United States Senate
WASHINGTON, DC 20510

June 6, 2018

Mr. William J. Wiatrowski
Acting Commissioner
Bureau of Labor Statistics
Postal Square Building
2 Massachusetts Ave NE
Washington, DC 20212

Dear Acting Commissioner Wiatrowski:

We write to express our concern over President Donald Trump's June 1, 2018 violation of federal guidelines restricting government officials from disclosing market-moving economic data prior to their scheduled release and commenting publicly on those data in the immediate aftermath of their release. We ask that your agency conduct an investigation to identify whether any individual or corporate entity was able to obtain and use market-moving information – either on June 1, 2018 or before – provided to the White House before its official release.

Typically on the first Friday of each month, the Bureau of Labor Statistics (BLS) releases its monthly report on the Employment Situation.[1] The Chairman of the Council of Economic Advisers receives the data the day before it is released by the Department of Labor and briefs an extremely limited number of senior leaders on the report's findings. All Executive Branch employees, including the officials who had access to the data before the release are prohibited from publicly commenting on the contents of the report until an hour after its release.[2]

The purpose of this policy directive, as stated by the Office of Management and Budget (OMB) on September 25, 1985, was to "preserve the distinction between the policy-neutral release of data by statistical agencies and their interpretation by policy officials," and to avoid affecting "financial and commodity markets."[3] The rules – later codified by the policy directive – were implemented in the wake of the Nixon Administration's attempt to politicize government data.[4]

On June 1, 2018 at 7:21am, President Donald Trump violated this policy directive by tweeting "Looking forward to seeing the employment numbers at 8:30 this morning."[5] President Trump's

---

[1] Bureau of Labor Statistics, "Schedule of Releases for the Employment Situation," https://www.bls.gov/schedule/news_release/empsit.htm
[2] Federal Register, "Statistical Policy Directive on Compilation, Release, and Evaluation of Principal Federal Economic Indicators," September 25, 1985, Office of Management and Budget, https://www.bea.gov/about/pdf/federalregister09251985.pdf
[3] Federal Register, "Statistical Policy Directive on Compilation, Release, and Evaluation of Principal Federal Economic Indicators," September 25, 1985, Office of Management and Budget, https://www.bea.gov/about/pdf/federalregister09251985.pdf
[4] Los Angeles Times, "Spicer broke a federal rule when he hailed jobs report too soon after its release," Jim Puzzanghera, March 10, 2017, http://www.latimes.com/politics/washington/la-na-essential-washington-updates-spicer-broke-a-federal-rule-when-he-1489164146-htmlstory.html
[5] Tweet by Donald J. Trump, June 1, 2018, https://twitter.com/realDonaldTrump/status/1002510522032541701

remark clearly implied that the employment numbers were positive for the administration and surpassed market expectations. The market reacted immediately – yields on the 10-year Treasury note[6], the dollar index[7], and stock futures[8] all increased following the President's tweet.

This is not the first time that this long-standing federal rule has been violated during President Trump's presidency. Last year, President Trump and former White House press secretary Sean Spicer both violated the policy directive by tweeting about a jobs report on March 10, 2017 during the mandatory one-hour cooling off period after the BLS officially released the report.[9] President Trump violated the cooling-off requirement once again in August 2017.[10]

In fact, reports indicate that strategists and market observers have started to use the President's twitter feed as a way of preparing for economic data updates.[11] This demonstrates a lack of precision in protecting these sensitive data and raises the additional concern that the policy directive may be routinely violated in other ways.

We are concerned in particular that prerelease data may have been disclosed beyond the very small group authorized to see them before their official release by the President or other White House staff. A wider dissemination increases the possibility that this inside information could be used to unlawful advantage in the market. The numerous conflicts of interest in the financial holdings of the President[12] and other high-level White House staffers,[13] and their continued secrecy about these holdings heightens our concern about insiders obtaining or using this information.

Additionally, we are concerned about the implications the release of other economic data by the President and members of the Executive Branch can have on the market.

---

[6] Market Watch, "Trump's jobs report tweet in advance of release appears to have violated federal rules," Steve Goldstein and Robert Schroeder, June 1, 2018, https://www.marketwatch.com/story/trumps-jobs-report-tweet-in-advance-of-release-appears-to-have-violated-federal-rules-2018-06-01

Note: The yield on the 10-year TMUBMUSD10Y increased +2.07% after the tweet

[7] Wall Street Journal, "Dollar Rises on Strong Jobs Report," Ira Iosebashvili, June 1, 2018, https://www.wsj.com/articles/dollar-rises-on-strong-jobs-report-1527864196?mod=article_inline

[8] Reuters, "Trump tweet before U.S. payrolls report raises eyebrows," June 1, 2018, https://www.reuters.com/article/us-usa-economy-trump/trump-tweet-before-u-s-payrolls-report-raises-eyebrows-idUSKCN1IX5HG

Note: S&P 500 e-mini futures ESv1 were up about 12 points, or 0.45 percent, before his tweet, then nudged about 1 point higher in the moments afterward

[9] New York Times, "Sean Spicer's Quick Twitter Reaction to Jobs Report May Break a Rule," Patricia Cohen, March 10, 2017, https://www.nytimes.com/2017/03/10/business/february-jobs-report-trump-white-house.html

[10] USA Today, "Trump tweet on jobs report may have breached a 1985 federal directive," Kevin MCoy and Adam Shell, June 1, 2018, https://www.usatoday.com/story/money/2018/06/01/trump-jobs-report-tweet/663233002/

[11] New York Times, "Trust Touts Jobs Report Before Official Release, Breaking Protocol," Jim Tankerskey and Matt Phillips, June 1, 2018, https://www.nytimes.com/2018/06/01/us/politics/trump-jobs-twitter.html

[12] The Hill, "Donald Trump's scandalous conflicts of interest still live," Dan Weiner, January 24, 2018, http://thehill.com/opinion/white-house/370488-trumps-scandalous-conflicts-of-interest-live-on; The Sunlight Foundation, "Tracking Trump's Conflicts of Interest," https://sunlightfoundation.com/tracking-trumps-conflicts-of-interest/

[13] The Atlantic, "The Trump Administration's Conflicts of Interest: A Crib Sheet," Jeremy Venook, January 18, 201, https://www.theatlantic.com/business/archive/2017/01/trumps-appointees-conflicts-of-interest-a-crib-sheet/512711/

Therefore, we ask that the Bureau of Labor Statistics conduct an investigation into what controls are in place to prevent members of the Executive branch from releasing statistical data prior to their official publication and whether or not they were used for this most recent report as well as for reports in the past. We ask that you provide answers to these questions no later than June X, 2018.

1. What controls does the Bureau of Labor Statistics (BLS) have to prevent members of the Executive Branch from commenting on the content of statistical data reports prior to their official release?

    a. Were these controls used for the release of the most recent Employment Situation Report? Have these controls been used for the release of previous Employment Situation Reports and other reports released by the BLS?
    b. To your knowledge, are those controls similar at other statistical agencies such as the Bureau of Economic Analysis and Census Bureau?

2. Does the BLS consider the Employment Situation Report as market-moving information?

3. Does the BLS believe that the President is subject to Statistical Policy Directive Number 3?

4. Has the BLS conducted an investigation or do you plan to conduct an investigation of President Trump's early comments on BLS data?

5. What penalties are in place for individuals that release information in violation of Statistical Policy Directive Number 3?

6. In response to the release of information by President Trump, will BLS make any modifications to current rules and procedures regarding the disclosure and release of information from BLS economic reports?

Sincerely,

Elizabeth Warren
United States Senator

Ron Wyden
United States Senator

Michael F. Bennet
United States Senator