

United States Senate

WASHINGTON, DC 20510

June 6, 2018

Dr. Kevin Hassett
Chairman
Council of Economic Advisers
1650 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Chairman Hassett:

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.

As you know, the Council of Economic Advisers (CEA) receives more than a dozen sensitive indicators calculated by government agencies the day before they are publicly released in order to brief the President and a small number of other senior White House officials. The CEA is also charged with safeguarding the integrity of data it receives. Those controls have failed at least twice in the Trump administration. We write to inquire into what additional steps the administration intends to take to ensure that individuals are not taking advantage of the pre-release data for private gain.

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 they are 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

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>

“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 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 note⁶, the dollar index⁷, and stock futures⁸ 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

The employment report is not the only market-moving data provided to the Chairman of the Council of Economic Advisers before its public release. The Bureau of Labor Statistics, Bureau of Economic Analysis (BEA), Census Bureau, and other federal statistical agencies also provide the White House with periodic economic data, such as the U.S. International Trade in Goods and Services report and Gross Domestic Product report.¹¹ The White House is required to follow the same policy directive with respect to these reports.¹² Advance notice of any of these indicators would undoubtedly provide an advantage to an investor or an investment company.

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-htm1story.html>

⁵ Tweet by Donald J. Trump, June 1, 2018, <https://twitter.com/realDonaldTrump/status/1002510522032541701>

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 McCoy and Adam Shell, June 1, 2018, <https://www.usatoday.com/story/money/2018/06/01/trump-jobs-report-tweet/663233002/>

¹¹ Bureau of Economic Analysis, “2018 News Release Schedule,” https://www.bea.gov/newsreleases/news_release_schedule.htm

¹² 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>

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.¹³ 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 the President or other White House staff may have disclosed the prerelease data beyond the very small group authorized to see them before their official publication. 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 President¹⁴ and other high-level White House staffers,¹⁵ and their continued secrecy about these holdings heightens our concern about insiders obtaining or using this information

To help us better understand the impact of the President's violation of federal rules about early release of information from economic reports, we ask that you provide answers to the following questions no later than June 25, 2018.

1. Please provide a list of economic indicators sent to the Council of Economic Advisers by Federal statistical agencies before their public release since January 21, 2017. Please include the time that the data was sent to the CEA as well as the time it was disclosed to the President and other White House personnel.
2. Who is briefed on prerelease data? Are they briefed in person or in writing?
3. Does anybody at CEA have knowledge of other unauthorized employees of the Executive Office of the President accessing prerelease data?
4. Is anyone in the White House aware of any instances in which the President or other officials in the Executive Office of the President have commented on economic data to private individuals after a prerelease briefing on the contents of the data but prior to its public release? If any of these instances have occurred, please provide details on who shared the information and to whom.
5. What measures has the Administration taken to ensure that those who are briefed do not share the data more broadly?
6. How are the data transmitted to the CEA?
7. Who has access to the data in order to prepare the briefing?

¹³ 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>

¹⁴ 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/>

¹⁵ The Atlantic, "The Trump Administration's Conflicts of Interest: A Crib Sheet," Jeremy Venook, January 18, 2018, <https://www.theatlantic.com/business/archive/2017/01/trumps-appointees-conflicts-of-interest-a-crib-sheet/512711/>

8. What training do officials with access to the data receive to ensure its security?
9. Please provide copies of any agreements between statistical agencies and the Executive Office of the President regarding the use and protection of market sensitive economic indicators.

Sincerely,



Elizabeth Warren
United States Senator



Ron Wyden
United States Senator



Michael F. Bennet
United States Senator