

***United States Court of Appeals***  
FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130

November 15, 2018

TO COUNSEL LISTED BELOW:

No. 17-20364 Patrick Collins, et al v.  
Steven Mnuchin, Secretary, et al  
USDC No. 4:16-CV-3113  
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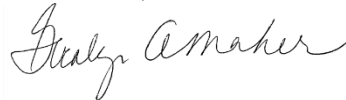
Dear Counsel,

Having granted both petitions for rehearing en banc in this case, the court directs the parties to file supplemental briefs addressing the constitutional, statutory, and remedy arguments that were presented to the panel. Counsel are specifically directed to address Supreme Court and federal appellate court opinions that support the respective positions taken by the parties on these issues. With respect to the remedy argument, expressly state whether, and under what circumstances, the proper remedy in a separation-of-powers case is to set aside the agency actions, see *NLRB v. Noel Canning*, 134 S. Ct. 2550, 2558 (2014), or to excise the unconstitutional portion of the statute, see *Free Enter. Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 508-10 (2010); *Murphy v. Nat'l Collegiate Athletic Ass'n*, 138 S. Ct. 1461, 1485-87 (2018) (Thomas, J., concurring). Additionally, in practical terms, what would setting aside the Net Worth Sweep entail and how would it affect other functions of the FHFA.

Please contact me if you have any questions.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_

Geralyn A. Maher  
Calendar Clerk  
504-310-7630

Mr. Charles Justin Cooper  
Ms. Abby Christine Wright  
Mr. Howard N. Cayne

cc: Mr. Brian W. Barnes  
Mr. Chad Flores  
Mr. Ian S. Hoffman  
Mr. Robert J. Katerberg  
Mr. Peter A. Patterson  
Mr. Dirk Phillips  
Mr. Gerard J. Sinzdak  
Mr. Mark Bernard Stern  
Mr. David H. Thompson  
Ms. Asim Varma