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January 23, 2012

President Barack Obama
The White House
Washington, DC 20500

Dear Mr. President:

As you prepare to deliver your State of the Union to Congress on Jan. 24, the International Franchise Association (IFA) urges you and congressional lawmakers to focus on policies that address the needs of America's small businesses. Small business, including franchise businesses, are the backbone of American job creation. America's 825,000 franchise establishments support nearly 18 million U.S. jobs and \$2.1 trillion in economic output. While poised for modest growth in 2012 of about 2.0 percent (an estimated 168,000 new jobs and 14,000 new franchise establishments), franchise businesses could grow significantly faster, creating even more new jobs, in 2012 and beyond if the following policies are implemented:

- Access to Capital:** Recent changes in the regulatory and economic environment created a 20 percent lending shortfall (\$2 billion) in the franchise industry in 2011. We can begin to close the gap in 2012 if we work together on legislative and regulatory initiatives. Regulators tightened the noose on the banking industry in 2008 during the mortgage crisis, and while clearly some regulations needed more oversight, the restrictions overreached, resulting in unintended consequences on the credit flow to small businesses. Specifically, Congress needs to pass the *Financial Institutions Examination Fairness and Reform Act* (H.R.3461) introduced by Rep. Capito, (R-W.Va.) and Rep. Maloney, (D-N.Y.), which seeks to address the timeliness of regulator examinations, adherence to examination standards and the current appeals process. This bill will go a long way to ensuring qualified mortgage holders do not lose their businesses to overzealous regulators.
- Comprehensive Tax Reform:** The current state of tax uncertainty has forced many franchise businesses to hold back on new investments. With the call for tax reform growing stronger, Congress and the Administration must recognize the importance of growing franchise businesses and ensure that tax policy does not impede their growth. Many of America's small businesses file their taxes as LLCs, partnerships, S-corporations or sole proprietorships. They do not pay the corporate income tax. Instead, they declare their business profits on the owners' personal income tax return and are taxed at the personal income tax rate. Corporate tax reform cannot come on the backs of these job creators and employers, many who may fall into income brackets above \$250,000 a year. We ask Congress and the Administration to address tax reforms as a comprehensive package, not with piecemeal fixes. Any effort for reform should lower the overall rate for both corporations and individuals.
- Work Force Policy:** Recent decisions by the National Labor Relations Board and the U.S. Department of Labor have created additional uncertainty in the work place for franchise business owners and the small business community as a whole. These regulations include shortening the time frame for holding a union election and for the creation of small bargaining units, or micro-unions. The shortened timeframe will effectively deprive employees of their ability to hear from their employer before making a decision about union representation and it is unfair to small business owners, who lack the resources and legal expertise to understand and comply with the union election process. Congress should act now to curb these new policies, which only hurt small businesses and their employees.
- Intelligent Health Care Legislation:** The Patient Protection and Affordable Care Act places undue burdens on the franchise small business community. According to a Hudson Institute study prepared for the IFA in September, the law could result in the loss of up to 3.2 million jobs at franchise businesses due to the employer mandate provision, which forces many multi-unit franchisees who have more than 50 full-time equivalent employees to pay penalties, thereby discouraging and disincentivizing the creation of new jobs. As a first step, we urge Congress to repeal the employer mandate provision.

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- **Business Activity Tax Simplification (BATSA):** Bipartisan legislation to address the aggressive nature of state tax nexus rulings by state departments of revenue was introduced during the 112th Congress as H.R. 1439 by Reps. Goodlatte (R-Va.) and Scott (D-Va.). The bill codifies the "physical presence" standard and eliminates confusion for state tax administrators and businesses alike. BATSA would ensure that one standard of taxation applies for taxing multi-state companies, such as most franchisors, taking some of the confusion out of interstate commerce.

- **Support Veterans as Franchise Small Business Owners:** To help honor our nation's armed forces, over 440 IFA member companies voluntarily encourage franchise ownership by offering financial incentives to honorably discharged veterans. IFA encourages Congress to pass legislation to help our veterans invest in their future. The *Help Veterans Own Franchises Act* introduced by both Sen. Bob Casey (D-Pa.) and Reps. Aaron Schock (R-Ill.) and Leonard Boswell (D-Iowa) and supported as part of the AGREE Act introduced by Sen. Marco Rubio (R-Fla.) and Sen. Chris Coons (D-Del.) would provide tax incentives for veterans returning home to invest in their own franchise business. The *Franchise Education for Veterans Act* (H.R. 3351), introduced by Rep. Tim Griffin (R-Ark.), would allow veterans interested in purchasing a franchise business to use up to \$15,000 in GI Bill funds to pay for franchise education and training programs. The franchise industry, like all Americans, feels indebted to our returning heroes and these bills would provide them with an opportunity to ensure their future, while also creating much-needed jobs.

On behalf of the franchise industry, we respectfully urge Congress and the Administration to promote pro-growth policies that will allow small businesses and in particular, franchised businesses, to expand and create jobs. We stand ready to work with both branches of government to ensure America's economy continues on the path of recovery.

Sincerely,



Stephen J. Caldeira, CFE
President & Chief Executive Officer
International Franchise Association

Cc: Members of the 112th Congress