.S.C. 988.

³⁹ Letter from Senator Warren to The Honorable Jerome Powell, October 21, 2021, <https://www.warren.senate.gov/imo/media/doc/2021.10.21%20Letter%20to%20Powell%20re%20Ethics%20Officials%20Warnings.pdf>.

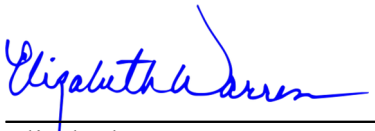
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4. Are federal ethics rules and implementation of these rules by agency officials adequate? Specifically, are there cases where agency officials' financial holdings and trading activity create conflicts of interest or appear to create such conflicts, despite the fact that they do not appear to violate current federal or agency-level rules and regulations?

We also ask that you provide specific recommendations for Congress and for the executive branch to strengthen and improve federal ethics laws and rules, eliminate financial conflicts of interest, and improve the public's trust in government.

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator



Pramila Jayapal
Member of Congress

Congress of the United States

Washington, DC 20515

February 28, 2023

The Honorable Robert P. Storch
Office of the Inspector General
U.S. Department of Defense
4800 Mark Center Drive
Alexandria, VA 22350

Dear Mr. Storch:

We are writing, in the wake of reports of widespread and frequent cases of financial conflicts of interest and ethically questionable behavior by senior government officials across the executive branch, to ask that you conduct a detailed review of these matters at the Department of Defense. Because these reports raise broad questions about whether federal ethics rules, and agencies' implementation of them, are adequate to protect the public interest and the public's trust, we are asking you in your capacity as federal Inspector General (IG) to conduct this review, and coordinate with your colleagues to fully assess these matters.

An investigation by *The Wall Street Journal* identified conflicts of interest across 50 federal agencies, finding that one in five senior federal employees "disclosed stock investments in companies while those same companies were lobbying their agencies for favorable policies."¹ These stock investments by government officials ranged from defense contractors² to Big Tech companies³ to pharmaceutical companies.⁴ They appear to run rampant in the executive branch and threaten to undermine fair and effective governance – and it seems clear that current ethics rules are not doing enough to stop them.

In light of these reports, we are asking your office to conduct a broad and meticulous review of financial conflicts of interest at the Department of Defense, and the effectiveness of existing rules and laws to prevent such conflicts. This review should include: (1) examining the strength and efficacy of the existing ethics rules and their implementation by ethics officials and administrators in your agency, (2) identifying any potential ethics violations and cases where agency officials' behavior may have raised questions about ethics and conflicts of interest even though they may not have violated current ethics rules, and (3) compiling recommendations for how ethics laws and regulations can be strengthened to crack down on corruption and improve the public's confidence in federal government decision-making.

¹ Wall Street Journal, "Federal Officials Trade Stock in Companies Their Agencies Oversee," Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

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We introduced sweeping ethics legislation, the *Anti-Corruption and Public Integrity Act*,⁵ that would address these problems at the source by boosting transparency, strengthening ethics rules, and fixing federal open records laws. Your agency-wide review would help inform this legislation, and would be consistent with IGs’ role of “promot[ing] ... effectiveness in the administration of, and ... prevent[ing] and detect[ing] fraud and abuse” in agency programs.⁶

The *Wall Street Journal* investigation reviewed over 31,000 financial disclosure forms filed by senior Executive branch officials from 2016 through 2021, identifying about 850,000 financial assets and over 315,000 trades of senior government officials with enormous power over the day-to-day lives of every American.⁷ Although federal financial conflict of interest law prevents executive branch officials from “participating in a government matter that will have a direct and predictable effect on their financial interests,” the law appears to have been frequently circumvented or outright overlooked by officials across the executive branch.⁸ Even in cases where no law was broken, many officials violated “the spirit behind the law,”⁹ adding to widespread issues of soft corruption in the executive branch.

Alarming, these conflicts of interest continued and may have even accelerated with the onset of the COVID-19 pandemic, potentially revealing that federal government officials were using an unprecedented public health crisis for personal enrichment.¹⁰ In January 2020, when the public was “largely unaware” of the threat, officials at the Department of Health and Human Services reported “60% more sales of stocks and funds in January than the average over the previous 12 months.”¹¹ In addition, approximately 240 officials at agencies involved in the COVID-19 vaccine rollout reported owning “between \$9 million and \$28 million in stocks of drug, manufacturing and biotechnology companies that won federal contracts related to Covid-19 in 2020 and 2021.”¹²

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Last Congress, we reintroduced sweeping ethics legislation, our *Anti-Corruption and Public Integrity Act*,⁴⁰ that would address these problems at the source by boosting transparency, strengthening ethics rules and enforcement, and fixing federal open records laws. Specifically, the legislation would ban individual stock ownership by Members of Congress, Cabinet Secretaries, senior government officials, federal judges, White House staff, and other senior agency officials while in office. It would prohibit all government officials from holding or trading stock where its value might be influenced by their agency, department, or actions. And it would require senior government officials and White House staff to divest from privately owned assets that could present conflicts, including large companies and commercial real estate. This far-reaching legislation would also tighten conflict of interest and recusal requirements and shut the revolving door between industry and government.

To inform the future refinement of this legislation, and address the government-wide ethics and conflicts of interest problems identified in the Wall Street Journal investigation, we are requesting that you conduct a review of the ethics policies and practices of your agency. The review should address the following questions:

1. Do officials at your agency have financial holdings or engage in trading activity that present potential conflicts of interest? If so, what is the scope and nature of these conflicts among agency staff?
2. How do agency ethics officials determine whether officials' financial holdings and their trading activity create a conflict of interest or otherwise violate federal ethics laws?
3. Have officials at your agency violated federal conflict of interest rules as a result of their financial holdings and trading activity?
4. Are federal ethics rules and implementation of these rules by agency officials adequate? Specifically, are there cases where agency officials' financial holdings and trading activity create conflicts of interest or appear to create such conflicts, despite the fact that they do not appear to violate current federal or agency-level rules and regulations?

³⁹ Letter from Senator Warren to The Honorable Jerome Powell, October 21, 2021, <https://www.warren.senate.gov/imo/media/doc/2021.10.21%20Letter%20to%20Powell%20re%20Ethics%20Officials%20Warnings.pdf>.

⁴⁰ S. 5315 (117th Congress), <https://www.congress.gov/bill/117th-congress/senate-bill/5315>; Office of Senator Elizabeth Warren, "Warren and Jayapal Reintroduce the Anti-Corruption & Public Integrity Act," press release, December 18, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-and-jayapal-reintroduce-the-anti-corruption-and-public-integrity-act>.

We also ask that you provide specific recommendations for Congress and for the executive branch to strengthen and improve federal ethics laws and rules, eliminate financial conflicts of interest, and improve the public's trust in government.

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator



Pramila Jayapal
Member of Congress

Congress of the United States

Washington, DC 20515

February 28, 2023

Inspector General Peggy E. Gustafson
Office of Inspector General
U.S. Department of Commerce
1401 Constitution Avenue N.W.
Washington, DC 20230

Dear Ms. Gustafson:

We are writing, in the wake of reports of widespread and frequent cases of financial conflicts of interest and ethically questionable behavior by senior government officials across the executive branch, to ask that you conduct a detailed review of these matters at the Department of Commerce. Because these reports raise broad questions about whether federal ethics rules, and agencies' implementation of them, are adequate to protect the public interest and the public's trust, we are asking you in your capacity as federal Inspector General (IG) to conduct this review, and coordinate with your colleagues to fully assess these matters.

An investigation by *The Wall Street Journal* identified conflicts of interest across 50 federal agencies, finding that one in five senior federal employees "disclosed stock investments in companies while those same companies were lobbying their agencies for favorable policies."¹ These stock investments by government officials ranged from defense contractors² to Big Tech companies³ to pharmaceutical companies.⁴ They appear to run rampant in the executive branch and threaten to undermine fair and effective governance – and it seems clear that current ethics rules are not doing enough to stop them.

In light of these reports, we are asking your office to conduct a broad and meticulous review of financial conflicts of interest at the Department of Commerce, and the effectiveness of existing rules and laws to prevent such conflicts. This review should include: (1) examining the strength and efficacy of the existing ethics rules and their implementation by ethics officials and administrators in your agency, (2) identifying any potential ethics violations and cases where agency officials' behavior may have raised questions about ethics and conflicts of interest even though they may not have violated current ethics rules, and (3) compiling recommendations for how ethics laws and regulations can be strengthened to crack down on corruption and improve the public's confidence in federal government decision-making.

We introduced sweeping ethics legislation, the *Anti-Corruption and Public Integrity Act*,⁵ that would address these problems at the source by boosting transparency, strengthening ethics

¹ Wall Street Journal, "Federal Officials Trade Stock in Companies Their Agencies Oversee," Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

² *Id.*

³ *Id.*

⁴ *Id.*

rules, and fixing federal open records laws. Your agency-wide review would help inform this legislation, and would be consistent with IGs' role of "promot[ing] ... effectiveness in the administration of, and ... prevent[ing] and detect[ing] fraud and abuse" in agency programs.⁶

The *Wall Street Journal* investigation reviewed over 31,000 financial disclosure forms filed by senior Executive branch officials from 2016 through 2021, identifying about 850,000 financial assets and over 315,000 trades of senior government officials with enormous power over the day-to-day lives of every American.⁷ Although federal financial conflict of interest law prevents executive branch officials from "participating in a government matter that will have a direct and predictable effect on their financial interests," the law appears to have been frequently circumvented or outright overlooked by officials across the executive branch.⁸ Even in cases where no law was broken, many officials violated "the spirit behind the law,"⁹ adding to widespread issues of soft corruption in the executive branch.

Alarming, these conflicts of interest continued and may have even accelerated with the onset of the COVID-19 pandemic, potentially revealing that federal government officials were using an unprecedented public health crisis for personal enrichment.¹⁰ In January 2020, when the public was "largely unaware" of the threat, officials at the Department of Health and Human Services reported "60% more sales of stocks and funds in January than the average over the previous 12 months."¹¹ In addition, approximately 240 officials at agencies involved in the COVID-19 vaccine rollout reported owning "between \$9 million and \$28 million in stocks of drug, manufacturing and biotechnology companies that won federal contracts related to Covid-19 in 2020 and 2021."¹²

⁵ S. 5070 (116th Congress), <https://www.congress.gov/bill/116th-congress/senate-bill/5070>; Office of Senator Elizabeth Warren, "Warren and Jayapal Reintroduce the Anti-Corruption & Public Integrity Act," press release, December 18, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-and-jayapal-reintroduce-the-anti-corruption-and-public-integrity-act>.

⁶ Inspector General Act of 1978, Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101,

<https://uscode.house.gov/view.xhtml?path=/prelim@title5/title5a/node20&edition=prelim>.

⁷ Wall Street Journal, "Federal Officials Trade Stock in Companies Their Agencies Oversee," Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

⁸ 18 U.S.C. 208; Federal Times, "What are the insider-trading rules for federal employees?," Molly Weisner, September 26, 2022, <https://www.federaltimes.com/federal-oversight/congress/2022/09/26/what-are-the-insider-trading-rules-for-federal-workers/>.

⁹ Wall Street Journal, "Federal Officials Trade Stock in Companies Their Agencies Oversee," Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

¹⁰ Wall Street Journal, "As Covid Hit, Washington Officials Traded Stocks With Exquisite Timing," Rebecca Ballhaus, Joe Palazzolo, Brody Mullins, Chad Day, and John West, October 19, 2022, <https://www.wsj.com/articles/covid-washington-officials-stocks-trading-markets-stimulus-11666192404?page=1>.

¹¹ *Id.*

¹² *Id.*

Although the *Wall Street Journal* investigation covered only 50 of the federal agencies,¹³ the scope and breadth of corruption and conflicts of interest revealed significant deficiencies across the executive branch. These included:

- More than 200 senior officials at the Environmental Protection Agency, nearly one in three, disclosed investments in companies that were lobbying the agency. One official and his husband reported “more than 100 trades in energy and mining companies” while working for the agency in a role that “gave him a front-row seat to deliberations about environmental regulations relating to energy.”¹⁴
- The Regional Director of the National Labor Relation Board’s (NLRB) Oakland, California branch, reported owning and purchasing Tesla stock in 2019 and 2020, while the NLRB had ongoing cases against the company.¹⁵ While continuing to purchase Tesla stock, she led the NLRB’s Oakland office in dismissing charges against the company for further worker’s rights violations in 2021.¹⁶ In this case, ethics officials found that she had “violat[ed] federal law,” but federal prosecutors declined to take the case.¹⁷
- In January 2020, the Principal Deputy Director at the National Institutes of Health’s National Institute of Allergy and Infectious Diseases sold off hundreds of thousands of dollars in stock in at least 10 transactions, all while receiving non-public information about the severity of the approaching COVID-19 pandemic.¹⁸ According to *The Wall Street Journal*, “each holding he sold fell sharply in the market downturn that soon followed, as the public and investors started paying attention to the threat posed by Covid-19.”¹⁹
- At the Department of Defense, at least 15 officials owned stock in the Chinese e-commerce company Alibaba Group Holding Ltd. while the Department was in discussions over whether to blacklist the company.²⁰ One official who was involved in these conversations sold his stock soon after the blacklist was released without Alibaba, boosting the company’s worth, and just one day before defense officials attempted to reverse the decision.²¹

¹³ Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Wall Street Journal, “As Covid Hit, Washington Officials Traded Stocks With Exquisite Timing,” Rebecca Ballhaus, Joe Palazzolo, Brody Mullins, Chad Day, and John West, October 19, 2022, <https://www.wsj.com/articles/covid-washington-officials-stocks-trading-markets-stimulus-11666192404?page=1>.

¹⁹ *Id.*

²⁰ Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

²¹ *Id.*

- At the Federal Deposit Insurance Corporation, senior officials including the Deputy Chief Information Officer and members of the Senior Leadership Team pushed the agency to change an existing contract for cloud services to award it instead to Microsoft’s Azure cloud platform, while owning between \$15,001 and \$80,000 in Microsoft stock.²² One senior adviser, who later served as the acting Deputy Chief Information Officer and helped implement the updated contract, reported that her husband worked at Microsoft in its cloud products division and owned vested stock options worth between \$50,001 and \$100,000.²³
- A top Treasury Department official, with the approval of the Department’s ethics officials, held more than \$100,000 in stock in each of the four major Big Tech companies throughout his tenure.²⁴ In his role, he pushed for “major” tax cuts for corporations in 2017 through the *Tax Cuts and Jobs Act*, legislation that saved them billions in potential taxes.²⁵ By the time he left the Department, “the share prices of Amazon, Apple and Facebook were up 74%, 21% and 16%, respectively, from the time of his confirmation.”²⁶
- A senior advisor for the U.S. Trade Representative held over \$1 million in Amazon stock while working on digital trade agreements that would directly benefit companies like the tech giant.²⁷ While still holding the stock, and without intervention from the agency, he gave a briefing to Amazon and other Big Tech lobbyists on “the administration’s priorities, including the digital trade matter.”²⁸ After ethics officials warned him about his growing conflicts of interest and refused to allow him to keep his stock while serving in the advisory role, he stepped down rather than follow the guidelines.²⁹
- At the Department of Energy (DOE), the husband of a “lead adviser” on a contract between the Production Office of the National Nuclear Security Administration (NNSA) and a consortium of companies that ran nuclear-related facilities for the agency served as a consultant for and was eligible to receive a performance-based

²² Wall Street Journal, “When Federal Officials Help Companies – and Their Own Financial Interests,” Rebecca Ballhaus, Brody Mullins, and James V. Grimaldi, December 30, 2022, <https://www.wsj.com/articles/when-federal-officials-help-companiesand-their-own-financial-interests-11672419851>.

²³ *Id.*

²⁴ Wall Street Journal, “The \$1 Million Amazon Conflict: Washington’s Ethics Czars Struggle to Enforce Stock-Trading Laws,” Brody Mullins, Rebecca Ballhaus, and Joe Palazzolo, October 21, 2022, <https://www.wsj.com/articles/the-1-million-amazon-conflict-washingtons-ethics-czars-struggle-to-enforce-stock-trading-laws-11666360815>.

²⁵ *Id.*; The Motley Fool, “Here’s How Much Money Amazon Saved From Trump’s Tax Cuts,” Jeremy Bowman, October 18, 2020, <https://www.fool.com/investing/2020/10/18/heres-how-much-money-amazon-saved-trumps-tax-cuts/>.

²⁶ Wall Street Journal, “The \$1 Million Amazon Conflict: Washington’s Ethics Czars Struggle to Enforce Stock-Trading Laws,” Brody Mullins, Rebecca Ballhaus, and Joe Palazzolo, October 21, 2022, <https://www.wsj.com/articles/the-1-million-amazon-conflict-washingtons-ethics-czars-struggle-to-enforce-stock-trading-laws-11666360815>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

bonus from one of the companies.³⁰ While ethics officials were aware of the conflict, the DOE official was granted a waiver to continue overseeing the contract.³¹

- A Food and Drug Administration (FDA) executive ran the agency’s planning office while owning stock in “about 70 pharmaceutical, diagnostics, medical device, and food companies” including Pfizer Inc., Takeda Pharmaceutical Company Ltd., and Sanofi SA.³² After the FDA’s Office of Ethics and Integrity told him he would need to sell the stocks from the agency’s prohibited list, he chose to retire instead.³³
- An economist at the Commodity Futures Trading Commission (CFTC) and her husband made “more than 9,500 trades in 2020—an average of about 38 each trading day,” including trades that shorted stocks, despite the practice explicitly being prohibited for CFTC employees.³⁴ Ethics officials at the agency approved the behavior because the commission “could possibly be sued [...] if we said no.”³⁵

The findings of *The Wall Street Journal*’s investigation into conflicts of interest in the executive branch are deeply concerning and threaten to undermine the work the federal government does for the American public every day. These conflicts were widespread – but not restricted – to the Trump Administration. While the Biden Administration has taken steps to crack down on lobbying influence and the revolving door in the executive branch,³⁶ this investigation reveals a number of unaddressed concerns. While some agencies have taken positive steps to re-evaluate their policies in the months since these conflicts were made public,³⁷ this issue requires a whole-of-government response conducted transparently and publicly.

We have long been concerned by the acceptance of soft corruption by some senior officials, particularly their ability to use nonpublic information to enrich their own stock portfolios. In the fiscal year 2020 *National Defense Authorization Act*, Senator Warren secured a provision to prohibit senior procurement officials and Senate-confirmed appointees from owning stocks in the top 10 recipients of Department of Defense contracts.³⁸ Since October 2021, Senator Warren has been investigating egregious conflicts of interest and ethics lapses at the Federal Reserve.³⁹

³⁰ *Id.*

³¹ *Id.*

³² Wall Street Journal, “Federal Officials Trade Stock in Companies Their Agencies Oversee,” Rebecca Ballhaus, Brody Mullins, Chad Day, John West, Joe Palazzolo, and James V. Grimaldi, October 11, 2022, <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ White House, “Executive Order on Ethics Commitments by Executive Branch Personnel,” press release, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ethics-commitments-by-executive-branch-personnel/>.

³⁷ Wall Street Journal, “U.S. Agencies Seek Tougher Rules, Internal Probes on Stock Trading by Federal Officials,” Rebecca Ballhaus and Brody Mullins, February 7, 2023, <https://www.wsj.com/articles/u-s-agencies-seek-tougher-rules-internal-probes-on-stock-trading-by-federal-officials-11675789424>.

³⁸ 10 U.S.C. 988.

³⁹ Letter from Senator Warren to The Honorable Jerome Powell, October 21, 2021, <https://www.warren.senate.gov/imo/media/doc/2021.10.21%20Letter%20to%20Powell%20re%20Ethics>

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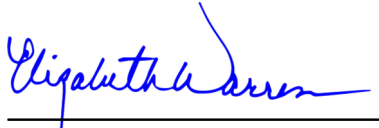
We also ask that you provide specific recommendations for Congress and for the executive branch to strengthen and improve federal ethics laws and rules, eliminate financial conflicts of interest, and improve the public's trust in government.

Thank you for your attention to this matter.

Sincerely,

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⁴⁰ S. 5315 (117th Congress), <https://www.congress.gov/bill/117th-congress/senate-bill/5315>; Office of Senator Elizabeth Warren, "Warren and Jayapal Reintroduce the Anti-Corruption & Public Integrity Act," press release, December 18, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-and-jayapal-reintroduce-the-anti-corruption-and-public-integrity-act>.



Elizabeth Warren
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Pramila Jayapal
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