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ATTORNEY GENERAL

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September 8, 2021

Merrick Garland
U.S. Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue, NE
Washington, DC 20226

ATTENTION: DOCKET NUMBER ATF 2021R-08
VIA REGULATIONS.GOV

Re: Comment of the Arizona Attorney General in opposition to the proposed rule entitled Factoring Criteria for Firearms with Attached "Stabilizing Braces"

Dear Attorney General Garland:

Arizona has reviewed the Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosive's ("ATF") proposed rulemaking, "Factoring Criteria for Firearms with Attached 'Stabilizing Braces,'" 86 Fed. Reg. 30826 (June 10, 2021) ("proposed rule"), and hereby submits this comment in opposition to it through its Attorney General.[1] Fundamentally, this rule sets out to expand the definition of "rifle" under the National Firearms Act ("NFA") to include certain configurations of pistols[2] fitted with a firearm safety device known as a "stabilizing brace" or "pistol brace" despite ATF's prior, repeated assessment that such a weapon is not subject to regulation under the Act. *See, e.g.*, SB Tactical, *ATF Letters*, https://www.sb-tactical.com/resource-category/atf-letter/ (accessed Sept. 3, 2021) (Letter of Nov. 26, 2012: "the submitted forearm brace, when attached to a firearm, does not convert

[1] Arizona also fully joins the twenty-two State comment filed today by Ohio Attorney General Yost.

[2] The term "pistol" or "handgun" will be used interchangeably throughout this Comment and shall mean to include all weapons known as pistols, revolvers, and/or handguns unless otherwise specified or required by context.

that weapon to be fired from the shoulder and would not alter the classification of a pistol or other firearm."; Letter of Mar. 21, 2017: "ATF has concluded that attaching the brace to a handgun as a forearm brace does not 'make' a short-barreled rifle…. even if the attached firearm happens to be fired from the shoulder.").

This regulation is troubling in many respects, including that ATF has arbitrarily singled out an accessory designed to increase the safety and accuracy of a firearm as a feature that would subject the weapon to the NFA's onerous registration regime. SB Tactical, *Frequently Asked Questions: What is a Pistol Stabilizing Brace?*, https://www.sb-tactical.com/about/faqs/ (accessed Sept. 2, 2021) ("Invented by SB Tactical, the Pistol Stabilizing Brace is an accessory which, when added to a large frame pistol, provides the shooter with an additional point of contact, greatly enhancing the control of the host firearm."). Under the proposed rule, a pistol without this safety device attached is undoubtedly a pistol and therefore—correctly—not subject to the NFA, but that same pistol would instantly be converted into a regulated *rifle* should its owner choose to add a stabilizing brace. This is despite the fact that the brace is a safety-enhancing accessory that generally does not require the remaking of any internal component of the firearm and frequently is fitted to the pistol in a non-permanent manner and without tools. *See* SB Tactical, *AR Platform Installation Video*, https://www.sb-tactical.com/resources/ar-platform-installation-video/ (accessed Sept. 2, 2021). As the same weapon, such as a large-frame pistol, would not be subject to the NFA without the attachment of a stabilizing brace accessory, the proposed rule would disincentivize the use of these safety devices in the applications where their presence would be most beneficial. Such a redefinition of terms exceeds the authority Congress granted ATF under the NFA, which provides ATF with no regulatory authority whatsoever over handguns or firearms accessories other than silencers.

Unfortunately, this type of regulatory behavior is part of a pattern of brazen and unlawful abuse of the administrative rulemaking process exhibited by the current federal executive administration. To name a few instances: President Biden extended an eviction moratorium despite expressly admitting that it was illegal to do so, an admission with which the Supreme Court agreed last month, noting that the parties challenging the administrative action were "virtually certain to succeed on the merits." *Alabama Ass'n of Realtors v. HHS*, __ U.S. __, 2021 WL 3783142 (Aug. 26, 2021). The Department of Homeland Security has twice issued arbitrary and capricious policies without notice or comment under the Administrative Procedure Act through which they refuse to carry out their duties under 8 U.S.C. § 1231(a)(1)(A) to remove aliens with final orders of removal, including many convicted criminals; it did so the second time in contravention of a federal court injunction. *See* Texas *v. United States*, No. 6:21-CV-3, 2021 WL 2096669 (S.D. Tex. Feb. 23, 2021); *Texas v. United States*, No. 6:21-CV-16, 2021 WL 3683913 (S.D. Tex.

Aug. 19, 2021). And just a month before this proposed rule was issued, ATF issued a separate proposed rule to redefine unfinished frame or receiver blanks as completed frames or receivers, and thus equal to fully manufactured firearms under the Gun Control Act of 1968, despite no authority for the regulation of such unfinished parts existing in the statute. *See* 86 Fed. Reg. at 27720.

This pattern of blatant disregard for statutory and constitutional limits on the executive branch is continued by the proposed rule here, and to devastating effect on American citizens and businesses should it become final. ATF fails to point to any widespread crime problem caused by stabilizing braces, much less one that would be remedied by the proposed rule. But ATF does note that the millions of law-abiding citizens who own a brace could each face hundreds of dollars in compliance costs, totaling in excess of $1 billion, on items that are currently legal to purchase, install, and possess. ATF estimates that there were 3-7 million stabilizing braces sold between 2013 and 2020 and that 1.4 million pistols with stabilizing braces pre-installed have also been sold. 86 Fed. Reg. at 20845-46. ATF states that the cost to consumers of disposing of just 1.9 million stabilizing braces "would be $443.9 million." *Id.* at 30846. If brace owners chose to keep and register their brace-equipped pistols, they would each face hundreds of dollars in application fees as well as a $200-per-firearm tax. *Id.* At 7 million individual braces and 1.4 million brace-equipped pistols sold, the proposed rule would cost Americans $1.68 billion in new taxes alone, much less application fees and the time and costs of procuring the photo, fingerprints, and other application materials. This would all be required just for these Americans to keep an item that they purchased in good faith reliance on ATF's evaluation that they were not purchasing an NFA item and thus not subject to the tax.

Actual short-barreled rifles are legal to purchase and own in the United States through the NFA registration process, so this rule would not prevent them from circulation within the US. It merely punishes—through taxes, loss of property, and/or criminal penalties—individuals who relied on ATF's prior opinions about the items they were purchasing. And the proposed rule would harm businesses as well: "ATF estimates that this scenario would mean a loss of $49.7 million in sales per year." *Id.* The costs to the law-abiding public are simply not justified by the vague, meager, and generally intangible benefits ATF suggests may come from the proposed rule.

History of NFA

The NFA came about as a reaction to the organized crime violence of the 1920s, establishing a de facto ban on certain firearms but masquerading as a tax initiative to help it pass constitutional muster. Brian L. Frye, *The Peculiar Story of United States v. Miller*, 3 N.Y.U. J. L. & LIBERTY 48, 61-62 (2008) ("Of course, the NFA was really a ban disguised as a tax, intended to discourage the possession and

use of covered firearms."). By imposing a tax too high for the average citizen to pay—the $200 per item tax in 1934 is the equivalent of over $4,000 today[3]—Congress provided law enforcement with the ability to prosecute almost anybody in possession of a covered weapon as presumptive gangsters because they would have likely failed to comply with the tax and registration requirements: "'We certainly don't expect gangsters to come forward to register their weapons and be fingerprinted, and a $200 tax is frankly prohibitive to private citizens.'" *Id.* at 61 (*quoting Registry of One Weapon Purchase in Year Shows Gangsters Flouting Firearms Tax*, N.Y. TIMES, Nov. 6, 1936, at 52.). "Modeled on the Harrison Narcotics Act," and perhaps taking a page from the famous prosecution of mobsters including Al Capone for tax evasion where other criminal charges wouldn't stick, the NFA's taxation strategy followed years of failed attempts at regulating firearms using the Interstate Commerce Clause, a more constitutionally-suspect approach. *Id.* at 61-62; FBI, *Al Capone*, https://www.fbi.gov/history/famous-cases/al-capone (accessed Sept. 3, 2021).

The debate on the precursor bills to the NFA in 1930 made the organized crime focus clear:

> The main purpose of this bill is to prevent organized groups that control organized crime in the larger cities of this country to secure machine guns and automatic rifles and use them against the public, against the police, and even against themselves in their contests for the control of crime.

Firearms: Hearing Before a Subcomm. of the H. Comm. on Interstate and Foreign Commerce, 71st Cong. 14 (Apr. 11, 1930) (statement of Rep. Hamilton Fish, Jr.). These failed bills from 1930 covered a broader range of weapons than those Congress regulated under the NFA, including "pistols, revolvers, shotguns, or rifles which have had their barrels sawed off or shortened, machine guns, or any firearms which can be concealed on the person." *Id.* at 2 (text of H.R. 8633). The language regarding concealment explains why pistols, revolvers, and rifles with sawed-off barrels were included in H.R. 8633, but the NFA did not include rifles in its definition of "firearm" as initially introduced. *National Firearms Act: Hearing Before the H. Comm. on Ways and Means*, 73rd Cong. 1 (Apr. 16, 1934) (text of H.R. 9066). As the eminently more concealable pistols and revolvers were removed from the NFA's scope in later versions, the only impetus for the inclusion of short-barreled rifles appears to have been the confused comments of Representative Knutson:

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[3] U.S. Bureau of Labor Statistics, *CPI Inflation Calculator*, https://www.bls.gov/data/inflation_calculator.htm.

> General, would there be any objection, on page 1, line 4, after the word "shotgun" to add the words "or rifle" having a barrel less than 18 inches? The reason I ask that is I happen to come from a section of the State where deer hunting is a very popular pastime in the fall of the year and, of course, I would not like to pass any legislation to forbid or make it impossible for our people to keep arms that would permit them to hunt deer.

Id. at 13 (statement of Rep. Harold Knutson). Knutson appears to be asking to ensure that rifles over a certain length would not be covered so that ordinary people would have the ability to hunt, but he appears to miss the meaning in Attorney General Cummings' response that rifles were not mentioned in the act at all at the time and therefore there would be no interference, anyway. *Id.* (statement of U.S. Attorney General Homer Cummings). Knutson thus blunders into adding a regulation of some rifles in his attempt to ensure that at least some others would be available to his constituents.

The impact of this strange history aside, the intent is clear: Congress passed the NFA to target gangsters and professional criminals but wanted to leave average, law-abiding citizens and their weapons unaffected by the Act. *E.g.*, *id.* at 9 (statement of General Cummings) ("So if, for instance, Dillinger, or any other of those roving criminals, not having proper credentials, should carry a revolver, a pistol, a sawed-off shotgun, or machine gun, across a State line and we could demonstrate that fact, that of itself would be an offense…."); Congressional Record, 73rd Congress, June 13, 1934, 11400 ("The majority of the committee were of the opinion, however, that law-abiding citizens who feel that a pistol or a revolver is essential in his home … should not be classed with criminals, racketeers, and gangsters, should not be compelled to register his firearms and have his fingerprints taken…."). This intent squares with the Supreme Court's interpretation of the Second Amendment as, at its core, protecting an individual right to keep and bear arms, and especially those in common lawful use, as discussed below. *See District of Columbia v. Heller*. 554 U.S. 570, 627 (2008) (the Second Amendment protects weapons "in common use at the time."). It is precisely this intent that ATF is violating here: issuing a proposed rule that expands the scope of the NFA beyond the bounds of its text to burden ordinary citizens with regulation of a popular weapon *configuration*—not even the weapon itself—which ATF has failed to meaningfully link to any special criminal use distinct from other non-NFA firearms. Worse yet, the proposed rule would turn Americans into felons for simply doing nothing. The proposed rule does not target gangsters and professional criminals but criminalizes the currently-lawful behavior of ordinary citizens.

The proposed rule exceeds ATF's statutory authority under the NFA and GCA

The text of the NFA limits ATF's authority to define "firearm" under the Act and intentionally leaves out pistols and revolvers with normal, rifled barrels from even its catchall category of "any other weapon." 26 U.S.C. § 5845(a), (e) ("The term 'any other weapon' … shall not include a pistol or a revolver having a rifled bore…."). The NFA does regulate "a rifle having a barrel or barrels of less than 16 inches in length," and defines "rifle" as "a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder." *Id.* at § 5845(a), (c). That is, in defining a rifle, the text of the NFA focuses on the design and making of the weapon itself, in conjunction with its intended use, but the proposed rule stands this inquiry on its head.

ATF explains that, under the proposed rule, the definition of rifle "includes any weapon with a rifled barrel and equipped with an attached 'stabilizing brace' that has objective design features and characteristics that indicate that the firearm is designed to be fired from the shoulder, as indicated on ATF Worksheet 4999." 86 Fed. Reg. at 30829. This conflicts with and violates the limits of the statutory text in several ways: The proposed definition starts with "any weapon," regardless of that weapon's design or intended use, while a rifle under the statute must itself be designed and intended to be shoulder-fired, and so the proposed rule would include weapons that do not fit within the statutory definition of rifle in § 5845(c). As ATF acknowledges, the stabilizing brace is "attached," or in many cases simply fitted, onto the weapon, as an "accessory," a term used repeatedly to describe a stabilizing brace in its proposed Worksheet. Adding an accessory to a weapon cannot constitute a redesign or remaking of the weapon itself; the weapon was completed before the stabilizing brace was added. This, too, conflicts with the statutory text. And this point is underscored by the fact that the NFA includes in its definition of "firearm" "a weapon made *from* a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length…." *Id.* at § 5845(a) (emphasis added). Congress here demonstrates that it had the capability to discuss modification, rather than and distinct from "designed or redesigned, made or remade," and in doing so it only included modification in one direction: starting with a firearm that already is a rifle and modifying it into a short-barreled rifle. Despite having the opportunity and ability to do so, Congress does not provide ATF with the authority to declare weapons that are not rifles to begin with can be modified into becoming short-barreled rifles. Nor does Congress grant ATF the ability to regulate accessories or combinations of non-rifle firearms and accessories in this regard. This withholding is significant.

In practical terms, the proposed rule sets out to take a firearm such as a completed large-framed AR-style pistol, which is not a rifle under the NFA, and

declare it to be a rifle if a stabilizing brace has been slipped over its buffer tube (an installation process akin to placing a roll of paper towels on a holder). But the addition of this accessory is not a redesign or remaking of the pistol itself as it has not altered any component of that weapon and thus cannot serve to reclassify the pistol as a rifle. Else, this would lead to the ludicrous result that every time someone slipped a stabilizing brace onto and then off of a pistol, that person would be remaking the pistol into a rifle and then back into a pistol over and over again. This is incompatible with the statutory definitions in the NFA.

Where "Congress has directly spoken to the precise question at issue," an agency construing a statute it administers "must give effect to the unambiguously expressed intent of Congress." *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 842–43 (1984). Courts have ruled against agencies that have made similar attempts to promulgate regulations that broaden the definition of statutory terms beyond the scope of Congress's intent. *E.g.*, *FDA v. Brown and Williamson Tobacco Corp.*, 529 U.S. 120 (2000) (FDA exceeded its grant of authority when it issued a regulation on tobacco products as "drugs" and "devices" under the Federal Food, Drug, and Cosmetic Act); *Goldstein v. SEC*, 451 F.3d 837 (D.C. Cir. 2006) (rejecting as "counterintuitive" an SEC rule redefining the statutory term "clients" for the purposes of advisor registration requirements to include investors in a hedge fund); *Gulf Fishermens Ass'n v. Nat'l Marine Fisheries Serv.*, 968 F.3d 454, 456 (5th Cir. 2020), as revised (Aug. 4, 2020) (definition of "fishing" could not be expanded to include all fish farming; "Congress does not delegate authority merely by not withholding it.").

ATF has no more power to suddenly declare a $200 tax and registration scheme on pistols under the NFA by changing its definition of "rifle" to include them than it has to do the same with racecars or watermelons. Congress deliberately left pistols out of the list of covered firearms in the NFA. ATF may not use the rulemaking process to wedge them in.

The legislative history of the NFA does not support ATF's more expansive reading and redefinition of "rifle" under the law.

The final version of the NFA purposely left handguns (pistols and revolvers) out of the bill; the congressman who introduced it, Representative Robert Lee Doughton, stressed that this was an important distinction that prevented the overregulation of law-abiding citizens' defensive weapons:

> He touted that the bill no longer affected pistols and revolvers, so that "law-abiding citizens who feel that a pistol or a revolver is essential in his home for the protection of himself and his family should not be classed with criminals, racketeers, and gangsters, should not be

> compelled to register his firearms and have his fingerprints taken and be placed in the same class with gangsters, racketeers, and those who are known criminals."

Alexandria Kincaid, *Origins of the NFA*, 32 RECOIL, Jul. 18, 2017 (quoting Congressional Record, 73rd Congress, June 13, 1934, 11400) (available at https://www.recoilweb.com/origins-of-the-nfa-128767.html). The proposed rule does the exact opposite of this by taking lawful owners of pistols, reclassifying the weapons in excess of ATF's statutory authorization to do so, and either putting those citizens in the same class as "criminals, racketeers, and gangsters" who must register and be fingerprinted, or directly *making* them criminals for failure or refusal to do so.

Prior to passing the NFA, Congress rejected several proposed bills starting in 1930 that would have regulated pistols and revolvers along with other types of weapons. *Id.* After four years of failure, what would become the NFA was introduced as H.R. 9066. It, too, included pistols and revolvers among the firearms it regulated, and it, too, appeared destined for failure. *Id.* At the hearing on H.R. 9066, the committee heard testimony from then-NRA President Karl T. Frederick that regulating pistols and revolvers under the NFA would "deprive the rural inhabitant … of any opportunity to secure a weapon which he perhaps more than anyone else needs for his self-defense and protection…. It would be distinctly harmful to … the ordinary man in the small community, where police forces are not adequate," because of the burdens of the NFA and the "impediments put in his way." *National Firearms Act: Hearing Before the H. Comm. On Ways and Means*, 73rd Cong. 43-44 (1934) (statement of Mr. Frederick, President of the Nat'l Rifle Ass'n of America). This testimony underscored the opposition within Congress to regulating pistols and revolvers under the NFA, leading them to be removed from the final version of the bill, H.R. 9741:

> Mr. TREADWAY. Is it not a fact that originally there was considerable opposition felt to this bill owing to the fact that pistols and revolvers were rated in exactly the same way as machine guns or mufflers?
> Later on the Ways and Means Committee made the change whereby revolvers and pistols are distinctly exempted from the provisions of the act.
> Mr. DOUGHTON. That is true.
> …
> Mr. DOUGHTON. Those who opposed the bill as originally submitted to the Committee on Ways and

> Means by the Department of Justice, have withdrawn their opposition to the bill in its present form.

Congressional Record, 73rd Congress, June 13, 1934, 11400. This history shows that Congress could only pass the NFA once pistols and revolvers were removed from its list of covered firearms due to strong opposition to their inclusion in the final version of the bill. The deliberate removal of pistols and revolvers from the NFA thus directly contradicts any authority ATF may claim to bring even a subset of these excluded firearms under the NFA's regulatory ambit through a reinvented definition of "rifle" as in the proposed rule.

Recent legislative and judicial developments underscore the modern legal acceptance of not only possession but even concealed carry of pistols and revolvers, which militates against reworking the NFA to give its definitions greater breadth than Congress indicated. The Supreme Court recognizes that handgun possession is protected at the core of the Second Amendment, and notes that multiple state supreme courts have even struck down prohibitions on the carry of these weapons. *Heller*, 554 U.S. at 629, 635. And 42 states provide concealed carry permits on a "shall-issue" or permitless carry basis, a far cry from the anti-concealment politics of the 1930s in reaction to the infamous gangster violence of that period. USA Carry, *Concealed Carry Permit Information By State*, https://www.usacarry.com/concealed_carry_permit_information.html (accessed Sept. 3, 2021). With the widespread ability to obtain, possess, and even carry concealed pistols and revolvers across the nation, ATF cannot provide compelling justification to single out certain pistols—of such great popularity that millions are privately owned throughout the country—for additional regulation because they may also be concealable when fitted with a stabilizing brace. And its doing so is inconsistent with both the language and history of the NFA as well as the legal tradition that has developed since that law's enactment.

Braced pistols of all styles are in common lawful use and thus protected under the core holding of *Heller*.

Braced pistols as lawfully configured and possessed under the current regulation are weapons in common, lawful use by citizens of the United States and their possession is thus protected by the core of the Second Amendment under *District of Columbia v. Heller*. 554 U.S. 570, 627 (2008) (the weapons protected by the Second Amendment are those "in common use at the time."). It does not matter that pistol braces are a relatively new invention as the only relevant inquiry is whether they are currently in common use. *Id.* at 582 ("the Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding"); *Caetano v. Massachusetts*, 577 U.S. 411, 411-12 (2016) (possession of stun guns, a wholly modern invention, is

protected under the Second Amendment). Nor does ATF's attempt to equate currently-lawful braced pistols with short barreled rifles as "dangerous and unusual" detract from the strong protection provided by the Second Amendment. Even if this clumsy comparison had any merit, it is of no consequence here because "the relative dangerousness of a weapon is *irrelevant when the weapon belongs to a class of arms commonly used for lawful purposes*." *Caetano*, 577 U.S. at 418 (Alito, J., concurring) (citing *Heller*, 554 U.S. at 627) (emphasis added).

And braced pistols of all styles and configurations are in common use by ATF's own admission: "manufacturers have sold between 3 million and 7 million 'stabilizing braces' between the years 2013 and 2020," and in addition, the "proposed rule may affect upwards of 1.4 million individuals" "who have purchased pistols with 'stabilizing braces' attached." 86 Fed. Reg. at 30845-46. These numbers—millions in sales of both braces themselves and pistols with braces pre-attached—are more than sufficient to establish common use where Tasers and stun guns met this standard by being sold in just the hundreds of thousands. *Caetano*, 577 U.S. at 420 (Alito, J., concurring). This reinforces the key distinction in this instance that braced pistols are already in common, lawful use without being regulated under the NFA while short-barreled rifles are currently owned only subject to the NFA, so any attempt to further regulate braced pistols must clear strict scrutiny. ATF may not simply sweep these firearms into its redefinition of "rifle" and thereby sidestep the bounds of both the Constitution and its statutory authority under the NFA and GCA.

It is no wonder that these pistols are so popular as to enter common use, either. A braced pistol typically confers several benefits useful in home-defense scenarios that may improve the accuracy and effectiveness of the defender and thus the safety of innocent individuals around him or her. The choice of a home defense weapon is necessarily personal and multifactorial, but for those defenders who select an AR-15 pistol or similar weapon, adding a brace can only mean increased safety for themselves and innocent lives around them. A brace is a *safety device* that improves the shooter's ability to handle and control the weapon, which can improve accuracy and reduce stray shots that may otherwise penetrate walls beyond the intended target. This capability appeals to citizens using such weapons for self-defense, the absolute core of *Heller*'s vision of the Second Amendment, leading to their dramatic popularity among the millions of Americans who have relied on ATF's previous position that such weapons could be owned without regulation under the NFA.

The proposed rule must, therefore, fail under *Heller*. The two instances of shootings involving braced pistols to which ATF points, while tragic, are an insufficient catalyst for the regulation-into-oblivion of pistol braces ATF attempts through the proposed rule. 86 Fed. Reg. at 30828. The rule provides owners of

braced pistols with three options: (1) surrender the firearm, (2) convert the firearm, or (3) register the firearm. 86 Fed. Reg. at 30846. Each of these would cost each of the millions of current owners of braced pistols hundreds to thousands of dollars. Simple math indicates the proposed rule's infringement on the rights of millions of Americans, which would require them to incur hundreds of millions of dollars in costs, likely beyond the meager cost estimates ATF provides, or face a federal criminal conviction and jail time. This exposes the ultimate goal of the proposed rule: a de facto ban on braced pistols. Even short of this, the proposed rule is facially unconstitutional as a regulation of a weapon covered by the Second Amendment's core protections as recognized in *Heller*.

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As the chief law enforcement officer of Arizona, I believe in upholding the United States Constitution, including its doctrines of federalism and separation of powers. The proposed rule violates these doctrines as an unlawful departure from the boundaries of the authority Congress granted ATF in the NFA. We are committed to reducing crime and increasing public safety, but ATF has not shown that the proposed rule would do either. What is clear is that the proposed rule would undermine the Rule of Law and impose a great burden on the finances and liberty of law-abiding citizens and business—millions of individuals by ATF's own account—disproportionate to any perceived or potential benefit ATF has suggested, much less demonstrated to be likely realized. For the foregoing reasons, ATF must withdraw the proposed rule.

Sincerely,

Mark Brnovich

Arizona Attorney General