

Congress of the United States

Washington, D.C. 20515

July 27, 2026

The Honorable Eric Scott Turner
Secretary
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410-0001

RE: Proposed Rule “Equal Access to Housing in HUD Programs Revisions” FR-6518-P-01

Dear Secretary Turner,

We write today in strong opposition to the Department of Housing and Urban Development’s (HUD) proposed rule entitled “*Equal Access to Housing in HUD Programs Revisions*.” This proposed rule would roll back previous HUD rulemaking that protects LGBTQ+ families and individuals from discrimination in HUD programs and shelters, and mandate that shelters and facilities funded by HUD discriminate against transgender individuals seeking shelter and subject them to invasive questioning and potential harassment and abuse. As Members of Congress, we have serious concerns about the impact the proposed changes will have on the LGBTQ+ community and the proposed rule’s violation of existing law. If the proposed rule is implemented, LGBTQ+ individuals and families may be locked out of lifesaving shelters and critical federal housing programs, including Section 8 housing and other housing programs, fair housing enforcement and administration, mortgage programs, homelessness and domestic violence programs, and community development programs. HUD program participants, including homeless service providers, will struggle to navigate conflicting local, state, and federal requirements. Furthermore, if the proposed rule is implemented, the number of individuals experiencing unsheltered homelessness will increase. HUD has a legal responsibility under the Fair Housing Act of 1968 to both enforce the law and affirmatively administer federal housing programs in a fair and equitable manner. Given these many concerns, we urge HUD to withdraw this proposed cruel rule and leave the existing Equal Access Rule in place.

There remains a clear and demonstrable need for the protections and guidance provided by the Equal Access Rule. On March 5, 2012, HUD implemented the “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity” rule to ensure that no individual is denied access to HUD programs due to their sexual orientation, gender identity, or marital status.¹ In 2016, HUD clarified the Equal Access Rule’s application to single-sex housing and homeless service providers receiving HUD funding and that services offered must be based on an individual’s gender identity.² The Equal Access Rule also prohibits providers from making inappropriate and intrusive inquiries, including asking for documentation related to anatomy and/or gender identity.³ The Equal Access Rule is consistent with HUD’s statutory obligation to affirmatively further fair housing for all.⁴

¹ HUD Federal Register, [*Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity*](#) (Feb, 3, 2012).

² HUD Federal Register, [*Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs*](#) (Sept. 21, 2016).

³ *Ibid.*

⁴ 42 USC 3608(e)(5).

In justifying the need for the 2012 Equal Access Rule, HUD noted the prevalence of housing discrimination against the LGBTQ+ community, including properties arbitrarily charging LGBTQ+ families higher rents and application fees.⁵ Recent data confirms the continued need for robust enforcement of the rule and protections for the LGBTQ+ community across all HUD's programs. LGBTQ+ adults are less likely to own a home than non-LGBTQ+ adults,⁶ and more likely to rely on Housing Choice Vouchers to afford rent.⁷ LGBTQ+ adults with a disability are more than twice as likely as their non-LGBTQ+ counterparts to report facing housing discrimination.⁸ Additionally, LGBTQ+ people, especially youth and transgender individuals, face disproportionate rates of homelessness.⁹ According to the 2022 U.S. Transgender Survey, 30% of respondents reported experiencing homelessness during their lifetime.¹⁰ The reality of needing safe shelter for many in the transgender community is dire. Another survey found that 26% of transgender individuals who experienced homelessness reported avoiding homeless shelters "because they feared being mistreated as a transgender person."¹¹ Moreover, a study conducted by the National Anti-Violence Project showed 71% of transgender domestic violence survivors reported that they were denied shelter because of their gender identity.¹² Additionally, more than half of transgender respondents said it would be impossible or very difficult to find an alternative if they were denied access to a homeless shelter.¹³ Even still, the Equal Access Rule has played a critical role in addressing these disparities. Between 2016 and 2024, there has been a 31% increase in the proportion of homeless transgender individuals who are housed in either an emergency shelter or transitional.¹⁴

The proposed rule violates civil rights law, exceeds congressional authority, and disregards judicial precedent. HUD's proposed rule ignores legal precedent and would permit the type of discrimination that courts have found to be illegal. In 2020, the U.S. Supreme Court ruled in the landmark *Bostock v. Clayton County* case that Title VII of the Civil Rights Act of 1964's prohibition on sex discrimination includes sexual orientation and gender identity discrimination, holding that "it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex" since "homosexuality and transgender status are inextricably bound up with sex."¹⁵ This logic applies equally to the Fair Housing Act of 1968 (FHA) prohibition on sex discrimination. Even before *Bostock* was decided, several courts have looked to Title VII jurisprudence to interpret the Fair Housing Act and found the prohibition in the FHA on sex discrimination could be applied to instances of LGBTQ related discrimination,¹⁶ including when a housing

⁵ Housing and Urban Development, [Equal Access to Housing in HUD Programs-Regardless of Sexual Orientation or Gender Identity](#), 76 Fed. Reg. 4194 (Jan. 24, 2011).

⁶ The Urban Institute, [Why Are There Gaps in LGBTQ+ Homeownership?](#) (Nov. 2023). See also, Fannie Mae, [Fannie Mae Now Collects First-of-Its-Kind LGBT Data Through National Housing Survey](#) (Jun. 20, 2024).

⁷ Center for American Progress, [The LGBTQI+ Community Reported High Rates of Discrimination in 2024](#), (Mar. 12, 2025).

⁸ Center for American Progress, [The State of Disabled LGBTQI+ People in 2024](#), (Jul. 15, 2025).

⁹ UCLA School of Law Williams Institute, [Homelessness Among LGBT Adults in the US](#) (May 2020); See also Voice of Youth [Missed Opportunities: LGBTQ Youth Homelessness in America](#) (Accessed Jun. 15, 2026).

¹⁰ The National Center for Transgender Equality, [Early Insights: A Report of the 2022 U.S. Transgender Survey](#) (Feb. 2024).

¹¹ National Center for Transgender Equality, [The report of the 2015 U.S. transgender survey](#) (Dec. 2016).

¹² National Coalition of Anti-Violence Programs, [Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Intimate Partner Violence in 2015](#) (2016).

¹³ Center for American Progress, [The State of the LGBTQ Community in 2020 A National Public Opinion Study](#) (Oct. 2020).

¹⁴ HUD, [HUD 2016 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations](#) (Mar. 15, 2017); See also HUD, [HUD 2024 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations](#) (Dec. 9, 2024).

¹⁵ *Bostock v. Clayton Cnty.*, 590 U.S. 644, 660-61 (2020). Nothing in the recent *West Virginia v. B.J.P.* decision changes *Bostock*'s statutory analysis; in fact, the Court specifically observed that in the case at issue, involving sports participation, *Bostock* and Title VII are "not relevant in this very different statutory and factual context." 609 U.S. ____ (2026), Op. at 13-14. Conversely, the Supreme Court has referenced Title VII to interpret the FHA. See *Tex. Dep't of Housing and Comm. Aff. v. Inclusive Comms. Project, Inc.*, 576 U.S. 519, 529-33 (2015).

¹⁶ See *Wetzel v. Glen St. Andrew Living Community, LLC*, 901F.3d 856, 862 (7th Cir. 2018) (noting that the reasoning in an earlier Title VII case "applies with equal force under the FHA"); *Gamble v. City of Escondido*, 104 F.3d 300, 304 (9th Cir. 1997) ("Most courts applying the FHA ... have analogized it to Title VII of the Civil Rights Act of 1964").

provider refuses to rent to a family based on stereotypes of to “whom a woman (or man) should be attracted, should marry, or should have a family.”¹⁷

The proposed rule also threatens to withhold or revoke HUD Community Planning and Development (CPD) funds from states and localities that comply with local protections conflicting with HUD’s proposed discriminatory rulemaking, which contravenes the constitutional principle of federalism.¹⁸ In fact, HUD’s proposed rule fails to cite any clear indication of unambiguous Congressional intent to condition federal funding on the exclusion of LGBTQ+ individuals from homeless shelters. Instead, the proposed rule threatens the housing stability of LGBTQ+ individuals by permitting discrimination based on sexual orientation and gender identity across a wide swath of essential programs, from public housing and the housing voucher program to FHA-insured home mortgages.¹⁹ The proposed rule would dismantle essential guardrails that have allowed LGBTQ+ families to access HUD assisted or insured housing for over a decade, including protections against intrusive questions about their sexual orientation and gender identity.²⁰ With this proposed rule, HUD would diminish its program’s ability to meet the housing needs of the LGBTQ+ community, exacerbating the nation’s housing crisis.

The proposed rule is arbitrary and capricious, in further violation of the Administrative Procedure Act.²¹ HUD has made no attempt to understand the unique challenges the LGBTQ+ community faces or the issues of homeless service providers tasked with addressing the housing and homeless needs of their communities. The agency provided no significant evidence in support of its decision to propose repealing the Equal Access Rule, which will have far-reaching implications for the LGBTQ+ community’s access to HUD supported housing, including transgender individual’s ability to access homeless shelters. But in fact, consistent studies show that trans people being subjected to sex-separated spaces which are inconsistent with their gender identity can result in greater risk of exclusion, harassment,²² and sexual assault.²³

The proposed rule will invite invasive questioning and increase homelessness. By attempting to remove protections against invasive questioning of an individual’s gender,²⁴ HUD’s proposed rule opens the door to greater sex-based harassment and discrimination for all homeless individuals seeking shelter. Providers could be forced to increase documentation requirements or adopt even more harmful strategies to comply—impacting not only transgender individuals seeking housing assistances, but anyone who needs help. For example, increased documentation burdens would disproportionately harm those without proof of their sex. Among the homeless population, access to identification is already an issue.²⁵ This challenge is compounded for transgender individuals, as amending or updating the gender marker on birth certificates and drivers’ licenses is banned in ten states and eight states,²⁶ respectively, making accurate identity documents difficult or impossible to obtain.

Transgender individuals could also be subject to invasive and humiliating physical examinations under HUD’s proposal.²⁷ This could lead to disputes and accusations that also jeopardize housing assistance for cisgender women who do not conform to specific expectations of femininity, including taller women, women of color, and women with short hair. There are repeated examples of cisgender women being confronted and harassed

¹⁷ *Wetzel*, 904 F.3d at 862; *Smith v. Avanti*, 249 F. Supp. 3d 1194, 1201 (D. Colo. 2017).

¹⁸ HUD Federal Register, *Equal Access to Housing in HUD Programs Revisions* (Apr. 28, 2026).

¹⁹ HUD Federal Register, *Equal Access to Housing in HUD Programs Revisions* (Apr. 28, 2026).

<https://www.federalregister.gov/documents/2026/04/28/2026-08244/equal-access-to-housing-in-hud-programs-revisions>

²⁰ *Ibid.*

²¹ 5 U.S.C. § 706(2)(A).

²² UCLA School of Law, *Prohibiting Transgender people from accessing bathrooms puts them at risk of harassment* (Feb. 19, 2025).

²³ American Academy of Pediatrics, *School Restroom and Locker Room Restrictions and Sexual Assault Risk Among Transgender Youth* (Jun. 2019).

²⁴ HUD Federal Register, *Equal Access to Housing in HUD Programs Revisions* (Apr. 28, 2026).

²⁵ United States Government Accountability Office, *Homelessness Barriers to Obtaining ID and Assistance to Help Gain Access* (Feb. 2024).

²⁶ Map Research, *Identity Document Laws and Policies* (Accessed Jun. 15, 2026).

²⁷ HUD Federal Register, *Equal Access to Housing in HUD Programs Revisions* (Apr. 28, 2026).

based on their perceived gender identity. For example, in Massachusetts, a woman with short hair was escorted out of a hotel bathroom by security guards and demanded to prove their sex with identification.²⁸ In Arizona a Black woman with short hair was accosted by police in a bathroom.²⁹ In Minnesota a high school student was forced to show her breasts to a store employee in a bathroom to prove she was not transgender.³⁰ These are unfortunately not isolated incidents, and offer a glimpse of the humiliation and terror that both transgender and cisgender individuals face if the Equal Access Rule core protections are removed.

Verifying gender through dehumanizing or burdensome processes will jeopardize the vital trust that people experiencing homelessness place in case managers, shelters, and other service providers. This trust is foundational to building the rapport necessary to get people connected back to housing. HUD's proposed rule will discourage transgender and gender non-conforming individuals from seeking assistance, thereby elongating experiences with homelessness. As vulnerable populations are stripped of crucial protections across HUD programs and rejected from shelters, communities will see increased rates of costly and deadly unsheltered homelessness, which will lead to greater strain on emergency services and local budgets.

As the U.S. faces an affordable housing and homelessness crisis and worsening inflation, HUD should be focused on using the tools given to it by Congress to help alleviate the housing crisis and ease homelessness. Instead, the agency has chosen to propose a rule that would eviscerate protections for the LGBTQ+ community, ignore legal precedent, increase red tape and federal overreach for providers, and exasperate homelessness in communities across the country. We strongly urge HUD to withdraw its proposed rule and return to its mission to "create strong, sustainable, inclusive communities and quality affordable homes for all."³¹

Sincerely,



Maxine Waters
Ranking Member
Committee on Financial Services



Mark Takano
Member of Congress



Frederica S. Wilson
Member of Congress



Eleanor Holmes Norton
Member of Congress

²⁸ CBS News, [Woman says security guard at Liberty Hotel in Boston confronted her in bathroom, asked to prove gender](#) (May 7, 2025).

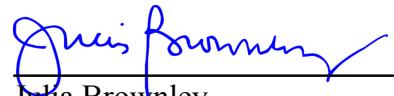
²⁹ Advocate, [Cis woman confronted by police officers in Arizona Walmart restroom for looking too masculine speaks out \(exclusive\)](#) (Feb. 28, 2025).

³⁰ Advocate, [Lesbian teen cornered by server in bathroom and forced to prove gender files charges](#) (Aug. 13, 2025).

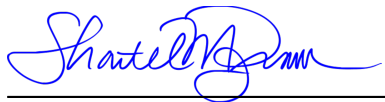
³¹ HUD, [Multifamily Residents](#), (Accessed Jun. 15, 2026).



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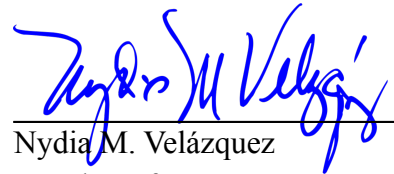
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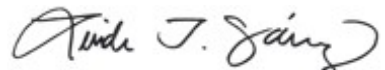
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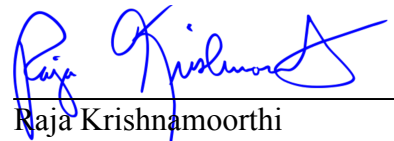
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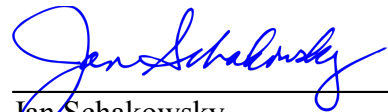
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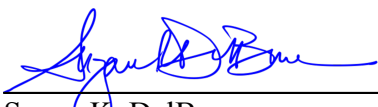
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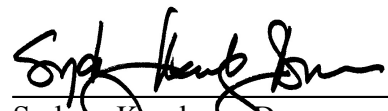
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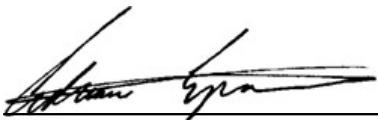
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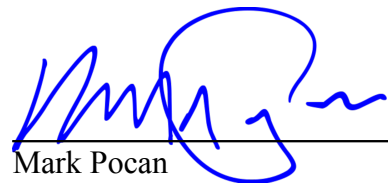
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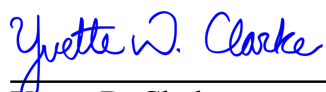
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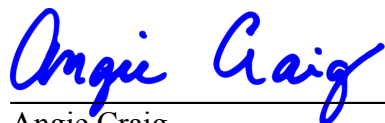
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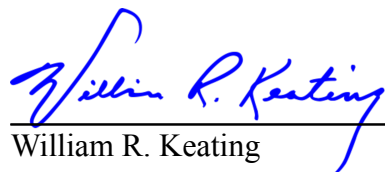
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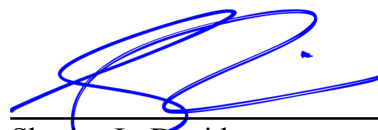
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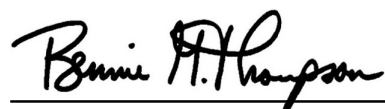
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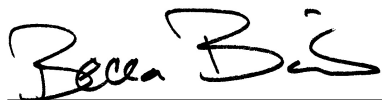
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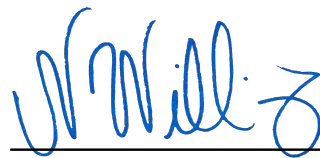
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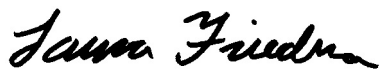
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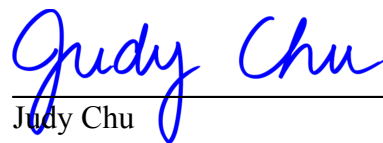
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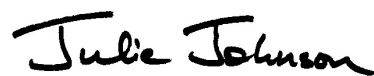
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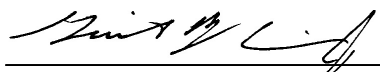
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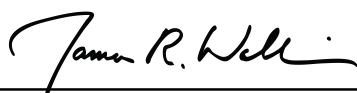
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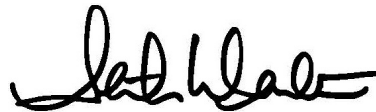
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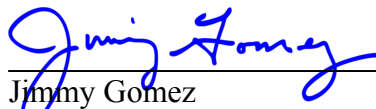
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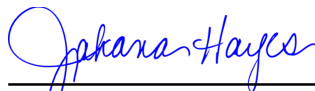
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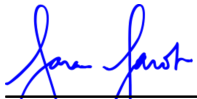
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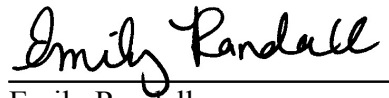


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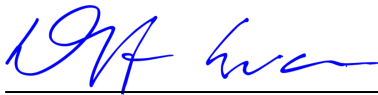
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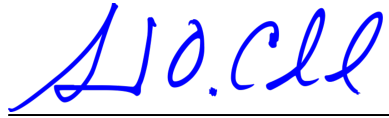
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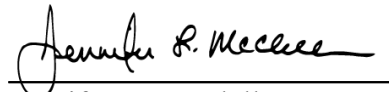
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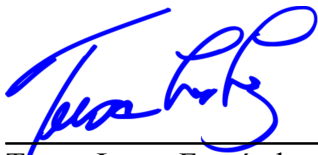
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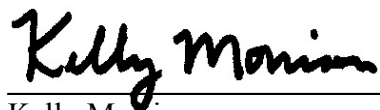
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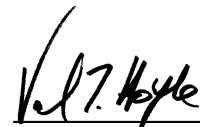
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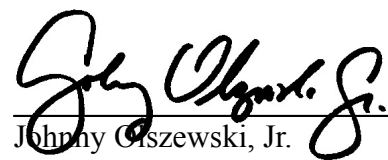
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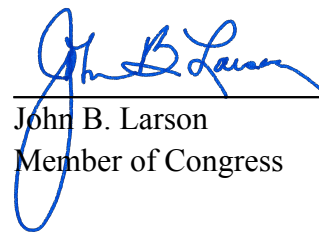
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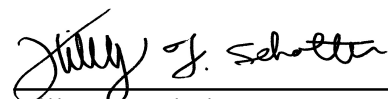
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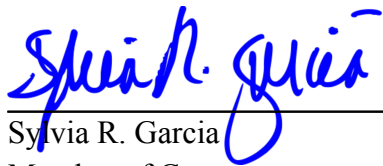
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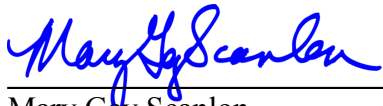
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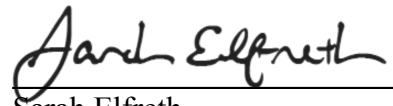
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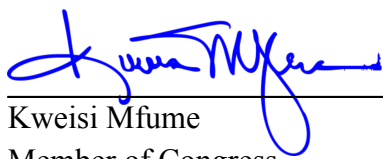
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Member of Congress



Mary Gay Scanlon
Member of Congress



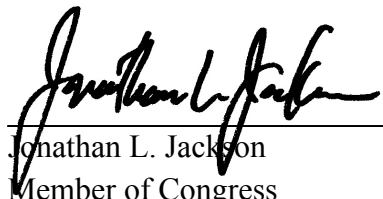
Sarah Elfreth
Member of Congress



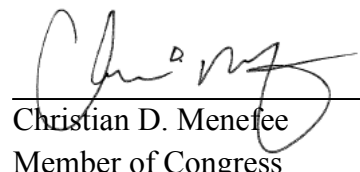
Kweisi Mfume
Member of Congress



Nanette Diaz Barragán
Member of Congress



Jonathan L. Jackson
Member of Congress



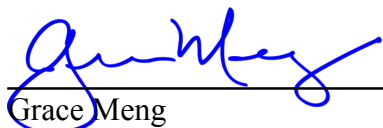
Christian D. Menefee
Member of Congress



Kevin Mullin
Member of Congress



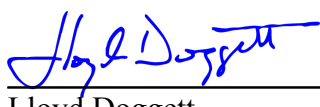
Greg Landsman
Member of Congress



Grace Meng
Member of Congress



Donald S. Beyer Jr.
Member of Congress



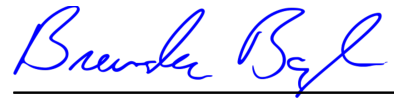
Lloyd Doggett
Member of Congress



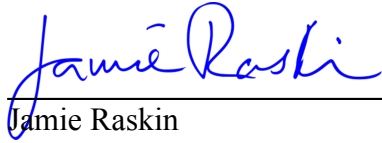
Bradley Scott Schneider
Member of Congress



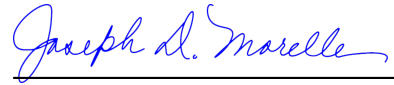
Rick Larsen
Member of Congress



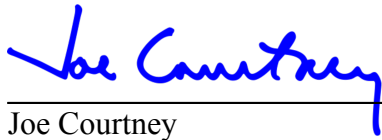
Brendan F. Boyle
Member of Congress



Jamie Raskin
Member of Congress



Joseph D. Morelle
Member of Congress



Joe Courtney
Member of Congress

CC: The Honorable French Hill, Chair, House Committee on Financial Services