

**Congress of the United States**  
Washington, DC 20510

March 24, 2017

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

Dear Secretary Mnuchin,

We are concerned about recent reports that the Anbang Insurance Group, a Chinese-based company with “close ties to the Chinese state,” may enter into a business partnership with Kushner Companies, a real estate company owned by the family of senior White House advisor Jared Kushner.<sup>1</sup> As the Chairperson of the Committee on Foreign Investments in the United States, we ask that you answer our questions about this potential transaction—which has been described as “unusually favorable for the Kushners”<sup>2</sup>—and its implications for national security.

**The Potential Anbang-Kushner Companies Transaction**

Documents obtained by *Bloomberg* last week indicated that the Anbang Insurance Group (“Anbang”) and Kushner Companies were nearing a \$4 billion deal to renovate 666 Fifth Avenue, a “marquee” Manhattan office building currently owned by Kushner Companies. Under the reported terms of the transaction, Anbang would purchase most of the building from Kushner Companies for \$400 million and take out a \$4 billion construction loan for renovations. Kushner Companies would invest \$750 million and retain a one-fifth stake in the building—which, post-renovations, has a projected value of \$7.2 billion.<sup>3</sup> The deal would provide the Kushners “with

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<sup>1</sup> Michael Forsythe and Jonathan Ansfield, “A Chinese Mystery: Who Owns a Firm on a Global Shopping Spree?” *New York Times* (September 1, 2016) (online at <https://www.nytimes.com/2016/09/02/business/dealbook/anbang-global-shopping-spree-china-mystery-ownership.html>); David Kocieniewski and Caleb Melby, “Kushners Set to Get \$400 Million From Chinese Firm on Tower,” *Bloomberg* (March 13, 2017) (online at <https://www.bloomberg.com/news/articles/2017-03-13/kushners-set-to-get-400-million-from-chinese-on-marquee-tower>).

<sup>2</sup> David Kocieniewski and Caleb Melby, “Kushners Set to Get \$400 Million From Chinese Firm on Tower,” *Bloomberg* (March 13, 2017) (online at <https://www.bloomberg.com/news/articles/2017-03-13/kushners-set-to-get-400-million-from-chinese-on-marquee-tower>).

<sup>3</sup> David Kocieniewski and Caleb Melby, “Kushners Set to Get \$400 Million From Chinese Firm on Tower,” *Bloomberg* (March 13, 2017) (online at <https://www.bloomberg.com/news/articles/2017-03-13/kushners-set-to-get-400-million-from-chinese-on-marquee-tower>); Charles v. Bagli and Michael Forsythe, “Kushners, Trump In-Laws, Near \$400 Million Deal with Chinese Firm,” *New York Times* (March 14, 2017) (online at <https://www.nytimes.com/2017/03/14/nyregion/kushner-companies-anbang-insurance-group.html?smid=tw-nytnetro&smtyp=cur&mtref=undefined&r=2>).

both a sizable cash payout from Anbang ... for a property that has struggled financially and an equity stake in a new partnership.”<sup>4</sup>

Anbang denied that a deal was in place after last week’s media report. But according to the *Wall Street Journal*, the company is still “in advanced talks to provide as much as half of the \$2.5 billion in equity for the planned redevelopment.”<sup>5</sup> The reports also indicated that “worries over a conflict of interest, given Jared Kushner’s role in the White House, could torpedo Anbang’s participation,” and that Anbang “might decide whether or not to stay or go as early as this week.”<sup>6</sup>

### **Jared Kushner’s Conflicts of Interest**

This deal, if executed, would appear to present a clear conflict of interest for Jared Kushner, the son-in-law of President Trump and a senior White House advisor. On November 16, 2016, Mr. Kushner, then-CEO of Kushner Companies, dined with Anbang executives to discuss the 666 Fifth Avenue property.<sup>7</sup>

On January 9, 2017, Mr. Kushner’s attorney announced that Mr. Kushner was stepping down as CEO of Kushner companies in order to join the White House, and indicated that he would be divesting from “substantial assets.”<sup>8</sup> She also indicated “that divestments will be carried out at sales through fair market value,” and that the assets would be sold to Mr. Kushner’s brother and his mother. A report last month indicated that Mr. Kushner “is keeping parts of his family business,” including “some real-estate holding associated with Kushner companies.”<sup>9</sup> White House officials and a Kushner Company spokesman indicated that, as of February 24, 2017, Mr. Kushner had divested himself of his stake in the 666 Fifth Avenue building.<sup>10</sup> However, a partial financial disclosure form for Mr. Kushner, recently released by the

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<sup>4</sup> David Kocieniewski and Caleb Melby, “Kushners Set to Get \$400 Million From Chinese Firm on Tower,” *Bloomberg* (March 13, 2017) (online at <https://www.bloomberg.com/news/articles/2017-03-13/kushners-set-to-get-400-million-from-chinese-on-marquee-tower>).

<sup>5</sup> Wall Street Journal, Jared Kushner’s White House Role Complicates Skyscraper Deal (Mar. 21, 2017) (<https://www.wsj.com/articles/jared-kushners-white-house-role-complicates-skyscraper-deal-1490111514>).

<sup>6</sup> Wall Street Journal, Jared Kushner’s White House Role Complicates Skyscraper Deal (Mar. 21, 2017) (<https://www.wsj.com/articles/jared-kushners-white-house-role-complicates-skyscraper-deal-1490111514>).

<sup>7</sup> Susanne Craig, Jo Becker, and Jesse Drucker, “Jared Kushner, a Trump In-Law and Adviser, Chases a Chinese Deal,” *New York Times* (January 7, 2017) (online at [https://www.nytimes.com/2017/01/07/us/politics/jared-kushner-trump-business.html?\\_r=0](https://www.nytimes.com/2017/01/07/us/politics/jared-kushner-trump-business.html?_r=0)).

<sup>8</sup> Annie Karni, “Kushner to resign from exec posts, divest sizable assets,” *Politico* (January 9, 2017) (online at <http://www.politico.com/story/2017/01/jared-kushner-divest-assets-trump-adviser-233368>); Charles v. Bagli and Michael Forsythe, “Kushners, Trump In-Laws, Near \$400 Million Deal with Chinese Firm,” *New York Times* (March 14, 2017) (online at [https://www.nytimes.com/2017/03/14/nyregion/kushner-companies-anbang-insurance-group.html?smid=tw-nytmetro&smtyp=cur&mtref=undefined&\\_r=2](https://www.nytimes.com/2017/03/14/nyregion/kushner-companies-anbang-insurance-group.html?smid=tw-nytmetro&smtyp=cur&mtref=undefined&_r=2)).

<sup>9</sup> Annie Karni, “Kushner to resign from exec posts, divest sizable assets,” *Politico* (January 9, 2017) (online at <http://www.politico.com/story/2017/01/jared-kushner-divest-assets-trump-adviser-233368>).

<sup>10</sup> Justin Elliot and Al Shaw, “White House Power Player Jared Kushner Is Keeping Parts of His Real-Estate Empire,” *ProPublica* (February 24, 2017) (online at <https://www.propublica.org/article/white-house-power-player-jared-kushner-keeping-parts-of-real-estate-empire>).

Office of Government Ethics (“OGE”) in response to a Freedom of Information Act (“FOIA”) request, does not clarify whether this divestment is complete.<sup>11</sup>

Even if Mr. Kushner has in fact divested from 666 Fifth Avenue, it appears his immediate family stands to benefit from a deal with Anbang, potentially violating federal ethics laws that bar an employee from using “his public office for his own private gain...or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.”<sup>12</sup> On March 8, 2017, we sent a letter to the Office of the White House Counsel requesting information on the assets that Mr. Kushner chose to retain, but have yet to receive a response.<sup>13</sup> Neither Mr. Kushner nor the White House have released to the public the specific documents indicating what properties Mr. Kushner has divested from, and when and how he has done so. Absent these documents, it is impossible to determine the extent to which Mr. Kushner or his immediate family may benefit from the Anbang sale.

### **Anbang, CFIUS, and Potential National Security Threats**

We are concerned that a potential Anbang deal with the family of a key White House adviser raises important national security concerns. Anbang, a Chinese financial behemoth controlling nearly \$300 billion in assets, has a “murky shareholding structure” with ties to the Chinese government. The company’s shares are distributed between 39 companies, at least 35 of which are closely linked to Anbang Chairman Wu Xiaohui and his wife, the granddaughter of Chinese leader Deng Xiaoping.<sup>14</sup>

As you know, the Committee on Foreign Investments in the United States (“CFIUS” or “Committee”) is authorized to “conduct an investigation of the effects of a covered transaction on the national security of the United States, and take any necessary actions in connection with the transaction to protect the national security of the United States.”<sup>15</sup> A “covered transaction” is any proposed or pending merger, acquisition, or takeover “with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States.”<sup>16</sup> Any transaction “that results or could result in control by a foreign person of any part of an entity or of assets” is considered a foreign transaction, “if such part of an entity or assets constitutes a U.S. business.”<sup>17</sup>

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<sup>11</sup> Caleb Melby, Lindsey Rupp, and Bill Allison, “Documents Show Jared Kushner, Ivanka Trump to Divest Some Assets,” *Bloomberg Politics* (March 17, 2017) (online at <https://www.bloomberg.com/politics/articles/2017-03-17/documents-show-jared-kushner-ivanka-trump-to-divest-some-assets>).

<sup>12</sup> 5 CFR 2635.707 (online at <https://www.law.cornell.edu/cfr/text/5/2635.702>).

<sup>13</sup> Letter from Senator Warren, Senator Carper, and Representative Cummings to Stefan C. Passantino, Deputy Counsel to the President and Designated Agency Ethics Official (March 8, 2017) (online at [https://www.warren.senate.gov/files/documents/2017\\_03\\_08\\_Letter\\_on\\_Kushner\\_Recusals.pdf](https://www.warren.senate.gov/files/documents/2017_03_08_Letter_on_Kushner_Recusals.pdf)).

<sup>14</sup> Charles v. Bagli and Michael Forsythe, “Kushners, Trump In-Laws, Near \$400 Million Deal with Chinese Firm,” *New York Times* (March 14, 2017) (online at <https://www.nytimes.com/2017/03/14/nyregion/kushner-companies-anbang-insurance-group.html?smid=tw-nytmetro&smtyp=cur&mtref=undefined&r=2>).

<sup>15</sup> 50 U.S.C. App. 2170 (online at [https://www.law.cornell.edu/uscode/html/uscode50a/usc\\_sec\\_50a\\_00002170----000-.html](https://www.law.cornell.edu/uscode/html/uscode50a/usc_sec_50a_00002170----000-.html)).

<sup>16</sup> 50 U.S.C. App. 2170 (online at [https://www.law.cornell.edu/uscode/html/uscode50a/usc\\_sec\\_50a\\_00002170----000-.html](https://www.law.cornell.edu/uscode/html/uscode50a/usc_sec_50a_00002170----000-.html)).

<sup>17</sup> 31 CFR 800.301 (online at <https://www.law.cornell.edu/cfr/text/31/800.301>).

CFIUS has reviewed Anbang transactions in the past, including its acquisition of the Waldorf Astoria Hotel in New York and its failed acquisition of the Hotel Del Coronado in San Diego. CFIUS approved Anbang's purchase of the Waldorf Astoria<sup>18</sup> but "fears of espionage" reportedly led visiting dignitaries, including President Obama, to avoid staying at the Ambassador's Residence in the hotel, which has hosted several U.S. dignitaries since 1947.<sup>19</sup> CFIUS also raised concerns over the Hotel Del Coronado, located near a U.S. naval base.<sup>20</sup> Given its past examination of Anbang transactions, it seems likely that CFIUS will closely monitor this transaction if Anbang decides to move forward with the acquisition of 666 Fifth Avenue—which is located just four blocks from Trump Tower.

As Secretary of the Treasury, you serve as the Chairperson of CFIUS.<sup>21</sup> We request that you answer the following questions about a potential Anbang-Kushner Companies deal no later than March 31, 2017.

1. Would CFIUS consider the potential \$4 billion deal between Anbang and Kushner Companies to be a "covered transaction," applicable for review by CFIUS? If so, would CFIUS plan to review the transaction? If not, please describe under what circumstances CFIUS may find a deal to be a "covered transaction" yet decide not to review that transaction.
2. Department of Treasury regulations hold that "parties to a proposed or completed transaction may file a voluntary notice of the transaction" with CFIUS.<sup>22</sup> Has CFIUS received a voluntary notice of the transaction from either Kushner Companies or Anbang? If so, please provide a copy.
3. Based on past assessments of the Anbang Insurance Group, does CFIUS perceive Anbang to be a potential threat to national security?
  - a. What criteria would CFIUS use to assess the potential threat?
  - b. If a high-level White House adviser had a financial connection to Kushner Companies, how would that affect CFIUS' assessments of the national security threat that Anbang may pose to the United States? How would CFIUS evaluate the impact of this financial connection and its potential impact on White House decision-making and its potential to affect national security?

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<sup>18</sup> David Kocieniewski and Caleb Melby, "Kushners Set to Get \$400 Million From Chinese Firm on Tower," *Bloomberg* (March 13, 2017) (online at <https://www.bloomberg.com/news/articles/2017-03-13/kushners-set-to-get-400-million-from-chinese-on-marquee-tower>);

<sup>19</sup> *Spy Fears Drive U.S. Officials from Chinese-owned Waldorf-Astoria Hotel*, Associated Press (Sept. 11, 2015) (online at <http://www.pbs.org/newshour/rundown/spy-fears-drive-us-officials-chinese-owned-hotel/>).

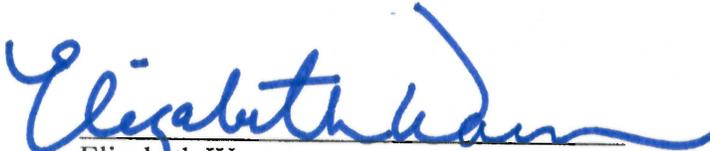
<sup>20</sup> Hui-yong Hu and David McLaughlin, "Blackstone Ends Plan to Sell Landmark Hotel to China's Anbang After U.S. Opposition," *Bloomberg* (October 21, 2016) (online at <https://www.bloomberg.com/news/articles/2016-10-21/blackstone-said-to-end-anbang-deal-for-hotel-near-u-s-navy-base>).

<sup>21</sup> U.S. Department of Treasury, "Composition of CFIUS" (online at <https://www.treasury.gov/resource-center/international/foreign-investment/Pages/cfius-members.aspx>).

<sup>22</sup> 31 CFR § 800.40 (online at <https://www.law.cornell.edu/cfr/text/31/800.401>).

If you or members of your staff have any questions about this request, please feel free to contact Susannah Savage with Senator Warren's staff at 202-224-4543, Roberto Berrios with Senator Carper's staff at 202-224-2627, Krista Boyd of Congressman Cummings' staff at 202-225-9493, Zachary Schram of Senator Peters' staff at 202-224-5543, and Laura Swanson of Senator Brown's staff at 202-224-1646 with any questions or concerns.

Sincerely,



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Elizabeth Warren  
United States Senator



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Tom Carper  
United States Senator



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Sherrod Brown  
Ranking Member  
Senate Committee on Banking,  
Housing, and Urban Affairs



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Elijah Cummings  
Ranking Member  
House Committee on Oversight and  
Government Reform



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Gary Peters  
United States Senator