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February 3, 2022

Via CM/ECF

Michael E. Gans, Clerk of Court
U.S. Court of Appeals for the Eighth Circuit
Thomas F. Eagleton Courthouse
111 South 10th Street
St. Louis, MO 63102

RE: *Missouri v. Yellen*, No. 21-2118 (argument set for February 15)

Dear Mr. Gans:

For the Court's awareness, we write with an update to the Statement section of our brief. On January 27, the Treasury Department published a final rule implementing the statutory conditions on Fiscal Recovery Funds. *Coronavirus State and Local Fiscal Recovery Funds*, 87 Fed. Reg. 4,338 (Jan. 27, 2022). The provision that explains how the Department will apply the Offset Provision, to be codified at 31 C.F.R. § 35.8, is the same as in the interim final rule discussed in our brief. Compare 87 Fed. Reg. at 4,452-4,453 (final rule) with *Coronavirus State and Local Fiscal Recovery Funds*, 86 Fed. Reg. 26,786, 26,823 (May 17, 2021) (interim final rule); see also 87 Fed. Reg. at 4,423-4,429 (preamble of final rule).

Sincerely,

/s/ Daniel Winik

Daniel Winik

cc: All counsel (via CM/ECF)