CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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TO THE MEMBERS OF THE UNITED STATES CONGRESS:

In 2017, the Congress helped enact broad regulatory relief as well as historic pro-growth tax reform. These two actions have set the stage for stronger economic growth in 2018 and beyond.

However, just as sound policy can improve the outlook for economic growth, misguided policies or gridlock on key issues can diminish the opportunity for greater growth, more jobs, and higher wages.

We urge Congress and the Administration to prevent funding for operations to lapse and to keep the government open. However, such a short term solution of necessity does not fully address much work that remains on Congress's plate.

Over the next several weeks, Congress is expected to complete a major budget and policy agreement that resolves a host of pressing issues, including several expired or expiring programs and Fiscal Year 2018 appropriations. Appropriate resolution of these issues will help build on the economic momentum generated by tax reform.

To that end, the Chamber offers the following recommendations with respect to issues under consideration in the budget, policy, and appropriations package.

Fiscal and Economic Policy

Increase in the Statutory Debt Limit: The federal government has reached the current statutory debt limit and in the coming weeks will exhaust the extraordinary measurers currently being used to avoid a historic and likely catastrophic default on the part of the United States government. It is imperative that the Congress act to raise the statutory debt limit.

Budget Cap Adjustments / Infrastructure: Congress is appropriately considering revising the discretionary spending limits on defense and non-defense discretionary spending. To the extent that the non-defense discretionary spending limit is revised upward, we urge you to set aside a significant portion of any increase for investment in infrastructure. In the late 1990s and early 2000s, discretionary spending caps included separate categories for highways and mass transit. Given the tremendous infrastructure needs across the U.S., setting aside funds specifically for infrastructure is a prudent step.

Healthcare

Health Insurance Tax (HIT): The health insurance tax (HIT) imposed under the Affordable Care Act, but later suspended under a bipartisan agreement in 2015, came back into effect this January 1. The HIT, which applies to fully-insured health insurance coverage, including small group plans, Medicaid plans, and Medicare Advantage, directly raises the cost of insurance for millions of Americans. For example, many small businesses and seniors are paying on average an additional $523 (family coverage) and $255 a year respectively in higher premiums because of the HIT. At a minimum, Congress should suspend the HIT retroactive to January 1, 2018, and provide a suspension for at least 2019.

Medical Device Tax: Similarly, on January 1, 2018, the medical device tax was reinstated. In addition to imposing a direct tax on key domestic manufacturing industry totaling an estimated $1.5-2 billion in 2018 alone, the medical device tax raises consumer healthcare costs. At a minimum, Congress should suspend the tax for some period going forward and make such suspension retroactive to the first of the year.

Cadillac Tax: The so-called "Cadillac tax" on certain healthcare plans encourages employers to reduce health insurance benefits provided to employees. While the tax does not currently take effect until 2020, employers will soon begin making health benefit plan decisions—including benefit reductions—in anticipation of the tax. As it did in 2015, Congress should at a minimum push the effective date for the Cadillac tax further into the future.

Cost Sharing Reduction (CSR) Payments: The October elimination of the Affordable Care Act's cost sharing reduction payments created an unfunded mandate on health insurers. Given that insurers are required to provide certain cost reduction benefits to low-income individuals but are no longer compensated for the cost of this mandated benefit, insurers are forced to raise health insurance premiums. This CSR elimination directly increases costs for American families. For those individuals and families who have some or all of their premiums covered by federal subsidies, taxpayers end up paying for the higher premiums. Because of the interaction between health insurance tax credits and cost sharing reduction payments, the Congressional Budget Office has confirmed that the federal government would actually save money by reinstating the CSR payments, which would also have the added benefit of lowering premiums for those who do not receive the health insurance tax credit. CSR payments should be reinstated.

Workforce and Immigration

DACA & Border Security: It has been more than four months since the Administration announced termination of the Deferred Action for Childhood Arrivals (DACA) program. Beginning in less than two months, an average of 1,000 individuals a day will lose their ability to legally work in the U.S. and will be subject to deportation. These individuals were brought to the U.S. as children through no fault of their own. Since then, these individuals have become integral parts of our communities and contributing members of the American economy. Failing to provide DACA recipients with a permanent solution that allows them to continue living, working, and contributing to the United States would not only have a negative impact on our economy; it would be contrary to fundamental American principles and the best interests of the United States.

At the same time, it is well past time for the federal government to secure the border. The American people have a right to expect that immigration related action will include meaningful steps to secure the border and prevent and deter individuals illegally entering the country.

It is imperative that Congress enact a DACA fix and reasonable border security measures in the coming weeks.

Temporary Protected Status (TPS): Approximately 300,000 people from El Salvador, Haiti, and Honduras have been able to legally live and work in the United States due to Temporary Protected Status (TPS) designations. In some cases, these individuals have been in this country for nearly two decades. The administration has recently begun to terminate TPS designations for several countries, including Haiti and El Salvador.

TPS recipients from these three countries are extremely hard working, as evidenced by their high labor force participation rates. Since these individuals have been living and working here for years, many of them own their own homes and have U.S. citizen children. Putting an expiration date on their legal ability to live and work in the U.S. will not only cause disruption in the lives of TPS recipients and their families, it will be disruptive to the companies that employ TPS recipients. Congress should act now to provide stability for TPS recipients and ensure that businesses do not lose key members of their workforce.

Long Term Reauthorization of the EB-5 Regional Center Program: For the past several years, the EB-5 Regional Center program has been extended through short-term reauthorizations. However, a long-term reauthorization that improves the program's integrity, transparency, and functionality is imperative. Recent negotiations between industry stakeholders and Congress have been encouraging, and it is in no one's interest for the Department of Homeland Security to move forward with its attempt to reform the program through administrative action. Congress should address this issue now to provide stakeholders with the certainty they need to continue attracting foreign direct investment that creates jobs for American workers.

Manufacturing and Trade

Generalized System of Preferences (GSP): This program, which expired December 31, enhances the competitiveness of U.S. manufacturers by lowering their costs while also providing savings for U.S. consumers. Approximately three-quarters of U.S. imports under GSP are raw materials, components, or equipment used by U.S. companies to manufacture goods in the United States. The program's eligibility criteria provide the U.S. government with leverage to encourage beneficiary countries to protect intellectual property, treat U.S. investors fairly, and improve labor practices, among other reforms. For these reasons, the GSP program has long enjoyed bipartisan support. Congress should reauthorize the Generalized System of Preferences.

Miscellaneous Tariff Bill (MTB) Act: Targeted tariff relief will help U.S. manufacturers and other businesses hone their competitive edge. The Miscellaneous Tariff Bill (MTB) suspends out-of-date taxes on imported products not manufactured or available domestically. Since the last MTB expired in 2012, businesses have paid billions of dollars in tariffs on products not even made in the United States, to the detriment of good-paying American jobs and American competitiveness. Earlier concerns about a lack of transparency in the MTB process were eliminated with passage of the bipartisan American Manufacturing Competitiveness Act of 2016 and the creation of a rigorous vetting process managed by the U.S. International Trade Commission. Congress should act to help American manufacturers by providing this targeted tariff relief.

Energy and Infrastructure

Offshore Energy: Offshore energy continues to be a central element of U.S. energy security. The Gulf of Mexico Energy Security Act moratorium prohibiting energy development in the Gulf of Mexico does not expire until 2022. Congress should reject any attempt to extend this moratorium or create new moratoria elsewhere.

Ozone: The Chamber continues to strongly support the enactment of policies that would provide for the reasonable implementation of the 2015 National Ambient Air Quality Standards for ozone. Specifically, states should be permitted to implement the 2008 ozone standards first before having to implement the 2015 ozone standards, and permitting concerns in areas that meet the 2008 standard but fall short of the 2015 standard should be addressed. These commonsense measures would allow states to continue to take steps to improve air quality without unnecessarily restricting economic development and job creation.

Financial Services

CFPB Transparency & Appropriations Process: Congress should enact provisions included in both the House and Senate FY 2018 Financial Services Appropriations bills to increase transparency at the Consumer Financial Protection Bureau (CFPB) by subjecting the CFPB to the annual appropriations process. Greater transparency and oversight by Congress would help ensure that the CFPB operates in a manner consistent with the law and that protects consumers.

CFPB and Insurance Regulation: Congress should enact a provision clarifying that CFPB has no authority over the business of insurance. States, not the federal government, have the expertise and experience regulating insurance, which is why they—and they only—should continue to do so.

Commodity End-User Relief Act Provisions: Congress should enact a provision included in the FY 2018 House Agriculture Appropriations bill that would clarify that inter-affiliate transactions must be distinguished from swaps that are executed between unaffiliated parties for purposes of regulatory requirements. Inter-affiliate transactions are key means by which companies manage their risk. Enactment of this clarification would reduce regulatory overreach and provide greater certainty to businesses as they seek to manage risk and grow.

"Financial Entity" Definition for Derivatives: Congress should expand which entities qualify as derivatives end-users by amending the definition of "financial entity" to exclude a subset of entities that use derivatives to hedge risk just like those non-financial end-users that currently fall outside the definition. This modification would only include sophisticated end-users who use derivatives to manage risk, such as pension funds and insurance companies.

Conclusion

There are a number of critical issues requiring Congress's attention in 2018, including a major infrastructure package, workforce issues, and entitlement reform. The Chamber will communicate on these and other issues in the coming days. In the meantime, we urge you to keep the federal government open in the short term and then complete work on the pending budget, policy, and appropriations package consistent with the priorities outlined above as soon as practicable.

Sincerely,

Neil L. Bradley