THE ANNUAL TESTIMONY OF THE SECRETARY OF THE TREASURY ON THE STATE OF THE INTERNATIONAL FINANCIAL SYSTEM

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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CONTENTS

THE ANNUAL TESTIMONY OF THE SECRETARY OF THE TREASURY ON THE STATE OF THE INTERNATIONAL FINANCIAL SYSTEM

Tuesday, March 22, 2016

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10:04 a.m., in room 2128, Rayburn House Office Building, Hon. Jeb Hensarling [chairman of the committee] presiding.

Members present: Representatives Hensarling, Royce, Lucas, Garrett, Neugebauer, Pearce, Posey, Luetkemeyer, Huizenga, Duffy, Hurt, Stivers, Stutzman, Mulvaney, Hultgren, Ross, Pittenger, Wagner, Barr, Rothfus, Messer, Schweikert, Guinta, Tipton, Williams, Poliquin, Hill; Waters, Maloney, Sherman, Capuano, Hinojosa, Clay, Lynch, Scott, Cleaver, Moore, Ellison, Himes, Foster, Kildee, Murphy, Sinema, Beatty, Heck, and Vargas.

Chairman HENSARLING. The Financial Services Committee will come to order. Without objection, the Chair is authorized to declare a recess of the committee at any time.

Today's hearing is entitled, "The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System."

Before we begin today's hearing, we need to keep in our thoughts and prayers the victims of this morning's attacks in Belgium, as well as their loved ones and the first responders who are working to care for the injured and bring justice to those responsible for this terror.

I ask that we pause for a moment of silence.

Thank you. I will now recognize myself for 3 minutes for an opening statement.

This morning, we welcome Secretary Lew for his testimony on the IMF and the international financial system. It is a system that faces serious challenges brought on by spending-driven debt and reckless monetary policies around the globe.

Fortunately for hardworking American taxpayers, needed IMF reforms were passed by Congress in December, even if they weren't the reforms the Administration wanted. Notwithstanding IMF quota reform, Congress reduced the U.S. contribution to the IMF for the first time in its history, sunsetting over $40 billion in credit lines.

Congress also restored, over the Administration's objections, a rule that limits large IMF loans to countries with unsustainable debt. This rule was first put into place in 2002 but was, unfortunately, altered by Treasury in 2010, when the IMF improperly bailed out Greece, a bailout that has led to nothing but additional bailouts.

What remains certain for the international finance system, though, is that the IMF will never be able to bail out the United States if we remain on the Administration's current spending trajectory.

As our monitors show, our national debt is spinning out of control and is undeniably unsustainable. During his time in office, President Obama has presided over the five largest nominal deficits in history. He has piled up more debt than every President from George Washington to Bill Clinton combined—a debt that leaves every American family owing an average of $153,000.

Although our witness, Secretary Lew, and other Administration officials constantly attempt to change the subject to declining deficits, three facts remain.

Number one, the deficits have only declined relative to the historic highs set by this Administration. Two, every deficit, declining or not, actually increases the national debt. And three, under the President's policies, deficits will soon begin rising again despite a $3.4 trillion tax increase and will approach the $1 trillion threshold before the end of the decade.

That means the President's legacy will be a debt so large that at the end of his budget, we will spend more on debt service annually than what we spend on national defense, Medicaid, education, and transportation infrastructure. Only spending on Medicare and Social Security will be larger than interest on the national debt.

According to the Congressional Budget Office, the President's legacy of debt may very well compromise our national security and increase the likelihood of a fiscal crisis. As we all know, it is the poor who will suffer most when this occurs.

That is why the national debt and debt ceiling remain deadly serious matters. Regrettably and inexcusably, the Treasury Department, for over 2 years, has stonewalled, obfuscated, and misled Congress as our committee has investigated Treasury's contingency planning for the debt ceiling.

That is why we recently issued a staff report entitled, "The Obama Administration's Debt Ceiling Subterfuge." I believe the report clearly reveals that Treasury has sought to withhold from Congress and the American people information about their contingency plans for the purpose of pressuring Congress to acquiesce to the Administration's position that there only be a naked debt ceiling increase without any reforms or fiscal discipline—or in other words, to hasten our national bankruptcy.

We know the President's legacy will be one of doubt, decline, and debt. And as documents continue to be withheld, let us hope that deception will not be added to the list.

The Chair now recognizes the gentlelady from Wisconsin, Ms. Moore, ranking member of our Monetary Policy and Trade Subcommittee, for 2 minutes.

Ms. MOORE. Thank you so much, Mr. Chairman.

And welcome back, Secretary Lew.

I think I ought to begin my comments by bashing my Republican colleagues and defaming them in the worst way that they know, and that is to thank them for working with you and the Obama Administration to pass IMF quota reform.

I give Chairman Hensarling and Chairman Huizenga a hard time, but I have enjoyed working with Chairman Huizenga on the Monetary Policy and Trade Subcommittee, and I recognize that he and other Republicans had a big part in making this quota reform happen.

I know that you, too, have worked really hard in getting this over the line, and I really think it is going to benefit us in the long run.

Congress has been behind in the curve, but it was the right thing to do for the world and certainly for this country. And I am pleased that Christine Lagarde is again going to be heading the IMF, and I think on balance she is doing a tremendous job.

Ranking Member Waters and I join Ranking Member Levin and Representative Rangel in urging that capital controls policy in the TTP be harmonized with IMF guidelines, and I was very pleased that it was included in the final agreement.

I am looking forward to our conversation today. I hope that you might talk to us a little bit about money laundering and your efforts to combat that. But at the same time, the other side of that is, of course, trying to make sure we figure out how to get remittances in the hands of those who are very needy.

I look forward, again, to your testimony.

And I yield back.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from Michigan, Mr. Huizenga, chairman of our Monetary Policy and Trade Subcommittee, for 2 minutes.

Mr. HUIZENGA. Thank you, Mr. Chairman.

Secretary Lew, I am going to move quickly, but I appreciate you appearing here with us today. And there are obviously a lot of very important international issues that need to be addressed.

One of those that I am extremely concerned about is the problem of the role of the IMF in future lending to Greece. In 2010, Greece received an IMF bailout under the exceptional access rule, in which the IMF provided a 3-year assistance package totaling 40 billion, or more than 3,200 percent of the country's quota—well beyond any limit that had been in place. In 2012, a new $37 billion program superseded that 2010 bailout.

Under normal access, IMF countries can borrow up to 200 percent of their quota per a 12-month period, or up to 600 percent total. With exceptional access, borrowers can exceed these limits provided that their debt is considered sustainable with a high probability of paying off that debt.

It is important to note that Greece did not meet the criteria for exceptional access lending, and the IMF has, in fact, conceded that it made mistakes in bailing Greece out. As you know, the fund's own evaluation department has found that internal assessments which permitted Greece to take part in the exceptional access framework were inaccurate, resulting from overly optimistic forecasts of debt sustainability, renewed market access, and government commitment to reforms.

Although I am pleased that the IMF's systemic exemption for exceptional access was finally repealed earlier this year, I am very concerned that earlier this year—just in January, actually—the IMF board replaced it with significant new loopholes that will allow that to continue. Backed by the U.S. executive director, they decided that countries like Greece can receive assistance even when their debt is not sustainable with high probability, providing that there is a "reprofiling" of that debt.

This new reprofiling seems to violate the spirit of the reforms that were included in the 2015 omnibus, in which Congress eliminated a systemic exemption due to the exploitation by Greece. I have stated before that the Treasury Department should resist the urge to push the IMF towards any more bailouts of Greece, and I will be introducing legislation today that will prevent future bailouts of countries that fail to meet the IMF's traditional rules.

I have let the IMF know about that. They are aware of my concerns and this legislative initiative, as well.

So with that, Mr. Chairman, I appreciate the opportunity, and I yield back.

Chairman HENSARLING. The Chair now recognizes the ranking member for 3 minutes.

Ms. WATERS. Thank you very much, Mr. Chairman.

I would like to thank Secretary Lew for coming to testify before us today on the state of the international financial system. The IMF quota reform package that was adopted after a 5-year delay as part of December's omnibus spending deal is an important achievement and a positive reflection on the perseverance of U.S. Treasury officials and Democratic Congressional leaders to get this deal done.

Previously, the failure of the U.S. Congress to approve the IMF quota reform had put the world economy and financial system in serious jeopardy. With ratification now complete, what is essential to U.S. interests is to restore some impetus to ongoing IMF reform and to repair, in part, the damage that has been done to the U.S. reputation for leadership.

The price the Administration paid for the quota reform included a commitment which it achieved to seek to eliminate the systemic exemption—the rule that says 2010 has allowed lending even when there was a risk that the debt was unsustainable and that was used to support loans for the periphery countries of Europe.

Many believe that the fund should revert back to its original exceptional access rules. I am perfectly fine using such rules as one of many guides when thinking about policy, and I agree that policy should be transparent and systematic as possible.

But I am also sure that in a complex, ever-changing global economy, policymaking cannot be trusted to a simple instrument rule. I believe that the fund should recognize that the problem with rigid, predetermined thresholds is that they will inevitably conflict with the unpredictable circumstances of reality and that exceptions are going to be inevitable in some cases.

Finally, before closing I want to take a moment to acknowledge the senseless loss of life caused by brutal and tragic events unfolding in Brussels today. The attacks on the innocents serve as a painful reminder of how important our efforts are in countering the financing of terrorism.

Secretary Lew, I know you are deeply committed to disrupting the networks that finance terror and I hope you will share more with us today about areas where increased resources or enhanced authorities may assist you in your work. I look forward to your testimony, Mr. Secretary.

And I yield back the balance of my time.

Chairman HENSARLING. The gentlelady yields back the balance of her time.

Today, we welcome the testimony of the Honorable Jacob J. Lew. Secretary Lew has previously testified before this committee so I believe he needs no further introduction.

Without objection, Mr. Secretary, your written statement will be made a part of the record, and you are now recognized for 5 minutes to give an oral presentation of your testimony. Thank you.

STATEMENT OF THE HONORABLE JACOB J. LEW, SECRETARY, U.S. DEPARTMENT OF THE TREASURY

Secretary LEW. Thank you, Chairman Hensarling, Ranking Member Waters, and members of the committee, for the opportunity to testify here today. Before I begin I would like to just say a few words about this morning's events in Belgium.

The United States condemns in the strongest possible terms today's act of terrorism in Brussels. Our thoughts and prayers go out to innocent civilians targeted in these horrific attacks.

At Treasury, we work with foreign governments every day to identify terrorist financing networks, and in the wake of attacks we work with them even more so. We work especially closely with our counterparts around the world.

Right now, Treasury analysts are reviewing information to try and uncover leads on the Brussels attacks and we have offered our assistance to Belgian authorities. Our hearts go out to victims of today's events and our commitment to stopping the flow of funds to perpetrators of these kinds of attacks remains steadfast.

Since my testimony last year, our economy has continued its record-breaking streak of private sector job creation, which has reached 6 consecutive years and more than 14 million jobs. Over the last 2 years, we have experienced the strongest job creation since the late 1990s.

At 4.9 percent, the unemployment rate is half of its 2009 peak, and we continue on a sound fiscal path. From Fiscal Year 2009 to Fiscal Year 2015, the deficit of the share of GDP fell by almost three-quarters to 2.5 percent.

The passage of the omnibus spending bill in December has helped to build on this momentum, contributing to our economic growth and helping to strengthen our international leadership. The agreement included critical IMF quota and governance reforms that have helped to preserve the central role of the United States in the international economic system and advance our economic and national security objectives.

That agreement demonstrated that we have the capacity to find common ground on difficult issues, and it lays the foundation for addressing some of our long-term challenges. But more work remains to strengthen critical investments in our domestic and national security priorities.

The international financial institutions, the IMF, multilateral banks, and related multilateral trust funds are an important part of the President's approach to bolstering national security and driving long-term prosperity. Our investments in these institutions promote our strategic interests in international stability.

They help unlock the next generation of export markets for America's businesses and workers while fostering private sector development and entrepreneurship. And they are some of the most cost- effective ways to reinforce economic growth at home and respond to critical challenges abroad.

The IMF remains the foremost international institution for promoting global financial stability. Through its three main activities—surveillance, technical assistance, and lending—the IMF promotes economic stability and helps prevent and resolve financial crises when they occur.

This work promotes global growth, enhances U.S. national security, and alleviates poverty in member countries. At a time of increased economic uncertainty, the IMF is actively working with countries vulnerable to low oil prices, financial market volatility, and other external shocks to provide policy advice and financing when appropriate.

The United States plays a key role in shaping IMF policy through its position as the IMF's largest shareholder. Over the past year we have supported the creation of an IMF debt relief facility for low-income countries hit by public health disasters like the Ebola virus, and we encourage the IMF to help developing countries mobilize domestic resources for development.

At the direction of Congress, the United States championed reforms to the exceptional access lending framework to tighten requirements on debt sustainability. Our investments in multilateral development banks like the World Bank also supports national security objectives, increases economic growth, and reduces poverty.

Over the years, MDB Assistance has nurtured the economic reforms, infrastructure, and social investments that have driven the growth of some of our most strategic trade partners. They play an important role in building sustainable and transparent economic growth in emerging and developing countries. And more and more, we have come to see the MDBs as vital partners in helping to address national security threats.

In addition to meeting our current commitments to the MDBs, it is urgent that we work with Congress to address our prior unmet commitments, which now approach $1.6 billion. At the World Bank, this is particularly urgent, as failure to meet our commitments this year will result in a loss of U.S. shareholding that could impact our veto power, damage our credibility, and weaken our ability to shape policy priorities.

Successful development also depends on good governance and a well-functioning state. For over 25 years, Treasury's Office of Technical Assistance (OTA) has provided advice and training to government officials in developing and transitional countries so they can build affective public financial institutions. OTA helps countries improve government operations across several areas, including planning and executing budgets, managing debt, collecting revenue, developing sound banking systems, and combating corruption.

OTA is particularly helpful with our foreign policy, security, and economic priorities in Ukraine, Central America, Africa, Asia, and other regions. Treasury's international programs are some of the most cost-effective ways to reinforce economic growth at home and to respond to critical challenges abroad. Specifically, U.S. leadership in international financial institutions enables us to influence how and where resources are deployed, often on a scale that we cannot achieve through our bilateral programs alone.

It is crucial that we continue to have bipartisan support for these institutions to ensure that our influence remains as strong today as it has been over the past several decades. Treasury looks forward to continuing the dialogue with Congress on the important role that the international financial institutions play in the global economy, especially as we implement the IMF reform legislation and negotiate replenishments of several of the MDB windows that serve the world's poorest countries.

Thank you very much, and I look forward to your questions.

[The prepared statement of Secretary Lew can be found on page 72 of the appendix.]

Chairman HENSARLING. Thank you, Mr. Secretary.

I now recognize myself for 5 minutes for questioning.

Mr. Secretary, one thing maybe we can agree on is that tens of millions of our fellow countrymen are unhappy. I think one of the reasons they are unhappy is too often, they see an Administration that either makes up law, ignores law, or lives above the law, and they see a Congress that they think is helpless or hapless in dealing with that.

In that context, Mr. Secretary, I think you know that for almost 3 years this committee has been seeking documents regarding debt ceiling contingency planning and information shared with the Justice Department regarding what some call "too-big-to-jail." And as I think you are aware, almost 1 year ago this committee subpoenaed documents from Treasury, and in that time we have yet to receive the documents.

You were asked about this last week in your appearance before the Appropriations Committee and you said, "Lawyers are working through the document request." Mr. Secretary, it has been almost 3 years for these requests.

You also mentioned in your appearance before the Appropriations Committee that you will provide us with "appropriate material." But, Mr. Secretary, with all due respect, Article 1 of the Constitution states, and there is longstanding Supreme Court precedent, that this branch of government has the oversight rule. We get to deem what is appropriate for oversight and investigation.

With all due respect sir, it is not you. It has everything to do with checks and balances, and separation of powers.

Thus, my first question: As custodian of records, do you understand our subpoena of May 11, 2015, imposes a legal obligation on you personally to ensure that the requested records are produced?

Secretary LEW. Mr. Chairman, we recognize the important oversight role that Congress plays and we take seriously the responsibility—

Chairman HENSARLING. Okay. But Mr. Secretary, the question is, do you understand a personal legal obligation? Is that your understanding?

Secretary LEW. Mr. Chairman, Treasury has taken steps to respond to each and every one of your—

Chairman HENSARLING. I will ask you again, Mr. Secretary. Do you understand that you have a personal legal obligation? If you don't, then I would recommend that you study 2 U.S.C. 192 through 194, and 18 U.S.C. 1505.

So I will ask you for the last time, do you understand that you have a personal legal obligation to ensure these requested records are produced?

Secretary LEW. Mr. Chairman, Treasury's approach to the committee's inquiries has followed the longstanding Executive Branch policy set forth by President Reagan in 1984—

Chairman HENSARLING. Mr. Secretary, you have had 3 chances to answer the question. I will move on.

Has anyone directed you not to comply with this committee's subpoena of May 11, 2015?

Secretary LEW. Mr. Chairman, just the other day we responded in detail to the inquiry from this committee laid out—

Chairman HENSARLING. My question, Mr. Secretary, is, has anyone directed you not to comply with this committee's subpoena of May 11, 2015? It is a simple yes-or-no answer.

Secretary LEW. Mr. Chairman, as the letter that we sent to the committee indicates, we have been reaching out to the committee, responding, sending documents—

Chairman HENSARLING. A third time, Mr. Secretary: Has anyone directed you not to comply with this committee's subpoena of May 11, 2015?

Secretary LEW. Mr. Chairman, we have been trying to work with the committee to provide appropriate information—

Chairman HENSARLING. I am trying to get you to answer a simple yes-or-no question. It is no wonder the American people get outraged.

Mr. Secretary, it is a simple yes-or-no question: Have you been directed not to comply with the subpoena? Yes or no, please, sir.

Secretary LEW. No, Mr. Chairman I am—we have been trying to respond to this subpoena. That is the point I am trying to make.

Chairman HENSARLING. Okay, well for the third time you didn't answer that question.

Next question then: Have you directed anyone at the Treasury Department to withhold documents from this committee, pursuant to the committee's subpoena of May 11, 2015?

Secretary LEW. Mr. Chairman, if you just give me a moment to answer your question, we have been—

Chairman HENSARLING. If you will answer the question, Mr. Secretary, I will give you a moment for context, but we need to start off with a yes or no.

Secretary LEW. With all due respect, these are not yes-or- no questions. If you want an answer, I am happy to give that—

Chairman HENSARLING. I don't know how much more simple it could be. Have you directed anyone at the Treasury Department to withhold documents from this committee, pursuant to the committee's subpoena of May 11, 2015? If you will give me a yes or no, Mr. Secretary, I will give you a moment for context.

Secretary LEW. Mr. Chairman, at my direction, the Department staff has been reaching out to the committee trying to seek an accommodation. The committee has not followed up with any meetings to try and work through that. We have provided thousands of pages of documents.

Chairman HENSARLING. It has been 3 years, Mr. Secretary—3 years on some of these document requests.

Secretary LEW. But in many cases, we don't know what the committee is even looking for.

Chairman HENSARLING. Well, Mr. Secretary, if I need to provide you with another copy of the subpoena, I would be glad to do it. Are you at least certifying, then—are you prepared to certify in writing that you are in compliance? Because so far, you have failed to do so. You can't tell me that you are trying to comply and then not certify that you are in compliance.

Secretary LEW. Mr. Chairman, respectfully, what we suggested in letters going back many months was that the attorneys should sit down and talk with each other, go through the details. I was being diplomatic at the Appropriations Committee the other day. This committee has not responded to our offers to meet at the attorney level. So we have been trying to be responsive.

Chairman HENSARLING. Mr. Secretary, what do you think would happen to an ordinary citizen, a school teacher or a factory worker, if they refused to comply with a legal subpoena? What do you think would happen to them?

Secretary LEW. Mr. Chairman, we have been working to comply with the committee's request.

Chairman HENSARLING. Mr. Secretary, with all due respect, that just doesn't have credibility. It just doesn't have credibility.

The Ranking Member is recognized for 5 minutes.

Ms. WATERS. Thank you very much for being here, Mr. Secretary.

The chairman just talked about the American citizens' distrust with government and how angered they are with government.

Mr. Secretary, I believe that if there is anger and distrust it is because of the way we conduct ourselves here. And when the Secretary of the Treasury is battered and disrespected then I think the American people see that more as the Congress of the United States not being able to work with each other, more than some so-called demand for a response to pages that have been seen, or questions that have been sent, or depositions.

As I understand it, we have received over 3,000 pages from the Treasury since May 11, 2015. And as I understand it, there were four more depositions that were issued yesterday.

And I want you to know, Mr. Secretary, that we are not consulted at all by the opposite side of the aisle on these depositions. We don't have the kind of cooperation here in this committee that would lend itself to seeking information from you or any of the other Secretaries.

This has become a game of "gotcha." This has become a game of, "We are going to overwhelm you with subpoenas and questions so that we will be able to say you have not responded."

I am hopeful that the important issues of the Treasury are being worked on every day. We are in a situation where, yes, our economy is performing, and since 2008 we certainly have made advances.

But we are concerned about the volatility of the markets and we want you to concentrate on the real issues. And I would hope that your office would not be tied down trying to respond to unreasonable requests from this committee.

I don't think and I don't believe they are legitimate. And I apologize for the way that you are being treated here this morning, not being able to answer a question, being interrupted, not accepting that you are willing to have an explanation. And so it should not work that way and I want to get on with dealing with the real issues that you are confronted with.

Since initiating free market reforms in 1978, China has been one of the world's fastest-growing economies, averaging 9.7 percent in real gross domestic product growth annually from 1979 to 2015 and lifting 660 million people out of extreme poverty.

Over the past few years however, China's economy has slowed. Its real GDP growth was 7.3 percent in 2014 and 6.9 percent in 2015 and is projected by the IMF to fall to 6.0 percent by 2017.

What are the implications of a slowdown in China for the United States as well as the global economy more broadly?

Secretary LEW. Thank you, Congresswoman Waters.

China's economy is one of the two largest economies in the world, along with our own. And it is not as integrated with the global economy in the way ours is in terms of financial systems, in terms of the interlocking relationships of those financial institutions, but it is the purchaser of a vast amount of inputs from around the world.

So there is understandably a lot of focus on China's economy because it has a lot to do with what global growth will look like in the future, particularly in emerging economies that provide so many inputs to China. China is in the middle of a reform process that is very important to China, and it is important to the global economy.

As they move towards a more market-oriented system it is going to be bumpier. There will be more volatility. They are going to have to learn how to tolerate some of those disruptions the way those of us more experienced with market economies do.

But they are going to have to stick to the reform path because if they don't, if they don't open their market, if they don't make the changes that will have market signals become the more powerful drivers of the economy, they will be left with an overhang of overcapacity that will weigh them down and make it so that some of the doomsday scenarios would then become much more meaningful risks.

I think China has a lot of tools; it has a lot of capacity. The question to me is not the question many have asked, is China out of tools? They have $4 trillion of foreign reserves. They have enormous resources within their government to deal with policy. What they need to do is not back away from the reform program.

Ms. WATERS. Thank you, Mr. Secretary.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from Michigan, Mr. Huizenga, chairman of our Monetary Policy and Trade Subcommittee.

Mr. HUIZENGA. Thank you, Mr. Chairman.

I am going to take a slightly different direction on my questioning, but not because I don't believe that what the chairman has been saying is extremely important. I am concerned, as well, about responses just to simple letters. I have gotten two dated March 18th, one dating back as of last year, in May. So speed has not exactly been Treasury's M.O. here.

But my question is on the IMF—and you address this a little bit on pages three and four of your written testimony, starting on page two—but the Greeks obviously have suffered the Eurozone's highest unemployment rates: 25 percent for the past 4 years, youth unemployment near 50 percent. Instead of helping reduce Greece's public debt-to-GDP ratio to 110 percent as planned, the fund has witnessed the debt-to-GDP ratio climb to over 175 percent despite major restructuring of debt in 2012.

Clearly, IMF involvement has done little to improve the lives of Greek citizens, in part because Greek leaders have been slow-walking reforms for years. Last December, Greek Prime Minister Alexis Tsipras was unapologetic, criticizing the fund's "unconstructive attitude on fiscal and financial issues." He indicated that the IMF should stay out of any future bailout. He and I agree on that one.

On page four, you actually mention that at the direction of Congress—this is a quote out of your written testimony—"At the direction of Congress, the United States championed reforms in the exceptional access lending framework to tighten requirements on debt sustainability."

But then the United States led the charge to go against these reforms by inserting new loopholes. And I am just curious and confused as to why you would take a bipartisan congressional directive and go against that with the IMF. If the Greeks don't want the IMF's medicine, and if the medicine has been so ineffective anyway, why should we insist on giving them more taxpayer dollars?

Secretary LEW. Congressman, let me start with the reforms at the IMF and then move—

Mr. HUIZENGA. Very quickly, yes, please.

Secretary LEW. —to Greece very quickly.

The reforms removed the provisions that allowed systemic risk to cause an exception that would allow lending that is of the nature you describe. The exceptional access program remains very important. It has been the way we have seen assistance provided to many important countries. The case of—

Mr. HUIZENGA. But why would we introduce more loopholes on—I mean, IMF rules stipulate the country must possess "the political and institutional capacity to ensure success of an exceptional access loan." In short, government must be competent and must be committed to the reforms.

Earlier this year, the Greek defense and foreign ministers—I am sure you are aware of this—threatened to "flood Europe with migrants, including potential terrorists" if the country didn't get what it wanted in bail-out negotiations.

And Defense Minister Panos Kammenos said, "If Europe leaves us in the crisis we will flood it with migrants and it will be even worse for Berlin if in that wave of millions of economic migrants there will be some jihadists of the Islamic State too. If they—European creditors—strike us, we will strike them."

We might have just seen that in Brussels today. Isn't that true, Mr. Secretary?

Secretary LEW. No. Congressman, I think that is a conclusion that I have no basis to comment on and I think we shouldn't jump to a statement like—

Mr. HUIZENGA. I hope not. But when you have the—

Secretary LEW. If I could just comment on—

Mr. HUIZENGA. —defense minister of Greece threatening Europe, our NATO allies—

Secretary LEW. So, if I could—

Mr. HUIZENGA. —how in the world can we allow them to even qualify for this?

Secretary LEW. If I can respond to your questions—

Mr. HUIZENGA. Please, quickly.

Secretary LEW. —both on the financial and on the larger set of issues in Europe. On the financial side, there have been many important reforms enacted in Greece over the last year.

I am not going to disagree that the process was very bumpy and messy and the whole world was watching it, but after an opening set of conversations that was not constructive the government of Greece settled down and enacted more reforms than anyone thought possible.

Why is it important for the IMF to remain engaged? This is principally a European challenge. It has been all along. But it has been important to Europe to have IMF as a partner. I—

Mr. HUIZENGA. They have settled down, but earlier this year—not last year; this year—we have the defense minister and others making outrageous comments that—

Secretary LEW. So if I—

Mr. HUIZENGA. —which I still don't understand why you would—

Secretary LEW. Yes. If I could just try to keep separate that—

Mr. HUIZENGA. —lead the parade to try to include additional loopholes—

Secretary LEW. If I can keep—

Mr. HUIZENGA. —and just let them qualify.

Secretary LEW. If I can keep separate the financial and the kind of geopolitical for a moment, on the financial side, I think the IMF is only going to remain involved if there is an ability to do a debt sustainability review, which will be based on some debt forgiveness, debt restructuring that would be required, if it is sustainable and it is consistent with the IMF rules.

If they do that, then that will keep a European commitment together. And why is that important to us? I think at a time of geopolitical instability it would not be a good thing for Europe or for the United States if we were to see real tensions of Europe breaking apart again. There—

Mr. HUIZENGA. We see that already. And I think this is why I am going to be introducing and dropping the bill today trying to tighten those loopholes. I would suggest that Treasury not go against Congress again on a bipartisan manner and that you need to work with us on this oversight.

So thank you, Mr. Chairman.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from Wisconsin, Ms. Moore, ranking member of our Monetary Policy and Trade Subcommittee.

Ms. MOORE. Thank you so very, very much, Mr. Chairman.

Mr. Secretary, you have indicated that our economy is growing very slowly at 2 percent. And, of course, our colleagues here are fond of reminding us that we are $919 trillion in debt.

Of course we, just in the last budget negotiations, did another $700 billion in unpaid-for tax cuts, some good and some tax extenders that were not so good. But anyway, they are all unpaid for, on top of the wars we didn't pay for.

And so we are now, over the next couple of decades, $2 trillion more in debt from this policy. I also sit on the Budget Committee, and the solution there to this is sort of more austerity. Let's block grant Medicaid, let's voucherize Medicare, let's cut the social services block grant, let's take the entitlement status away from Pell Grants and for food stamps.

And I guess, as the Secretary of the Treasury, I am wondering if you think austerity is the solution to our deficit problem?

Secretary LEW. Congresswoman, I think we have to make sure our economy is growing, and part of that means we have to maintain fiscal policy that keeps it growing. And we also have to take a long-term view and have a sustainable fiscal outlook.

If you look at where we started in 2009, there was an economy that was crashing. There was a debt that was skyrocketing and a debt that was completely out of control, growing to over $1 trillion. We brought it under control. It is not down to zero. The deficit is not down to zero, but we have reduced it by three-quarters to 2.5 percent of GDP.

I think if you look at this next 10-year period, we maintain stability and it is a foundation to then look at the challenges of how do you deal with the 20-, 30-, 40-year challenges. In these next 10 years, I think that the United States, like the rest of the world, has to focus on the reality that there is insufficient demand in the world.

The United States is doing a little better than most of the rest of the world, but you can't grow the global economy by just cutting spending everywhere. We are seeing that hasn't worked in other places. In the United States right now, we have great needs.

Infrastructure is an enormous need in this country. We need it to have a sound economy in the future; we need it because it puts people to work and good jobs. And this is the time to do it, when we have the ability to finance it at very low cost.

So I think that the question of what we do in the medium- and the long-term, and what we do in the short-term, are not the same.

And I was also OMB Director for 3 years in the 1990s and I produced surpluses in 3 years. So I, more than anyone else, understand the value of fiscal discipline.

But I also understand that you can't do it without a growing economy. Last year, the actions you described in total helped grow the U.S. economy by roughly half a percent. And with the headwinds coming from internationally slow growth, I am glad we have that extra energy in the U.S. economy.

Ms. MOORE. Thank you so much. So, just to be clear, you think our long-term challenges with Social Security, Medicare, Medicaid—70 percent of our economy is spending. If you take money away from people, how is it possible to grow the economy without folk having money in their hands?

Secretary LEW. The challenge in the long-term has always been to have the right balance of revenues and spending to deal with structural issues. I think that if you look at what we have done in the last 7 years, we have bent the cost curve on health care.

Some people don't like the Affordable Care Act, but nobody can deny that it has kept costs from going up. That has an enormous impact on the Federal budget.

We have taken tremendous strides to reduce spending, I think too much so on the discretionary side.

Ms. MOORE. I have 30 seconds, so, do people need to have money? Do you agree that our economy depends on people having money to spend, like raising the minimum wage, like not cutting—

Secretary LEW. I think if you look at the power of the U.S. economy, it is driven by consumer demand, and that consumer demand is important at all levels of the income spectrum. And people who work full-time ought to be able to be above the poverty line, which is why I think we need to raise the minimum wage. And we know that money will be spent.

Ms. MOORE. All right. Thank you so much.

And I yield back my 2 seconds.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from New Jersey, Mr. Garrett.

Mr. GARRETT. Thank you, Mr. Chairman.

After listening to the Secretary's responses to your questions—or non-responses—Mr. Chairman, I think anyone viewing today's hearing would say, Mr. Secretary, that you are the epitome of what is wrong with Washington today. The disdain that you have for the American people, your failure to answer the simplest of questions, is what is wrong with Washington and why the public has the view of the bureaucracy and the bureaucrats, such as yourself, here today.

The questions that we put to you are basic ones and simple ones, asking sometimes for long answers and sometimes for simple, short answers.

I got a new phone the other day, and I have this curious question. Do you have a—do you use a cell phone, iPhone, or anything like that? Do you carry that with you?

Secretary LEW. I carry it, but I hardly use it.

Mr. GARRETT. Okay. So there is almost a simple answer.

So in your communications with people, whether on your phone, iPhone, e-mails, letters, phone calls, or other things, the chairman asked you a simple question. Has anyone from the Administration ever directed you to not comply with the subpoenas?

So it is a simple question of whether, through any of these communication devices that you may have, one way, or shape, or another, has anyone directed you to do that? That is a yes-or-no question.

Secretary LEW. Congressman Garrett, I answered the question—

Mr. GARRETT. No, you didn't.

Secretary LEW. —by saying we have been working to comply. We are trying to comply.

Mr. GARRETT. Excuse me, excuse me. The question was not whether you are working to comply. That was your answer.

The question was, has anyone communicated this to you? Has anyone communicated that to you, Mr. Secretary? Yes or no?

Secretary LEW. Congressman, you can make this seem like a yes-or-no question. I am not aware of any communications telling me what to do on anything I am doing here today.

Mr. GARRETT. There you go.

Secretary LEW. I am giving you an answer—

Mr. GARRETT. That is the—

Secretary LEW. —of what we are doing. I would think—

Mr. GARRETT. Thank you, Mr. Secretary. The answer is—

Secretary LEW. I would think you would want to know what we are doing.

Mr. GARRETT. The answer is no, then, is—you are saying no one has ever communicated that to you.

Mr. Chairman, I think that was the answer you were trying to get.

I have been trying to get answers from you as well for a long period of time—9 months ago, both in committee and through a letter, I asked you to respond to some of the concerns I have regarding the implications of something else: the ISDA protocols on bank insolvencies and what effect they would have on nonbank institutions. I have not yet heard from you in over 9 months. I don't see why you couldn't answer me.

So my simple question now, since I haven't heard back is, will you assure us that if any proposals come up, you will oppose any plans that would require U.S. companies to basically give up, waive their protections to U.S. law and sovereignty?

Secretary LEW. Congressman, I am going to need you to give me a little bit more detail of what you are asking me about if you want me to answer that question.

Mr. GARRETT. I guess since my time is limited, we sent that—there was a—

Secretary LEW. I am happy to respond. I am just not sure what you are asking.

Mr. GARRETT. Okay. We directed that to you back in—last year, 9 months ago, and I guess if you are happy to respond, we would ask you to respond to that back then.

As far as trying to get information from you, that is one thing; to you is another.

Here is a $10 bill. And there is a whole discussion going on of who should be on the $10 bill. You are familiar with that whole issue?

Secretary LEW. Yes, I am.

Mr. GARRETT. And I know you have done a good thing. You have solicited the American public's opinion quite a bit. You are nodding your head.

Secretary LEW. Yes. We got a lot of comments.

Mr. GARRETT. That is great. How come, then, when you are dealing with international bodies such as the FSB, you do not solicit for public opinion and the stakeholders in the same manner when you get into negotiations regarding financial standards and international bodies?

Secretary LEW. We do work with stakeholders.

Mr. GARRETT. Will you commit going forward to ask for input, just like you did on the change of the $10 bill, as you would on dealing with international bodies?

Secretary LEW. You know, we do reach out to stakeholders as we do our work domestically and internationally, and we will continue to do so.

Mr. GARRETT. That is great. That is good to hear. So will you engage in a formal notice-and-comment period as well?

Secretary LEW. I am not going to comment on notice and comment for international proceedings.

Mr. GARRETT. Why not?

Secretary LEW. Because I am not aware of any appropriate notice-and-comment process for international proceedings. We do notice and comment for domestic rules.

Mr. GARRETT. Do you have the authority, the power to establish formal notice-and-comment periods?

Secretary LEW. Look, I think we have a lot of mechanisms for consulting with both public and private sector stakeholders. We will continue to do that.

Mr. GARRETT. Would you commit to doing this one more? Because—

Secretary LEW. I don't think notice and comment is the answer to everything. We are not doing notice and comment on the $10 bill either.

Mr. GARRETT. But this is a little bit more important than the $10 bill. This is—

Secretary LEW. You asked me, would we do the same thing.

Mr. GARRETT. Would you commit to doing a formal notice-and-comment period—

Secretary LEW. I don't think notice and comment is the answer to everything. It is the right way to perceive formal rules.

Mr. GARRETT. I understand it may not be for everything. But on this area I am simply asking you, would you commit to doing so?

Secretary LEW. Congressman, I think that work that is done in the FSB is critically important work—

Mr. GARRETT. So, the answer is no.

Secretary LEW. —but it doesn't make U.S. policy. When we make U.S. policy and rules—

Mr. GARRETT. So when you do—

Secretary LEW. —we go through notice and comments.

Mr. GARRETT. So when you solicit input, because you said you do solicit input, it is just your soliciting input from who you want to hear from, as opposed to all of the Americans who want a formal process.

Secretary LEW. I dare say when we solicit input, we get input from many who do not share my view, not just those who share my view.

Mr. GARRETT. Thank you.

I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Mrs. Maloney, ranking member of our Capital Markets Subcommittee.

Mrs. MALONEY. Welcome, Secretary Lew.

I know that this hearing is about international finance, but I would first like to ask about Puerto Rico, as it has a very pressing economic issue facing the country, and it impacts on ours.

It is in a severe financial crisis which could really explode into a humanitarian crisis. And we know that it now has roughly $72 billion in debt outstanding and an additional $43 billion in unfunded pension obligations. And to make matters worse, Puerto Rico does not have access to Chapter 9 bankruptcy or to any restructuring process that would allow it to renegotiate its debt and creditors, its obligations.

And now I have been told that Treasury is working with the Natural Resources Committee on crafting legislation to address this financial crisis, but as you know, there is a Supreme Court case taking place right now, literally they are hearing the arguments in court today. And that case addresses whether Puerto Rico is prohibited by Section 903 of the Bankruptcy Code from enacting its own state-level municipal process and regime.

Other States are also prohibited from enacting their own municipal bankruptcy codes, but they have access to Chapter 9, they have access to bankruptcy. Puerto Rico does not have access to Chapter 9. So it is unclear to me as why we subject them to the same prohibition on enacting their own municipal bankruptcy code.

So one idea that I feel is worth pursuing and considering is simply carving Puerto Rico out from the Section 903 ban on States enacting their own municipal bankruptcy codes. That way we could—Congress could authorize Puerto Rico to enact its own restructuring regime for all of its municipalities.

And this has precedent in that the Supreme Court upheld New Jersey's State-level municipal bankruptcy in 1942. It was Congress that enacted legislation prohibiting States in the future from doing so, but we could likewise enact legislation allowing, or carving out, the ability of Puerto Rico to so ask—to act.

But my question really concerns the impact that the economy and Puerto Rico and the restructuring would have on our very important municipal bond market that finances so much of the improvements in our urban areas. And a lot of critics are arguing that allowing Puerto Rico to restructure their debt would have a terrible, terrible consequence in the muni-bond market here in America, that it would drive up borrowing costs for other States as well even though they are not affected by Puerto Rico's restructuring.

And I would like to know what your response is to these arguments, and also do you think that a territorial bankruptcy regime for Puerto Rico would harm the broader municipal bond market that is so successful in America?

Secretary LEW. Congresswoman Maloney, there is an immediate crisis in Puerto Rico; it is not a future crisis. For all practical purposes they are in default because they are not paying some of their bond issues and they have big payments due in May and July, and we don't see a path for them to be able to make those payments. The need for action is immediate.

I don't believe that it is going to solve the problem if there is restructuring of just a small piece of Puerto Rico's debt. A restructuring is going to have to be inclusive of all of Puerto Rico's debt in order to address the crisis that they have.

I think that the work that is being done—I haven't seen the work product of the Natural Resources Committee, but the work that is being done is very important and it is very time-sensitive. What we think needs to be in it is we think there needs to be an oversight authority that is the gatekeeper; we think that there needs to be the ability to restructure all of Puerto Rico's debt, because even some of their general obligation debt has to be at a minimum rescheduled in order for there to be a solution; and we don't think it is a one-size-fits-all approach.

In terms of the impact on other municipal bonds, three of the leading bond analysts have put out studies that contradict the notion that it is going to have spillover effects on other municipal bond markets. In fact, what we know about the municipal bond market is that each issue is looked upon independently based on the risk and the quality of the credit. And I believe that the worst thing for the municipal bond market would be a disorderly unwinding in Puerto Rico, which is what will happen if Congress doesn't act.

Chairman HENSARLING. The time of the gentlelady has expired.

Mrs. MALONEY. Thank you.

The Chair now recognizes the gentleman from Wisconsin, Mr. Duffy, chairman of our Oversight and Investigations Subcommittee.

Mr. DUFFY. Thank you, Mr. Chairman.

Welcome, Mr. Lew. Right over here.

Secretary LEW. I can't see you through—

Mr. DUFFY. I just want to revisit a few of the questions that were asked by the chairman.

Again, you understand that you have a legal obligation to provide the documents requested and subpoenaed by this committee, to this committee. Is that correct?

Secretary LEW. Congressman, I answered that question already. We are working to respond.

And I will clarify one thing I said before. I said we did not get any response to our offer to meet. After we received subpoenas last week—

Mr. DUFFY. I am going to reclaim my time—

Secretary LEW. —there was then a response that—

Mr. DUFFY. I don't mean to be offensive, but are you having any trouble hearing today? Is your hearing working?

Secretary LEW. I am hearing you just fine.

Mr. DUFFY. Okay. So let's try this one more time: Do you understand that you have a legal obligation to provide documents as—

Secretary LEW. As I said, we have been responsive and we continue to work to be responsive.

Mr. DUFFY. But you are not answering my question. And is it your—in regard to anyone directing you to not comply with our subpoena? Did that happen?

Secretary LEW. Congressman, I responded to that question already.

Mr. DUFFY. What is the answer? Tell me one more time.

Secretary LEW. I am not aware of any instructions on anything I am saying today. You are talking to the Secretary of the Treasury and I am giving you my—

Mr. DUFFY. And as the Secretary of the Treasury, have you directed anyone at Treasury not to comply with our document request?

Secretary LEW. I'm sorry that I couldn't hear. I didn't hear you.

Mr. DUFFY. Okay. Have you directed anyone at Treasury to not comply with our document requests?

Secretary LEW. No, quite to the contrary. At my direction our staff has reached out and written letters—

Mr. DUFFY. Have they been told to comply with us?

Secretary LEW. —seeking to have the conversations that would enable us to reach accommodations.

Mr. DUFFY. You have told your staff to comply with our document requests?

Secretary LEW. You know, the practice—

Mr. DUFFY. Yes?

Secretary LEW. I have told them to reach an accommodation with the committee, which would—

Mr. DUFFY. Let me express my concern to you.

Secretary LEW. —reach an accommodation with the committee, which requires—

Mr. DUFFY. So we have a subpoena that is almost a year old. The document request, when we try to do it nicely with you, goes back 2½ years, and you have failed to comply with those document requests.

And I think anyone sitting in this room listening to the responses that you gave the chairman, that you gave Mr. Garrett, and that you are giving me, would say that you are not compliant. We ask very simple questions and you say, "I am not going to answer a question." But you come in and say, "Listen, ladies and gentlemen—"

Mrs. MALONEY. Will the gentleman yield?

Mr. DUFFY. I will not.

You come in and say, "I am trying to work with you; I am trying to answer your questions; I am trying to be compliant," when you don't even answer simple questions that this committee poses to you.

You indicated, I think, in your—

Secretary LEW. Can I ask you a question, Congressman? Congressman, can I ask you a question? Did you read the letter that we sent you last week?

Mr. DUFFY. Yesterday? I want to talk about what you sent me yesterday. Are you aware that you sent me—

Secretary LEW. On March 18th, we sent you a letter.

Mr. DUFFY. —a document dump last night, yesterday. Are you aware of that?

Secretary LEW. We have been providing documents on a regular basis.

Mr. DUFFY. Okay, so you provided 1,035 pages. Correct?

Secretary LEW. I didn't count the pages, Congressman.

Mr. DUFFY. Roughly, does that sound about right?

Secretary LEW. We sent a lot of pages.

Mr. DUFFY. Okay. And you are trying to comply with our subpoena, is that right?

Secretary LEW. We have sent thousands of pages, and—

Mr. DUFFY. Let's talk about the kinds of pages that you send. So in the thousand pages that were sent to our committee this week—you can look up at the board—664 of those pages were news clippings, letters to Members of Congress, CRS reports, hearing transcripts, and public information. Another 223 pages were private sector research from Finch Barclays, Merrill Lynch. Another 109 pages were from the Bipartisan Policy Center. And then 39 pages was a memo on the 1985 debt limit impasse.

This isn't the documents that we requested. This is public information you are just throwing our way to try to say, "Listen, we have sent you thousands of pages," though it is thousands of pages of noncompliant material.

One of the e-mails that you sent us I think is consistent with all of your compliance and your testimony today. At the very top you will notice that it says "spam." You are sending us spam e-mails from Treasury and trying to tell this committee that you are complying.

And so, let me ask you this. We have asked you to provide employees of Treasury—Anne Wall, Randall DeValk, Priya Aiyar, Patrick Pinschmidt—and you have refused to allow them to come and be interviewed by this committee. Is that correct?

Secretary LEW. Congressman, we have tried in repeated communications with this committee to arrange meetings to reach accommodations to be able to provide information. You know when we got a response? Last night. Last night, after the better part of a year.

Mr. DUFFY. Mr. Secretary, we asked for documents, and as those who oversee you, you should comply. Or you should assert a privilege.

Secretary LEW. Congressman, the process of responding to these requests is well-established. It involves give and take—

Mr. DUFFY. It is well-established.

Secretary LEW. It involves give and take.

Mr. DUFFY. Are you asserting a privilege?

Secretary LEW. Excuse me?

Mr. DUFFY. Have you asserted a privilege as to why you haven't complied with our document requests?

Secretary LEW. Congressman, we have not yet had the conversations we should have between counsel. Hopefully, that will begin immediately and we will be able to work our way through it.

Mr. DUFFY. If you look at the answers—Mr. Lew, look at the answers you gave us today. Does anyone here believe that you are going to actually comply with our requests that are 2½ years old, when you can't even acknowledge that you understand that you have the legal obligation to provide these documents?

Ms. WATERS. Mr. Chairman, I have a unanimous consent request. Mr. Chairman?

Mr. DUFFY. Mr. Lew, again, you are everything that is wrong with government—

Ms. WATERS. Mr. Chairman?

Chairman HENSARLING. The time of the gentleman has expired.

Ms. WATERS. I have a unanimous consent request.

Chairman HENSARLING. The gentlelady will state her request.

Ms. WATERS. I ask unanimous request for a recess.

Chairman HENSARLING. I object.

The Chair now recognizes the gentleman from Texas, Mr. Hinojosa, for 5 minutes.

Mr. HINOJOSA. Thank you, Chairman Hensarling and Ranking Member Waters, for holding this hearing on the annual state of the international finance system.

Welcome, Secretary Lew. I am pleased that you are testifying today because this hearing gives us and this committee the opportunity to discuss the North American Development Bank, better known as the NADBank, in San Antonio, Texas.

As you know, the NADBank was created in 1994 as part of NAFTA to alleviate the environmental concerns and economic problems that would be created by the movement of commerce and people to the U.S.-Mexico border region.

Since its creation over 20 years ago, the bank has made a tremendous improvement to some of the most impoverished communities in both nations, including towns and colonias in my congressional district and along the U.S.-Mexico border, from Brownsville, to El Paso, and all the way to the California-Mexico border.

The bank's investments have brought lifesaving potable drinking water to millions of people, many of whom faced health-threatening conditions due to unsafe sources of drinking waters.

So that leads me to the first question. In January 2015, during the high-level economic dialogue, President Obama and Mexican President Pena Nieto agreed to double the bank's capital from its current $3 billion to $6 billion, split evenly between the two nations. Can you tell us why the bank is seeking to double its capital?

Secretary LEW. Congressman, the Administration is looking for this capital increase because it will allow the United States to continue supporting these kinds of infrastructure projects on our border that are so important. It deepens our relationship with Mexico, it addresses environmental issues that are cross-border issues. And it is an important aspect of our economic life to have those issues addressed, and only we and Mexico are the parties of interest, which is why in the NADBand and the U.S.-Mexico relationship is so different.

Mr. HINOJOSA. In June of 2015, Moody's rated the NADBank as Aa1, reflecting the bank's strong capitalization and liquidity position as well as noting the support of the bank receives from both the United States and Mexico. Moody's rated the bank's outlook as stable.

So do you expect the bank will maintain that strong financial position moving forward?

Secretary LEW. Congressman, the rating agencies have changed their methodologies in a way that, for idiosyncratic reasons, could have an adverse impact on NADBank. They are looking at whether there is concentrated activity, and when you are talking about two countries—only two countries—being involved in all the activity on one border, it by its basic nature is concentrated activity. Most of the international financial institutions are diversified.

I think that, importantly, there are no nonperforming loans. So if you look at the core quality of the credit, it is very strong. I don't know what the rating agencies will do.

Mr. HINOJOSA. I like that response on how strong it is.

Since 2010, the bank's lending portfolio and debt issuances have grown significantly. Has the increased lending portfolio had a negative impact on the bank's financial position?

Secretary LEW. As I say, there are no nonperforming loans, so I think the bank remains in a strong financial position.

Mr. HINOJOSA. What steps has the bank taken to ensure that its debt issuances do not become an oversized liability for the bank?

Secretary LEW. I think that the key is for there to be careful review of projects to make sure that each project that is funded can sustain the debt that is going to it. And, given the amount of work that needs to be done on the U.S.-Mexico border, there are a lot of good projects before you get to anything that would be questionable.

Mr. HINOJOSA. I agree with you. There are a lot of good projects on both sides.

In 2011, I introduced H.R. 2216, the North American Development Bank Enhancement Act, a bill to allow the bank to expand its mandate beyond the environmental infrastructure projects. Would Treasury support efforts to expand the bank's mandate this year, 2016?

Secretary LEW. Congressman, I am not familiar with the expansion proposal. I am happy to look at it.

I think that the definition, as it is, permits some expandability because transportation, for example, is part of it, reducing emissions. So things like transportation, water, sanitation, renewables are all part of it. But I would be happy to look at the proposal.

Mr. HINOJOSA. Thank you. I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Missouri, Mr. Luetkemeyer, chairman of our Housing and Insurance Subcommittee.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Mr. Lew, I have a couple of questions on a different subject here with regard to SIFI designations. You testified last week in front of the Appropriations Committee with regard to arbitrary thresholds for SIFI designations, and I just wanted to get a little clarification here. Your response was that you oppose raising the bank threshold SIFI designation to $500 billion.

Secretary LEW. I'm sorry, I couldn't hear the last thing you said.

Mr. LUETKEMEYER. Last week at the House Appropriations Committee, your response to asset thresholds was that you oppose raising the bank SIFI threshold to $500 billion, is that correct?

Secretary LEW. I commented on that issue. Last year, there was a proposal to go to $500 billion—$500 billion is a very large financial institution.

The number is now $50 billion. There has been a lot of debate, should it go from $50 billion to $100 billion. What I said is that there is a big difference between $100 billion and $500 billion.

Mr. LUETKEMEYER. Yes, but I guess the question then becomes—assets is only one thing. I think we need to be looking at this based on the risk and the asset makeup and liability makeup of each one of these institutions. Would you agree with something like that?

Secretary LEW. Look, I think that there are a lot of different criteria aside from just size that raise questions of risk, but I think that size is an important criteria because the larger an institution is, the more likely it is to be—

Mr. LUETKEMEYER. With regards to nonbank SIFIs, we have had two companies that sold off major books of business in an effort to escape the designation. And yet they have not been de-designated. Don't you think it would be helpful to have an off-ramp of some sort to be able to do that so that these businesses know how and what they need to do to be able to get de-designated?

Secretary LEW. First, Congressman, I don't think the reason that those decisions are made are to get de-designation. I have talked to the CEO of one of those firms who said expressly it was not; it was a business decision for reasons of sticking to the core business of a technology and manufacturing company.

There is a process for de-designation. There is an annual review, and if a company sheds risk and comes in for review on an annual basis, that is the way to get de-designated. And we look forward to seeing applications that reflect that kind of change.

Mr. LUETKEMEYER. Okay. With regard to another issue, international insurance legislation, we are working, in my subcommittee, to put in some guardrails with regard to the conversations taking place at the IAIS. Those would require the United States to uphold and advocate for our system of regulation. Do you have any objections to that mission, to try and make sure we protect our insurance industry here in this country?

Secretary LEW. Can you just clarify which provisions—which proposal you are talking about?

Mr. LUETKEMEYER. We haven't dropped the bill yet, but we are working on a bill to try and put some guardrails on the discussion so that those advocates—

Secretary LEW. I am just not sure what discussions—which discussions—

Mr. LUETKEMEYER. With the IAIS.

Secretary LEW. On what subject though?

Mr. LUETKEMEYER. Capital standards and all sort of—

Secretary LEW. For insurance?

Mr. LUETKEMEYER. Yes. For all other insurance supervision.

Secretary LEW. We have been working—I assume you are talking about insurance now?

Mr. LUETKEMEYER. Right, right.

Secretary LEW. Yes, we have been working to negotiate a covered agreement to make sure that we don't end up in a place where other countries can set standards that would require our companies to take action.

Mr. LUETKEMEYER. So you would support what we are doing, I take it?

Secretary LEW. I think the right thing to do is to complete the covered agreement, to have prudential issues addressed and not to get into a situation where there is conflicting capital kinds of standards, and any action in this area should be action we take in the United States.

Mr. LUETKEMEYER. I think we are putting the cart before the horse there. I think we need to make sure that we have the ability to protect our folks first before we engage in any sort of agreements, period. But I appreciate the comments.

With regards to paying our Nation's bills, the New York Fed serves as the Treasury's fiscal agent, is that correct?

Secretary LEW. Correct.

Mr. LUETKEMEYER. Did you know that since 2011, the New York Fed has conducted so-called tabletop debt ceiling exercises that contemplated prioritizing payments of principal and interest on debt?

Secretary LEW. Yes.

Mr. LUETKEMEYER. When did you learn that?

Secretary LEW. I don't recall.

Mr. LUETKEMEYER. Did the Treasury direct the New York Fed to conduct these tabletop exercises?

Secretary LEW. Congressman, during the period when we were at risk of going into default, there was a lot of analysis being done of what mechanically would work. My understanding of these exercises is that they were checking to see if the pipes would work.

Mr. LUETKEMEYER. Okay. You are aware of that then.

The problem, then, is on two separate occasions, October 10, 2013, and May 7, 2014, you appeared before the Senate and you appeared before the House and indicated something contrary to that.

Secretary LEW. No I didn't. What I said at the time and what I believe now is we have never gone into a world where Congress has failed to extend the debt. We have never been in a world where there has been a question on whether you could or couldn't—

Mr. LUETKEMEYER. Sir, you fail to acknowledge that these exercises were going on.

Secretary LEW. I know what I said. What we have learned since then is that the technical capability is there. We don't know if it works. It has never been tried. I don't want to be the one who finds out, and I hope nobody here wants to find out.

Mr. LUETKEMEYER. I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Georgia, Mr. Scott.

Mr. SCOTT. Thank you very much.

It might be appropriate for us to examine the impact and what you are doing in terms of the financing of terrorists, particularly in view of what happened earlier this morning over in Brussels. And your Treasury Department has this authorization.

But before I get to that, are you aware, Mr. Lew, that there have been documented 73—I think it is 73—individuals working at America's airports with ties to ISIS?

Secretary LEW. Congressman, I know that there has been work done to identify risks in this area. I couldn't—

Mr. SCOTT. Let me just suggest this. Cox Media—WSB, particularly—did a story. Cox Media has media outlets, and newspapers, and radio stations, television stations all across this country. I would like to ask if you might contact them and get the full report on that report.

Just contact, it is Cox Media. WSB television is the local affiliate in Atlanta, Georgia, and we did an interview on that.

My whole point is this: In this financing of terrorism, we have to start looking at the other end of it. In other words, there is the money laundering and there is that going, but there is also the demand for it. And such a thing as this—and this particular incident, too many of our airports have these private contractors that come in and help to sort of subsidize the workforce at the airports.

This was the same incident that happened abroad not too long ago, where a baggage handler came and put the bomb right on the plane. And I am sure you are familiar with that. The reason I am saying that is that this evil, this terrorism, has no greater target in mind than our Nation's airports. Our greatest tragedies have been because of that.

We have to do everything we can to let the American people know that our airports are safe. So on that end, if your staff would—and my staff could assist you as well, but I think it is important for you to have that report. Homeland Security, I think—

Secretary LEW. Yes, I am happy to look at it, Congressman. The Department of Homeland Security works vigilantly—

Mr. SCOTT. But my point is that it is not—you have the money end. I am not talking about that end.

I am talking about how we are failing in our efforts. Now, we passed a bill that I sponsored called the International Financing Hezbollah Act. Are you familiar with that one?

Secretary LEW. Yes.

Mr. SCOTT. All right. Now, in that Act, we directed the President to direct and to identify, to investigate, to use Treasury, to use the FBI, to use all of our brilliant—the CIA—investigative powers to identify sources of funding, the dummy companies that trail on it.

So with that in mind, let me just ask you, what is your application of the law, and what is your report on how ISIS and these other terrorist organizations are getting their funding?

Secretary LEW. Congressman, I have less than a minute, so I am going to do my best.

We have an extensive operation, the best in the world, to track terrorist financing. We support U.S. operations, we support friends around the world when they are trying to track down financial ties. We are drilling into every lead we get.

We work extremely closely with the intelligence community and the Homeland Security Department on leads. We have the ability to track when they get identification of individuals who need to be tracked. So it all flows from the intelligence that we get.

Mr. SCOTT. Let me—

Secretary LEW. And we are working on Hezbollah to identify targets. On ISIL, it is a slightly different case on ISIL because it is a very internal financing system. In 14 seconds, I can't answer it, but if I could get another minute I would be delighted to.

Mr. SCOTT. Okay. All right.

Then I want to ask you this: The Iran agreement makes available to Iran a huge cash load of over $100 billion. They are the number one sponsor of terrorism, and particularly to Hezbollah.

Secretary LEW. Mr. Chairman, these questions about ISIL financing in Iran are very important. If I could just—

Chairman HENSARLING. Please give a brief answer, Mr. Secretary. We will extend—

Secretary LEW. So on ISIL financing, the structure of it has changed as ISIL has grown. It started out that they seized territory, they took the money out of vaults, and they had it.

That is not going to sustain them. They have too much territory, too many needs, and we have been too effective at hitting some of those vaults.

What they do now is they try and use local resources like oil and they extort money from the people who live there. We have worked with the government of Iraq to shut down banks and to limit money exchanges. We have worked with the government of Iraq to stop paying people in ISIL-controlled territory. We are using military operations to blow up every aspect of the oil industry we can.

Has it been 100 percent successful? No. It is hard to get in there to be 100 percent. But it has been successful enough that in some areas they have had to cut in half what they pay their fighters, so we know it is working.

We have more work to do. We work every day to find every lead we can.

On Iran, if I could just take 30 seconds, I am happy to—

Chairman HENSARLING. Please, Mr. Secretary, go ahead.

Secretary LEW. —the notion of the amount of money going to Iran has been greatly overstated in a lot of places. At some level, it looks like there is $100 billion that goes to Iran. We know that no more than $50 billion can actually go because of limitations and encumbrances on the money. The government of Iran itself says they think they may get access to $30 billion.

What we know is they have hundreds of billions of dollars of domestic needs, and we will continue to take action against funding of terrorism, funding of regional destabilization, funding of human rights violations. So we are going to do our level best to make sure—

Mr. SCOTT. But my point is, is there any mechanism in place to make sure that none of that money goes into the hands of groups like Hezbollah, the Houthis?

Secretary LEW. We have ongoing sanctions in those areas and we are continuing to work on designating and enforcing those sanctions.

Mr. SCOTT. Thank you, Secretary Lew.

And thank you, Mr. Chairman, for the extra time.

Secretary LEW. I apologize for going over, but those are important questions.

Chairman HENSARLING. No, those are topics of great interest to Members on both sides of the aisle.

The Chair now recognizes the gentleman from Texas, Mr. Neugebauer, chairman of our Financial Institutions Subcommittee.

Mr. NEUGEBAUER. Thank you, Mr. Chairman.

I am interested in the line of questioning that you initiated in your questioning, and so I would like to see if maybe you get more answers than you got the first time around, so I want to yield my time to you.

Chairman HENSARLING. If the gentleman would yield to the Chair, Mr. Secretary, let's go back to document production here. You have stated that you believe you have been reasonable in this process. I accept that. But I hope you understand there is a level of frustration for document requests that have been pending in some cases for 2 to 3 years, and a subpoena which is almost 1 year old.

We have had over a dozen questions for the record that were produced from last June's hearing for which we have yet to receive any information from your Department. You saw the chart that was placed by Chairman Duffy on the monitors that showed that basically when we had requested documents, most of what we received were news clips and speeches.

So yes, Mr. Secretary, there is a level of frustration here. A question that Chairman Duffy asked, which I do not believe you answered, and if you did then forgive me, I wish to know—I am unaware that Treasury has asserted any executive privilege with respect to any of the documents that have been subpoenaed. So I am unaware that Treasury has invoked any executive privilege.

Are you aware if executive privilege has been asserted with respect to any of the documents subpoenaed? And if so, do you have a list of those documents?

Secretary LEW. Congressman, we have tried to reach out, to have conversations to clarify what is requested, to seek accommodations, to work in the spirit of President Reagan's direction to executive agencies on how to deal with congressional oversight in a respectful and responsive way.

We wrote in December. We wrote in January. We wrote again last week. It was only after four additional subpoenas were delivered that we got a call back to try to set up—

Chairman HENSARLING. Mr. Secretary, I will accept what you are saying, but you are not answering the question. Are you aware if executive privilege has been asserted? I am unaware.

Secretary LEW. I am not aware of any assertions of privilege—

Chairman HENSARLING. Thank you. That was the only question I was asking, Mr. Secretary.

Secretary LEW. But I think you know as well as I do that is the end of the process, not the beginning.

Chairman HENSARLING. I am simply asking—well, when you say the end of the process, it is a process that has been going on for almost 3 years.

Secretary LEW. The process of accommodation requires conversations that haven't even begun. We have reached out, so we have initiated conversations but we have seen no response.

Chairman HENSARLING. Mr. Secretary, I assure you that a subpoena would not have been issued had we not had to wait years. This isn't a matter of dealing with—

Secretary LEW. But in December, we offered—

Chairman HENSARLING. This isn't a matter of days to weeks, Mr. Secretary. This has been going on for months and years. Let me ask—

Secretary LEW. Yes. Maybe we can get to a better place where these conversations take place and we can find a path to accommodation, which is always our goal.

Chairman HENSARLING. Mr. Secretary, you testified before our committee on May 7, 2014, that the Administration has never made any decision to prioritize debt payments. Do you agree—

Secretary LEW. That is correct—

Chairman HENSARLING. —that you testified to that?

Can you pull up chart number six, please?

As I think you are well aware, we are in possession of a number of documents that have come from your fiscal agent, the New York Fed, of various e-mail communications amongst and by Federal Reserve officials. This one dated September 17th states, "Treasury is adamant they will make P&I"—I assume principal and interest payments—"not considering possibility of missing debt payments."

Number seven, please?

This one is dated Friday, September 20th: "Treasury continues to be adamant they will make principal and interest payments on the debt. This is a slightly different position than prior exercises where prioritization of debt payments was not specified."

Chart eight?

"As you may have heard"—this one is dated Monday, September 23rd—"unlike the 2011 planning around prioritizing payments and rolling maturities, the Treasury has said they will make all principal and interest payments this time around."

So you were aware of these tabletop exercises, correct? You testified to that earlier today—

Secretary LEW. Mr. Chairman, the tabletop exercises were not in pursuance of a decision that had been made. They were exploring how to answer the question that you have asked me, is it technically possible? Now, I can't speak—

Chairman HENSARLING. The documents that were just presented, have you seen these documents?

Secretary LEW. Only in recent months. At the time, I was not in on that—

Chairman HENSARLING. Pull up chart number two, please.

Secretary LEW. Mr. Chairman, if I could just respond to your question, because the real point here is we should never be in a position where we have to make decisions about what to do when you default. If you could default on Social Security or Medicare instead of principal and interest you are still in default.

Only the President can make a decision what to pay and what not to pay. That decision was never made—

Chairman HENSARLING. Mr. Secretary, I agree with that assessment. But I think you know that roughly half of the times that Congress in the modern era has voted on a debt ceiling, it has included some type of spending restraint to take us off the path to bankruptcy as well.

Last chart, chart number two, a memo dealing with Federal Reserve Governor Powell.

Two interesting comments from Powell. He understands why Treasury wants to maximize pressure on Congress by limiting communications about contingency planning.

Mr. Secretary, did you direct somebody to maximize pressure on Congress by limiting communications about contingency—

Secretary LEW. No. What I have said to this committee and other committees of Congress is, yes, we look at what is technically possible. We don't know if it works. We believe that it would be a grave mistake and a disservice to this country to ever default.

That is my view now, it was my view then, and it will be my view in the future. And it would be a mistake if Congress goes down this path again. It would hurt our country—

Chairman HENSARLING. Well, it is interesting evidence from the New York Fed about the motivations of Treasury.

The time of the gentleman from Texas has expired.

The Chair now recognizes the gentleman from Missouri, Mr. Clay.

Mr. CLAY. Thank you. Thank you, Mr. Chairman.

And thank you, Mr. Secretary, for your appearance today. We must not forget that this Administration brought us back from the brink of an economic collapse in 2008 that was not brought on by this Administration. But this Administration helped prepare a budget in an economy that was on the brink of collapse.

So I wish my colleagues on the other side of aisle wouldn't forget that and would recognize the good that has come out of it.

Mr. Secretary, how would you assess the effectiveness of the Financial Action Task Force (FATF) in identifying key terrorism financing risk and issuing universal recommendations for addressing them?

Secretary LEW. Congressman, I think FATF is a very important organization that establishes norms and practices that, if followed around the world, would create the ability to do what we do in the United States more broadly. Candidly, we are far ahead of many other countries in terms of having the capacity to take those authorities and implement them effectively.

One of the things that I think we have to do—and the IMF has a big role to play in this and FATF itself has a big role to play in this—is to provide the kind of technical assistance to make sure that we built up the capability around the world so the countries that want to be cooperative have the tools that they need.

We had a meeting at the U.N. in December where, for the first time in the history of the U.N. Security Council, finance ministers met. I chaired the meeting and we had a unanimous vote to designate ISIL in the same category as Al Qaeda, which exposed anyone having even an intermediary role to sanctions. It is all rooted in the ability to see it and act on it.

FATF was at that meeting. FATF is following up with countries to help build the capability.

But I don't want to exaggerate where other countries are. We are even ahead of our most sophisticated colleagues, and we offer a lot of assistance, for example in Western Europe, when they need leads to be followed up on.

Mr. CLAY. And in light of what happened today in Brussels, I am sure there is a need for expansion of FATF.

Secretary LEW. Yes. And we have already reached out to offer assistance, as we did after the bombings in France and we do on an ongoing basis, sharing information in between when it is appropriate.

Mr. CLAY. Thank you so much.

And at this time, I would like to yield the balance of my time to the ranking member, Ms. Waters.

Ms. WATERS. Thank you very much.

I would just like to give you an opportunity to share with us your attempts to cooperate and your desire to work with us in a reasonable manner.

Secretary LEW. Thank you, Congresswoman Waters.

The range of requests from this committee has been many. We have provided thousands of pages of material and, as has been noted, we provided an additional thousand pages of material just this week.

In December—on December 17th and January 21st, we invited committee staff to meet to discuss what other information the committee needs. On the debt limit alone, we provided the committee over 3,800 pages of documents on this topic.

And over the last 3 months, we have tried to reach out to the committee to find out what further materials would be useful. In the interim we did identify some additional materials on our own.

I have a great deal of respect for the oversight function that Congress plays and it is appropriate for Congress to play. We seek to find accommodations to provide information and would only ask for those kinds of conversations that are necessary to go through the accommodation process to proceed.

Ms. WATERS. Have you received a response from this committee when you have reached out to them to attempt to come together and have some discussion around these issues?

Secretary LEW. Well, only yesterday evening, but that was after four people on the Treasury staff received subpoenas for interviews. So we didn't have conversations that would help us work it through before that.

Ms. WATERS. So I think what I heard today is that you are still offering.

Secretary LEW. Yes. We remain available and anxious to have those kinds of conversations.

Ms. WATERS. You and your staff are available?

Secretary LEW. Yes. The right level is for counsel to counsel. That is how these things have been worked out for 40 years that I have been part of.

Ms. WATERS. Perhaps before you leave, you can speak directly to the chairman, and reinforce your desire to be responsive and to talk and to have these discussions. Perhaps that would be helpful.

Perhaps there is some misunderstanding about what efforts you have made to try and accommodate the many, many, many requests and the subpoenas and all of that.

I do appreciate your willingness to do this, and again, perhaps maybe a conversation directly with the chairman might help.

Secretary LEW. Thank you, Congresswoman.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from South Carolina, Mr. Mulvaney.

Mr. MULVANEY. Secretary Lew, I want to continue the conversation about the debt ceiling, not because I want to beat a dead horse, but mostly because I continue to be amazed, in my view, at an Administration that I perceived as wanting to create the threat of a financial crisis.

We have already established in your previous visits here that your comments to the contrary notwithstanding, the technical ability to prioritize did exist and does exist. That issue has been put to rest.

Secretary LEW. I testified to that effect at this committee last year.

Mr. MULVANEY. And I am giving you the benefit of the doubt, Mr. Lew. When we are going to agree, you might as well let me do it, because it is not going to happen that often.

I want to talk about something else today, though, if we could bring up the first slide.

You have said on several occasions that no decision had been made to prioritize. This is an e-mail on September 17th. We got these from internal e-mails at the New York Fed: "Treasury is adamant that they will make P&I payments."

Next slide.

"Treasury continues to be adamant that they will make payments—principal and interest payments on the debt."

Next slide, please.

"As you may have heard, unlike the 2011 planning around prioritization payments and rolling maturities, the Treasury has said they will make all P&I payments at the same time." That is September 23rd, September 27th.

Next slide, please.

"Even though the Treasury has directed the Reserve Banks, they intend to make all P&I payments, et cetera." That is September of 2013; 2 weeks later you went to the Senate and said that no decisions had been made to prioritize.

In May of 2014, several months later, you came to this committee and brought a letter from the previous day and you testified to the same thing. It says, "We stress that no decision regarding what to do in a situation was made during the recent debt limit impasses."

I will leave it to others to speak to the truthfulness of that statement and the truthfulness of what you have said to this committee. It is not what I want to focus on today. I want to focus on the next piece of the puzzle.

Secretary LEW. Congressman, if I might?

Mr. MULVANEY. Sir, I will, but—and I will give other folks a chance. I am trying not to take the whole 5 minutes.

Secretary LEW. When somebody questions the truthfulness of a statement, I think I am permitted the opportunity to respond.

Mr. MULVANEY. No, but it is not what I want to talk about.

Secretary LEW. Because you have mischaracterized what I have said and it is incorrect—

Ms. WATERS. Mr. Chairman, point of order.

Mr. MULVANEY. In fairness to—

Ms. WATERS. Point of order, Mr. Chairman.

Chairman HENSARLING. The gentlelady will state her point of order.

Ms. WATERS. Mr. Chairman, I—

Chairman HENSARLING. The clerk will stop the clock.

Mr. MULVANEY. Thank you.

Ms. WATERS. I have a point of order that the committee is not exercising proper decorum.

Mr. MULVANEY. May I speak to the point of order, Mr. Chairman?

Ms. WATERS. Mr. Chairman, if I may, when it is implied that the Secretary of the Treasury is not being truthful, he should be given an opportunity to respond to that. It should not be left saying, "I have accused you of not being truthful, but I want to move on."

And I would say that if we are to comply with proper decorum, you would allow the Secretary of the Treasury to respond to what has been said as to his being untruthful.

Mr. MULVANEY. May I speak to the point?

Chairman HENSARLING. Does any other Member wish to be heard on the point of order?

The gentleman from South Carolina?

Mr. MULVANEY. I have already indicated to the witness that I intend to leave him time at the end of my 5 minutes to respond. I do intend to do that. I would like to get through my presentation first and then give him the opportunity to respond to all of my points.

In addition, no one is stopping him from receiving time from the opposition, the other side, the other party, to speak to my points, which we regularly do in this committee.

Chairman HENSARLING. If no other Member wishes to be heard, I would like to ask unanimous consent that the Secretary be given 30 seconds in which to address the issue that he wanted to address, and then we will go back to the gentleman from South Carolina.

If so, would the gentlelady withdraw her point of order?

Ms. WATERS. Mr. Chairman, I appreciate your offer, but I hardly think 30 seconds is sufficient.

If the chairman would reconsider the amount of time to be in compliance with decorum, I certainly would agree to that. I hardly think 30 seconds is sufficient.

Chairman HENSARLING. Mr. Secretary, I will simply, by unanimous consent, yield you as much reasonable time as you may consume, and if the gentlelady cares to withdraw, we will give the Secretary a moment to address the issue that was raised by the gentleman from South Carolina.

Ms. WATERS. Thank you, Mr. Chairman. I withdraw.

Secretary LEW. Thank you, Mr. Chairman. And I am from New York, so I talk fast.

All I wanted to say is when I testified on a number of occasions, I stated what was correct then and is correct now. The decision has never been made by the only people who can make the decision—that is the President of the United States on the advice of the Treasury Secretary—what to do. That decision was not made.

I can't tell you what different officials in different organizations said to each other. But I can tell you the decision wasn't made.

And we should never have to make a decision about how the U.S. Government defaults, which is what happens if Congress fails to raise the debt limit. And I don't think defaulting on payments to veterans is any better than defaulting on payments to foreign bond holders.

Chairman HENSARLING. I think we are getting a little far afield of the question now, but thank you, Mr. Secretary.

And now we will go back to the gentleman from South Carolina.

Mr. MULVANEY. I thank the chairman, and I thank the ranking member.

Let's get to the question that I wanted to ask, Mr. Lew, which goes to the next slide, which is why no one at Treasury wanted to tell us. The next slide is from September 24th, another internal New York Fed document, which says, "Agree the close hold here is crazy, counterproductive, and adds risk to an already risky situation." This is an internal document in the New York Fed. "I will bring this up at the meeting at 11."

Next slide, please.

The last sentence of this long selection says, "It is also totally unclear when and whether TRSO intends to share this thing with the affected business areas, especially given their request that I refrain from sharing this document, a request that I am obviously ignoring because I think it is outrageous that they are keeping such a close hold on this type of such a late date."

TRSO, I understand, is one of your internal working groups.

The next slide, please.

Another internal New York Fed documents with two interesting comments from Powell. Number two, he understands why Treasury wants to maximize pressure on Congress by limiting communications about contingency planning.

Mr. Lew, this speaks to the very heart of why we have been beating you up on this for the last 3 or 4 years. So this is the question I wanted to ask from the very beginning: Who at Treasury made the decision to try to maximize pressure on Congress by limiting communications about contingency planning?

Secretary LEW. Congressman, the decision that we made was to make sure Congress and the American people understood the risk of what happens if the debt limit is breached.

Mr. MULVANEY. That is not what the e-mail speaks to. The e-mail speaks—

Secretary LEW. That was our decision. We do not believe that there is a path towards prioritization that works.

Mr. MULVANEY. I get that. Mr. Lew, you said that 100 times and that is why we keep cutting you off because it is becoming redundant.

So my question is this—I am not asking you about informing us about the risks of a debt ceiling. I am asking you specifically about the comments within the New York Fed, which is your agent, and with—

Secretary LEW. Congressman—

Mr. MULVANEY. Let me finish—and it is clear from all the documents we received from them through you that they were integrally involved with this as far back as 2011. And clearly people within the New York Fed thought that you were withholding information from Congress about contingency planning. And I want to know who told them that and why.

Secretary LEW. I can't speak to what other people thought. I can tell you that—

Mr. MULVANEY. If I asked Mr. Powell that, what would he say?

Secretary LEW. —In 2011 and 2013, there were serious questions about whether the pipes could even handle this kind of decision.

Mr. MULVANEY. We have covered all that.

Secretary LEW. What we know for sure is, we know you can't do that with all the payments of the Federal Government.

Mr. MULVANEY. I am giving you the benefit of the doubt, Mr. Lew. All I am asking you—

Secretary LEW. And we can talk about the substance and maybe make some progress here.

Mr. MULVANEY. Who made the decision not to tell Congress and who made the decision not to tell the public?

Secretary LEW. Congressman, I am telling you we decided to share with the Congress and the public what we knew, which was that if there were no debt limits—

Mr. MULVANEY. But you never shared with us—

Secretary LEW. —default would be a terrible thing—

Mr. MULVANEY. —or the public the contingency planning and prioritization.

Secretary LEW. And the contingency planning may or may not work. We don't know that.

Chairman HENSARLING. The time of the gentleman—

Secretary LEW. I can't sit here today and tell you that there is a plan. There is no plan to manage through a default.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Missouri, Mr. Cleaver, ranking member of our Housing and Insurance Subcommittee.

Mr. CLEAVER. Mr. Secretary, is there a plan?

Secretary LEW. As I was just trying to say, Congressman, these are questions about, technically, could you choose to pay bond holders, including foreign bond holders, and not pay American citizens things that they are due? I acknowledged to this committee that there is a technical capability to pay principal and interest, including to all of the foreigners who own U.S. bonds.

I think we have to pay our bond holders. I think we also have to pay our veterans; we also have to pay Medicare; we also have to pay for the lights to go on in this room and in veterans' hospitals around the country.

And I think the notion that there is a workable plan for the Government of the United States to default is the highest form of irresponsibility. And that is what is really the issue here.

Mr. CLEAVER. Thank you.

I came here interested in oil more than anything else. There was a time when we said we have to produce more oil to reduce our dependence on imported oil from the Middle East because of the chaos.

I am wondering now, today, AAA does this daily, gasoline price dealing, and so today the average price around the country is $1.99. So I am wondering what is the impact on the world economy, and on us here at home, of the almost unprecedented drop in oil prices and also the gasoline at the pump?

Secretary LEW. Congressman, there is no simple answer, because it is different in different countries. As somebody who came of age in the policy world in the 1970s and 1980s, the notion that low oil prices and low gasoline prices would be bad for the U.S. economy is something that I find hard to embrace.

There is no question but that it is very hard right now with the United States as a producer in many parts of the country—in the pats of our economy that are focused on oil production, it is very hard.

Overall, for the U.S. economy, lower oil prices actually are like a tax cut. It lowers the cost of individuals and businesses to do their business.

Around the world there are variable conditions, depending on whether you are a producer or a consumer. Generally there are more consumers than producers, so I think low oil prices actually are something of a boost to global demand.

At the same time, it has caused a lot of uncertainty, and in terms of the economies of countries that are oil producers it has created volatility in the markets. It is not without its costs. There will be firms that fail. That has consequences.

I think that the challenge we have is to use this moment of low energy prices to redouble our commitment and develop alternatives so that we continue over time to see a sustained world of moderated energy costs even when things change and there are external factors that are driving prices up.

I think that the reason for the price being down now has been viewed in different ways by different analysts. Some view it as being a shortage of demand, a weak global economy. Some view it as being an excess of supply; there are more producers in the world and there is more energy—more oil on the market.

The reality is it is a little bit of both. And we need a stronger global economy. And when the global economy is stronger, we are going to need more energy.

So I think we have to look beyond the moment to the future, which is why all of the energy work that we do with the all-of-the-above strategy remains very important.

Mr. CLEAVER. I am not sure whether or not this Congress will do a major infrastructure program during my lifetime. Tragic, from my vantage point.

But when the price of oil drops and then the drop in the price at the pump, it impacts the revenues that we have historically used for highway transportation bills. At a time when our infrastructures is hemorrhaging all over the country, the money that is being made available both on the State tax as well as the Federal tax on oil is so low. That is the one negative that I—

Secretary LEW. Yes. No, obviously it has reduced the revenues into the Highway Trust Fund.

I firmly believe we should find other ways of expanding the investment we make in infrastructure. We proposed using tax reform—business tax reform—as a way to bring one-time money in for the next several years to get the kind of increase and infrastructure investment that we need for our economy. I wish that was something we could make progress on even this year.

Mr. GARRETT [presiding]. The gentleman's time has expired.

Mr. Messer is recognized for 5 minutes.

Mr. MESSER. Thank you, Mr. Chairman.

And thank you, Secretary Lew. I want to start with something I think ought not be that controversial, and it is around the extraordinary measures that are taken to try to lengthen the amount of time before we breach the debt.

As you know, there was $350 billion I believe you guys were able to shift around in your Department from varying accounts. That is incredible power, shifting billions from retirement accounts, government workers' pensions, and the like.

But it is remarkable how little transparency is required in those extraordinary measures. And so we offered an amendment that passed unanimously actually on the Floor, but I just would like your opinion of it, that would just require the Department of the Treasury to articulate publicly what extraordinary measures you intend to use, what, if any, costs there would be to those measures, and how long to put an estimate out before it would extend our effort before we breached it—

Secretary LEW. Congressman, I am not familiar with the amendment. I am happy to look at it.

We do have, both in my time and previously, always communicated with Congress and informed Congress as we have used extraordinary measures. So there has been transparency. I don't think—

Mr. MESSER. After the fact, you have reported transparency, but no one in the public knows what accounts you are moving around.

Secretary LEW. At the time. It is contemporaneous, actually.

Mr. MESSER. And you haven't given us a date certain of when that extension would be or some—

Secretary LEW. You don't always know precisely because it depends on the day-to-day cash flow. That is why operating the government—something as large as the government—

Mr. MESSER. Okay, so at a minimum—again, not trying to be controversial here—it is not required by law that you do it?

Secretary LEW. I would have to check. We do it. Whether it is required or not, I would have to check.

Mr. MESSER. Okay. We will pursue that with your staff—

Secretary LEW. And I am not trying to be argumentative either. Obviously, it is not a good thing.

I don't like having to deploy extraordinary measures. It creates anxiety in the U.S. and global economy for no good purpose. And we have so many risks out there that we don't control, not having anxiety about the Federal Government being able to pay its bills is something we do control.

Mr. MESSER. Sure. Of course, I don't think any of us like the extraordinary measures. It just seems to me if we are going to do them, the public ought to know what we are doing, when we are doing it, how much it is going to cost, and how long it is going to extend it.

So we will work with your staff. Hopefully, we can reach agreement there. I think it is the sort of commonsense measure that we should put forward.

I would like to return now, to this question of having the technical capacity to prioritize debt and how far your staff has pursued it. You, I think, have said before the committee—and I'm not trying to put words in your mouth, but that you have articulated for at least a year that you have the technical capacity to—

Secretary LEW. Yes. I don't remember the exact date. I remember that I testified to this committee last year and I said it. I don't remember the date.

Mr. MESSER. Okay, so you have said that for a while.

Secretary LEW. Yes. But I have also said that the technical capacity doesn't actually give me the comfort that we know it works. It is a complicated process.

Mr. MESSER. —said here it is irresponsible to breach the debt, and so you don't think we ever should. I would just suggest that it is irresponsible to not explore a plan for what you can do under your technical capacity.

So I guess I am just asking you this: Have you instructed your staff? Are you working through it?

You said you don't know what it looks like in the real world. Has your team looked at what it might look like in the real world?

Secretary LEW. Yes, they have looked at the work that has been done in these tabletop exercises, but you would have to go into a nonpayment regime to actually test it, and I don't think any of us want to do that. So there is kind of a tabletop sense that you could pay principal and interest through the system that pays principal and interest. But we have never tried to cut it off and do it that way, and—

Mr. MESSER. Are you suggesting—

Secretary LEW. —what I have also said is we don't have that ability over the whole Federal payment system to do that.

Mr. MESSER. Yes, and just again, are you suggesting that the only way to really know is we would have to do it?

Secretary LEW. Ultimately, you would end up only learning if you cross that threshold and if the President made the decision to pay those bills and not others.

Mr. MESSER. Have you put together reports of what this would look? Is there an analysis that could be shown to Congress of what your team—

Secretary LEW. I don't recall what the nature of the—form of the analysis was. I have mostly had conversations.

Mr. MESSER. It seems to me that unless we agree that the debt limit should just go away, we are going to continue to have one. It is still a possibility that that debt limit be breached, and, as you said, if you have the technical capacity at Treasury to do something about it, we ought to do more than just have a tabletop discussion. We ought to have an analysis of what that would look like provided by you so both the President and Congress can see what that would look like.

Secretary LEW. Right. But to be clear, the people who were corresponding on those e-mails that you showed don't have the ability to make the decision. Only the President can make that decision.

Mr. MESSER. No, of course. But it sounds like now we don't have the information to make a decision.

Secretary LEW. We didn't in 2011, that is for sure. If you ask me now if there is the technical capacity, I would say yes, there is the technical capacity through a tabletop exercise. It might work; it might not work.

Mr. MESSER. Let me ask you a different way. Are you in the habit of making big decisions at Treasury on tabletop analysis?

Secretary LEW. Most decisions we make are not the kinds of avoidable decisions to create a crisis that this one would be. This one would be a self-inflicted wound. There is no reason to ever test it.

Mr. MESSER. Thank you. I yield back Mr. Chairman.

Mr. HUIZENGA [presiding]. The gentleman yields back.

The Chair recognizes the gentleman from Massachusetts, Mr. Capuano, for 5 minutes.

Mr. CAPUANO. Thank you, Mr. Chairman.

And thank you, Mr. Secretary. Mr. Secretary, I had no intention of coming over this morning. I know you are a big boy, and you can take care of yourself.

Unfortunately, I made a huge mistake. I actually turned the TV on.

I was watching the hearing. And honestly, I was a little bit embarrassed, and a little bit angry, and I thought I would come over here and just do two things.

Number one is I know that one of the first things I heard was a big concern about the deficit and the debt, and it is a legitimate concern. But apparently you are personally responsible for all of it, and I just—first of all, I am pretty impressed by that power and that incredible presence.

But nobody mentioned anything about the Bush tax cuts that were totally unnecessary; nobody mentioned two wars that were—one of which was totally unnecessary, and all the money we spent in Iraq without paying for it. No one mentioned those items. No one mentioned the recession. No one mentioned the vote that this House—two votes this House took late last year that increased the deficit by almost $2 trillion, one of which votes on the tax extenders 100 percent of my colleagues on the other side of the aisle voted for that. One hundred percent of them. Sixty-four percent of them on the other side of the aisle voted for the omnibus.

No people are saying, "I share the blame of this terrible, terrible thing."

So that kind of—I don't mind—I don't like the deficit; I don't like debt like anybody else. At the same time, I think those of us who participated in that should stand up and own what we should own, as opposed to trying to put all of the blame on one individual. That is number one.

Number two, to be perfectly honest, I have had differences with you and we have discussed them. I still have some differences and that is fine. But those are reasonable, thoughtful differences. I hope that you see them the same way. We can disagree and still be respectful. I still like and respect your professionalism.

And honestly, my questions have been answered, and I just wanted to take the last 3 minutes of my time to offer you an opportunity to do one of two things. Either you can address any of the items that you were not given the opportunity to address by anybody on this board, or you can take 3 minutes and take a deep breath, put your feet up, take a relax, and—I am not trying to get you out of the zone, but at the same time no one else is giving you the opportunity to answer questions, and I thought if you want to take the opportunity, fine. If you don't, I am perfectly fine to sit here and read my Blackberry for the next 2½ minutes.

Secretary LEW. Thank you, Congressman.

Look, I think if you look at the fiscal path that we have been on as a country for the last 2 decades, I have spent as much of my time as anyone else trying to reach a responsible fiscal policy. In the 1990s, when I was Director of OMB, we had a surplus because we worked on a bipartisan basis to reach a balanced budget agreement and then save the surplus and not spend it.

You have described what happened in the years after my tenure and it created a big, big problem. We spent that surplus and then we had a recession that put us into a deficit, and then we had to spend to get out of the recession.

And we are now in a place where we are doing a lot better. The economy is growing.

But we are not at a place where I would say kind of grinding the economy down by trying to reach a balance prematurely would be a good thing to do. I think that the conversation we have had about infrastructure in some of the back-and-forth this morning illustrates that there are pressing needs in this country to get our economy and the people of this country where they need to be.

So I would hope that we could have the kind of bipartisan discussion about tax and spending policies that over the next 20, 30 years gets us where we need to be. But over 10 years, we have gone from skyrocketing deficits and debt that was crossing through 100 percent of GDP to a stable situation where we have reduced the deficit from 10 to 2.5 percent of GDP and we have stabilized the debt.

For somebody whose last testimony in the Clinton Administration was projecting paying off the national debt, I wish that a lot of the things that happened afterwards that squandered the deficit hadn't happened. But we don't get to go back and change that.

And it would be a terrible thing for this country if we accepted the myth that somehow these last few years have been anything but an improvement—a dramatic improvement—in our fiscal position.

Mr. CAPUANO. —the last 45 seconds—

Secretary LEW. I could fill 40 seconds, but I think I will stop.

Mr. CAPUANO. Mr. Chairman, I am not yielding back just yet. I am contemplating what I am going to do with my last 26 seconds.

And now we are done. Thank you—

Chairman HENSARLING. The time of the gentlemen has expired.

The Chair now recognizes the gentlemen from Arizona, Mr. Schweikert.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

And to my friend from Massachusetts, I was waiting for the offer of manis and pedis, with the excess time, but you know, hey.

Secretary Lew, I would like to actually go in a slightly different direction. I know rhetorically, our side focuses on what I believe is the crushing debt that is coming, and the other side on, "Hey, look at how much better our world is." But could we spend a couple of minutes just sort of looking at the headwinds that come to the next Administration? Some of it is demographic.

I am holding a report right now, "The Coming Pension Crisis," talking about government pensions, both State and municipal here in the United States and around the world. It is saying municipal pensions, the unfunded liabilities is now over 100 percent of GDP.

I am looking at an environment right now where GDP now, from the Atlanta Fed a couple of days ago, we are back under 2 percent GDP; 14 years left in the Social Security Trust Fund; 9 years left in the Medicare Trust Fund; 56 months left in Social Security disability.

There are some really ugly things happening. And you and I know much of that we desperately need economic growth to cover these sins.

How much in your team do you actually focus on, here is the debt management, here is the reality of what is happening, both because of lack of economic growth, demographics, and other things? How much actuarial math is happening at the Treasury Department saying, "This is our future?"

Even our previous conversations about, should we be selling long-term bonds, truly long-term bonds to get beyond the demographic bubble. What are you modeling?

Secretary LEW. What am I what?

Mr. SCHWEIKERT. Modeling in your team. How much are you looking at this incredible wave of debt that is going to crush us?

Secretary LEW. Congressman, we have known for the last 50 years that the Baby Boomers would retire roughly now and—

Mr. SCHWEIKERT. Well, Congress seemed to just discover it a couple of years ago.

Secretary LEW. Congress actually dealt with it in 1983 in Social Security reforms that have been very effective because they reflected the way you work on a bipartisan basis to deal with what goes into the trust fund, and what comes out of the trust fund. So—

Mr. SCHWEIKERT. But right now Social Security is at a 2.7 percent GDP that we are not even hitting, and the Social Security Trust Fund is gone in 14 years.

Secretary LEW. So, the thing that I think it is important to remember is that the ongoing revenues in Social Security still continue to fund the bulk of the benefits—over 65 percent of the benefits.

Mr. SCHWEIKERT. Nope. Actually, I think under the CBO study were 2018 Social Security goes negative, that the tax revenue and

I think interest revenue will no longer—and we pay ourselves, what—

Secretary LEW. The point I am making isn't that at some point the revenue goes negative, but that the revenue keeps coming in and will continue to pay for the bulk of Social Security's ongoing expenses. And the gap is what is the issue for the long-term financing.

Mr. SCHWEIKERT. But that gap—think about that gap. Today, the trust fund has what, $2.8 trillion? And we have burned through that principal in 14 years.

At the same time we are paying ourselves 3.1 percent interest and the tax revenue. And Social Security is actually the easy one to fix compared to Medicare.

Secretary LEW. Yes.

Mr. SCHWEIKERT. But also, when I look at the public and private pension issues out there, I am just wondering, the scale of these things, is it just pushed off to the next presidency?

Secretary LEW. Having spent 1983 working to fix Social Security, I had hoped that 5, 6 years ago we would have been able to have the kind of conversation about that kind of a bipartisan approach. It didn't happen.

I think that we are in better shape because our fiscal position is improved. There is still more work to do.

Mr. SCHWEIKERT. No, I need to correct that. And I know that is our script here, but that is not true.

Our modeling just a couple of years ago, we weren't expecting this level of anemic GDP growth. Remember the model just a couple of years ago? We were going to be at 4, 4.3 percent. Now today I am being told that this quarter we are at 1.9 percent.

Let's collectively have an honest discussion here. This is really bad.

Secretary LEW. There is no question stronger GDP growth, stronger economic growth will help us deal with an awful lot of challenges, including funding Social Security and private pensions. I think that if you look where we were 7 years ago, and where we are now, we are in a stronger position to ask that question.

Mr. SCHWEIKERT. We may be stronger than 7 years ago, but this is still crashing down upon us—

Secretary LEW. That is where I guess I disagree a little bit. I don't think it is crashing down upon us. I think we have time to deal it.

Mr. SCHWEIKERT. Okay, so if I tell you 14 years on Social Security, 9 years on Medicare, 56 months on Social Security disability, and we should just pretend things are fine?

Secretary LEW. No. I think that these issues need to be addressed. I am not disagreeing. But I don't think it is a crisis for today. What would have—

Mr. SCHWEIKERT. I need to yield back. I will beg of you, send me the information from your team on what you are actually doing to deal with this.

Thank you, Mr. Chairman.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Massachusetts, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman.

And thank you to the ranking member, as well.

Welcome, Mr. Secretary. It's good to see you again.

Mr. Secretary, the chairman and the ranking member some time ago created a Task Force on Terrorism Financing here in this committee, and together with myself and Mr. Fitzpatrick and Mr. Pittenger, we have been working basically in the Middle East, North Africa, and my colleagues are leaving for Central America in the not-too-distant future.

And the examples where we have had the greatest success in North Africa and the Middle East have been the result of coordination with your office, with FinCEN, the Financial Crimes Enforcement Network, and then also in several countries we have worked with Treasury attaches who are part of the U.S. embassies in those countries.

And it goes from Afghanistan, to Jordan, to Egypt, Tunisia, Morocco. All of those countries, the level of cooperation we have from them, which has been considerable, has been the result of your work and the work of people like Joe Parker. I think he may be retired now, but he was very, very instrumental in setting up some of these financial intelligence units within these countries to push back on money laundering and also terrorist financing.

The problem that we see is that it is spotty. Even in Joe Parker's example, he handled—he had a big portfolio. He had a big region where he would hop from country to country to help us convince the host country to adopt anti-money laundering statutes, just basic stuff: know your customer, helping the local banks prevent terrorist groups from using the legitimate financial system to spread terror.

And it is ironic today, we have ISIL taking credit for the attacks in Brussels, and obviously all our prayers and thoughts are with the people of Brussels this afternoon.

But is there a way to amplify what Treasury is doing, and is there a way to—I am not saying you need to have 192 Treasury attaches in every country around the globe, but certainly there are problem areas where we could use some more help. And Treasury's people, the Office of Foreign Asset Control (OFAC), your technical people, the Office of Technical Assistance (OTA), and FinCEN—they have been great on this stuff.

And they can educate not only the foreign central banks but also they do a great job in informing our embassies at large, in terms of what role they could be playing to shut off the financial system to these terrorist groups.

Secretary LEW. Congressman, I couldn't be more proud of the work that our offices, from OFAC to the Treasury attaches to our Office of Technical Assistance, do. They really are the leaders in the world on this, and what they need more than anything else is well-equipped partners around the world.

Mr. LYNCH. Yes.

Secretary LEW. I think that the financial attaches are our eyes and ears around the world. And we could use more of them, but what we really need to do is get people in country to provide the technical assistance. And that is more of an OTA function than it is a Treasury attache function.

The leading providers of technical assistance around the world for—to build these capabilities are ourselves, through OTA, the IMF, and FATF. We worked closely with all three—well, obviously, we are one of the three. We work closely with the other two.

We met in December in the U.N. and had FATF at the meeting. I chaired a meeting at the Security Council, the first time finance ministers in the history of the U.N. met in the Security Council, and we had a unanimous resolution to designate ISIL for the same treatment that Al Qaeda is given, which means that even intermediaries are subject to sanction.

And part of that message was for FATF standards to be put in place and for the world to come together to provide technical support to build in the kinds of capabilities that you describe.

We have a lot of work to do. Even our most advanced partners are not where we are. Their intelligence apparatus is not as well-developed. Frankly, they don't have a comfort level with some of the surveillance that is making it impossible for them to see some of the things that are going on.

We have information that we provide to countries like France and Belgium to help them monitor and track and, after a terrible, horrific accident like today, respond. Our people are already engaged in that and we will work around the world to build these capabilities.

Mr. LYNCH. If OTA would need more resources, we would expect to—

Secretary LEW. We proposed a doubling of OTA over the next—

Mr. LYNCH. Okay.

Secretary LEW. —several years. I think it is critically important.

Mr. LYNCH. Okay. Great. Thank—

Secretary LEW. We get more bang for the buck out of OTA than anything else.

Mr. LYNCH. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from California, Mr. Royce, chairman of the House Foreign Affairs Committee.

Mr. ROYCE. Thank you very much, Mr. Chairman.

Secretary Lew, I just wanted to talk trade.

When there is a level global playing field, American workers and the American economy win. On TPP, I know you share the concern, as you have said, that data localization provisions are a trade barrier, pure and simple, as you explained.

And as you know, TPP allows companies to transfer data across borders and to be protected from server localization directives. However, electronic payments and the financial services sector are excluded from the data localization part of the agreement.

And you have talked about the possibility of having some kind of side agreement to thread the needle, as you explained on this issue. Where are we in discussions now with our TPP partners? Do you think a side deal is possible this year on this?

Secretary LEW. Congressman, what I have said is that data localization in general is a barrier of free trade and we have opposed it vigorously in things like electronic payment systems, where it is no more than an excuse to put a server farm in your country and create jobs or to make it more expensive for international competition.

In the area of financial services, there are two competing important goods. One is to prevent the kind of nontariff barrier from being put in effect. The other is to make sure prudential regulators have access to what they need when they need it.

And the reason this is so hard is that there are legitimate concerns prudential regulators have. What I have been doing is working with our prudential regulators to try and have them work through an understanding where—how going forward we might be able to address this.

Mr. ROYCE. I appreciate the stated priority—

Secretary LEW. But in terms of TPP, I have tried to be very careful that there is very limited room to change TPP. So I don't want to raise that—

Mr. ROYCE. But in terms of a side agreement, which you did raise that issue—

Secretary LEW. Yes.

Mr. ROYCE. —we need to see demonstrable progress on this issue. I stand ready to help on this, and I know many of my colleagues do as well. So I think it is a prerequisite to get this issue solved in a creditable way.

And let me go to my last question here.

In July, you testified to the Senate that Iranian banks will not be able to clear U.S. dollars through New York, or hold correspondent account relationships with U.S. financial institutions, or enter into financing agreements with U.S. banks. Iran, in other words, will continue to be denied access to the world's largest financial and commercial market.

And I have received reports from the Administration that it is now considering providing Iran with access to the U.S. financial systems. So are these reports which contradict your previous testimony correct, and is the Administration planning to ease restrictions on Iran's access to U.S. banks?

Specifically, are you considering permitting Iranian banks to clear transactions in dollars with U.S. banks or foreign financial institutions, including offshore clearinghouses? The reason I raise it is because Iran remains the foremost state sponsor of terrorism in U.S. judgment, a country of particular concern for its abuses of religious freedom, of—as a primary money laundering concern, as we say about Iran.

This is clearly an explicate recognition that any financial transaction with Iran in U.S. dollars risks supporting the regime's illicit activities. And the international community agrees. Iran remains on the black list of the Financial Action Task Force on money laundering. So that is why I raise this issue.

Secretary LEW. Congressman, we have reached an agreement with Iran that has caused Iran to roll back its nuclear program, which has done an enormous amount to increase the security of the United States. Part of the agreement was for Iran to have nuclear sanctions lifted.

We made clear that we would lift the nuclear sanctions but keep in place sanctions on terrorism, sanctions on human rights violations, sanctions on regional destabilization. We will continue to do that.

Mr. ROYCE. Yes, because our argument was that they need to stop building ballistic missiles. But they just tested four of them.

Secretary LEW. We have continued to make clear—

Mr. ROYCE. Yes.

Secretary LEW. —that we do not consider missiles testing permitted.

Mr. ROYCE. So we are not going to give them access to—

Secretary LEW. So the—

Mr. ROYCE. —the U.S. dollar or U.S. financial systems?

Secretary LEW. We are continuing to look at how we comply with the Joint Comprehensive Plan of Action to make sure that Iran gets relief under the nuclear portions while we keep pressure on Iran on these other issues.

Mr. ROYCE. Yes, but remember the basic commitment that was given to us in Congress: The Iranian banks will not be able to clear U.S. dollars through New York.

That is the commitment, and they are still in violation of ballistic missiles, on support for terrorism, and abusing its people. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlemen from California, Mr. Sherman.

Mr. SHERMAN. Thank you, Mr. Secretary.

Often when you come here, I ask about contentious issues, ask you to break up the big banks. And I have said something about TPP that wasn't entirely favorable.

This hearing has been contentious and so I am going to devote my 5 minutes to things that—it won't be quite Mr. Capuano, where we just give you 30 seconds of silence to rest, but these will be the least contentious issues you deal with today because they basically involve working with me on a few issues that will never be on the front page of a newspaper.

We have tax treaties with hundreds of countries around the world, or at least—hundreds is not the right—scores of countries around the world. We devote a substantial amount of money to trying to achieve our international development goals. And so we can always provide foreign aid to Armenia, and that costs us money. But we could also achieve those goals by having a tax treaty.

Now, we are currently negotiating a treaty dealing with tax enforcement, but the gold standard of tax treaties is your basic tax treaty on double taxation. The Armenian embassy tells me that they are willing to start with our basic framework and negotiate a tax treaty. They have negotiated a tax treaty with Canada, so Ottawa was able to do it.

Do you see your Department working toward a tax treaty with Armenia?

Secretary LEW. Congressman, the primary purpose for a bilateral tax treaty is to avoid double taxation. We are not aware of a double taxation problem in Armenia.

Mr. SHERMAN. I would retreat just to—we have a chicken and egg circumstance. You don't get the business investment because you don't have the tax treaty. Then you don't need the tax treaty because you don't have the business investment.

Given that this Congress has provided well over a billion dollars of aid to Armenia, it would seem that having one member of your staff work on this for a while to achieve the same objectives—

Secretary LEW. I appreciate that. And obviously, to negotiate a tax treaty is quite labor intensive; to look at the things is less so. We have been looking at comments that come in. I would be happy to follow up.

Mr. SHERMAN. Okay.

The next issue relates to the Porter Ranch gas leak, the biggest gas leak in history: 5,000 of my constituents have left their homes.

And this is not something I told your staff I would be asking you about, but Section 139—what we have is people living in hotels at the expense of the gas company and now they are told, "You may be taxed on the money being paid for that hotel. But you can't live in your home because of the gas leak."

Now, the good news is Congress passed Section 139(c)(3), which says that you can avoid this travesty because gross income doesn't include payments for living off-site if it results from any other event which is determined by the Secretary to be catastrophic in nature. And I wonder if you can work with me toward making a fair determination that the largest gas leak in history, which displaced 5,000 families for months, meets this standard.

Secretary LEW. Congressman, thank you for bringing this to our attention. I wasn't aware of it until then.

Our staff has been talking to your staff and has reached out to the relevant parties. They haven't completed the analysis yet, but we understand the timeliness of this given that it is tax season, so we will continue to work on it.

Mr. SHERMAN. I look forward to working with you, but I would hope that you would direct your staff to lean in the direction of fairness. I am a former tax lawyer myself. I know that a very strong argument can be made on this.

And we have a similar issue, and that—not one that is quite as pressing, but we have a drought in southern California. This is the most environmental Administration in history. And people are being told that if they accept a payment—not even a payment—if the local water utility pays for the cost or part of the cost of ripping out their lawn and replacing it with cactus or replacing it with rocks or something else that uses less water, that they could be having to pay an income tax on what they are doing to help the community.

And I hope that you could direct your staff, again, not to change the law, but to lean in an environmental direction.

Secretary LEW. That I was not aware of, but we will follow up on it.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from New Hampshire, Mr. Guinta.

Mr. GUINTA. Thank you, Mr. Chairman.

And thank you, Secretary Lew, for being here.

Very quickly, I want to follow up on what the gentleman from California was talking about relative to TPP. You said last week in a subcommittee—F.S. Appropriations Subcommittee—quote—“Because we have a principal position that data localization in general is bad, we are working to see if there is a way to thread the needle.”

I understand I can’t necessarily reopen—

Secretary LEW. The other half of that was there are real prudential concerns and we have to balance those.

Mr. GUINTA. So, can you very quickly tell me what a side agreement may look like and would this be—

Secretary LEW. I can’t tell you right now. If I knew where this was headed, I would be happy to say so.

I think that the challenge we have is that the prudential regulators, our prudential regulators, feel that they need to be certain that they can get access to what they need when they need it. And unfortunately, during the financial crisis there was an incident where with a major institution they were denied access in a timely way and it interfered with both crisis management and resolution.

So the question is, how to make sure they get what they need while—

Mr. GUINTA. I understand that. I appreciate that. Relative to TTIP, obviously, U.S. financial institutions as well as European allies have asked for this particular area. I understand you are including or are working on TTIP, is that correct?

Secretary LEW. We continue to work on TTIP and we think it is important that financial markets be opened up in the course of the TTIP negotiation.

Mr. GUINTA. Okay. Moving on to a different subject, in your role as Chair of FSOC, I am sure that you know market participants spent a lot of significant time in proprietary investment strategies and that differences exist from the 2012 report of the Council of Inspectors General on Financial Oversight.

Can you tell me how FSOC is addressing the differences that exist on a FSOC-wide basis to ensure Federal agency members are properly safeguarding information?

Secretary LEW. I think each of the regulators has an obligation to protect the information that is within their area. One of the challenges that we have is that to do the systemic review that FSOC is charged with requires sharing information in an appropriate way.

What we do is we limit the—and anonymize data and we make it so that each of the parties can be certain that they are complying with the responsibility that they have to protect—

Mr. GUINTA. To that end, would you provide our committee with a brief policy and procedures, outline that, what FSOC regulators are doing?

Secretary LEW. I am happy to follow up afterwards and find out exactly what you are looking for and see if we can be responsive.

Mr. GUINTA. But can you commit to something in writing to show us what the policies and procedures are for regulators?

Secretary LEW. I am not sure that I am the right one to address each of the regulators. The FSOC—

Mr. GUINTA. As Chair of FSOC—

Secretary LEW. Well, let me follow up with you.

Mr. GUINTA. Okay.

Secretary LEW. And obviously, each regulator speaks to its own statutory requirement.

Mr. GUINTA. Sure. I appreciate your willingness to follow up.

That brings up—if we could put up a slide—another concern that I want to echo that some of my colleagues have brought up already, and that is document production.

I have a slide here that shows the Financial Services Committee requested information from Treasury on CFPB's plan to renovate their leased office building. Obviously, 4 different letters, 288 days have passed since we have heard from this matter, going back to June 9th of 2015.

Second example, Thursday, September 17th, 2015, about 6 months ago almost to the day, Under Secretary Nathan Sheets came to testify during the Monetary Policy and Trade Subcommittee hearing. I personally submitted questions for the record.

That was 6 months ago. I still have not received a response.

I have those items here. Can I ask when I can expect to get a response and why the delay?

Secretary LEW. Congressman, I am happy to take that back. There was a June 9th letter, I understand, requesting information. An August 25th response where Treasury informed the committee that a report by the Inspector General for the Federal Reserve Board found the work authorization related to the renovation was finalized after a CFPB Director was appointed, at which point—

Mr. GUINTA. I'm not sure that they actually addressed the specific issues in the four letters. That being said, the September 17th request that I have issued 6 months ago still has not—can you follow up on that—

Secretary LEW. I am happy to follow up on that.

Mr. GUINTA. And finally, in my last few seconds I want to move to economy. You are aware that the President's budget includes a deficit of almost $800 billion at the 10-year end of the budget window?

Secretary LEW. I am familiar with the President's budget, yes.

Mr. GUINTA. Okay. And are you aware that the gross Federal debt under the President's budget increases almost $8 trillion, from $19.4 trillion to $27.4 trillion in 2026?

Secretary LEW. Yes. But I am also aware that GDP grows, and as a percentage of GDP, we have stabilized the deficit and the—

Mr. GUINTA. All right. Well, let's get the GDP. My understanding is the President's budget projects annual real GDP growth never exceeds 2.6 percent. Is that correct?

Secretary LEW. I don't remember the exact decimal number, but it is the right range.

Mr. GUINTA. Thank you.

I have run out of time, so I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Illinois, Mr. Foster.

Mr. FOSTER. Thank you, Mr. Chairman, and Mr. Secretary.

I would like to return, if I may, to the actual subject of this hearing. The capital outflows in China are now in excess of a trillion dollars a year. The Institute of International Finance estimated outflows in January alone of about $113 billion.

Now, when you have a trillion dollars in capital flight in a $10 trillion economy, it seems to me that this effect alone is more than enough explanation for the slowdown in economic growth in China. Would you agree that it is a major contributor?

Secretary LEW. I am not sure how much to attribute the capital flight to the slower growth or the slower growth to the capital flight. I think that there has been capital moving out of China.

Some of it has been to repay foreign debt; some of it is money leaving the country. It is a little bit hard to know exactly where the line is and there are stronger views than there are data on the subject in a lot of the analysis that I have read.

Look, I think China has a serious economic challenge ahead of it. It has to go through this enormous transition from an industrial economy, an export-driven economy, to a consumer-driven, more market-oriented economy.

The faster they establish confidence that that transition is underway and that they will stick to it, I think the faster they will see progress on stemming some of the capital flight.

Mr. FOSTER. Okay. The other structural problem I think they have to have is that basically the pileup of wealth at the very top, which is a universal problem, actually, in developed economies. And in large part, I believe this $1 trillion of capital flight consists of wealthy Chinese pulling their money out of China, often to spend that money in economically unproductive assets like empty apartments in Manhattan or Vancouver or you name it.

And so it seems like when the wealthy in China break their social compact to reinvest productively in their own country and instead invest in less productive assets offshore that it lowers not only Chinese economic growth but economic growth throughout the world when productive assets, making new factories, et cetera, are replaced by investments of the rich.

And that is more—and actually, if we look in the mirror, this is sort of a universal behavior of the wealthy elites throughout the world, that they tend to invest conservatively and that means low return on investment. And I was wondering if you—don't you agree that this behavior—the universal behavior of wealthy people to: (A) move their money offshore; and (B) invest in less productive assets, is a major contributor to the economic slowdown in the world?

Secretary LEW. Congressman, there is no question but that both wealthy individuals and firms have a lot of cash and there could be a lot more investment. And I think the question is why is there not more investment being done?

I think a lot of it gets to a sense of concern that global growth is weak and demand is weak and that—

Mr. FOSTER. But the demand is weak because of the—

Secretary LEW. It is circular—

Mr. FOSTER. —pileup of the wealth distribution.

Secretary LEW. Yes. And we—

Mr. FOSTER. There is no shortage of consumers who would buy stuff in China if they had the money to do so.

Secretary LEW. Yes. Look, I think in China there is no question but that the right policy is to give the consumer in China more resources. One of the things the consumer in China is going to need is confidence that there is a safety net. They don't have the kind of social safety net we have.

Savings in China are extraordinarily high because, through a combination of the one-child rule and no safety net, people feel the only way they can take care of their future is by savings. Now unfortunately, the people who do more risky investment are some of those small savers. So when China has a volatile stock market, oftentimes it is small investors who are highly leveraged, which is a very dangerous thing.

They have a lot of things that they need to fix.

I think that the question of the kind of course direction of the economy comes first. They have to make the transition to a more consumer-driven, more market-oriented economy.

That means the consumer is going to be central. They need to build a better safety net so the consumer feels free to spend.

And they do have wealth and income distribution issues and corruption issues that they need to attend to. I would say that we have some income distribution issues that we need to attend to as well.

Mr. FOSTER. That is right. And when you say strengthen the safety net, you are talking about effectively taxing the wealthy elites in China to provide—

Secretary LEW. Whether it is taxing the elites or it is—

Mr. FOSTER. Effectively—

Secretary LEW. —corporations, entities pay dividends to support them. There is a variety of ways. China's tax system is a complicated one. I am not as expert in the details—

Mr. FOSTER. Not like ours.

Secretary LEW. —of it as ours.

Mr. FOSTER. Right. Okay. I guess that was the main thrust of my question. I think this is a major effect that is underappreciated is that the crosstalk between wealth distribution and offshore capital blows I think has become a major—a macroeconomic factor that has to be factored in.

Thank you. My time is up.

Secretary LEW. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from New Mexico, Mr. Pearce.

Mr. PEARCE. How you doing, Mr. Secretary? Hi. Good to see you—

Secretary LEW. We are going all back and forth.

Mr. PEARCE. Yes, okay.

So the President is in Cuba this week, the first President in 90 years to visit. Have you been involved in the discussions about normalizing relations and trade with Cuba?

Secretary LEW. Yes.

Mr. PEARCE. So the President stated in December that he would like to go to Cuba when there is progress in the liberty and freedom and the possibility of ordinary Cubans. What progress did we make since December that now has changed the President so he should go?

Secretary LEW. Congressman, the purpose of the President's—

Mr. PEARCE. No, I didn't ask the purpose. He made the comment, sir, and you are in the discussions, and I just would like to know what progress Cuba has made since December in freedom, liberty, and the possibilities for ordinary Cubans?

Secretary LEW. The purpose of the changes that we have made is to open—

Mr. PEARCE. Okay. That is not my question. I apologize. I don't mean—

Secretary LEW. Well, I do—

Mr. PEARCE. I have 5 minutes. I—

Secretary LEW. I do have an answer to your question if I can get beyond the first few words. I am happy to answer at your pleasure.

Mr. PEARCE. I am waiting. I am like Mr. Capuano. I am waiting, breathlessly quiet.

Secretary LEW. One of the things that we are going to be doing is opening communication lines—telecommunications, bringing computers in—people-to-people contact. That is going to contribute to an environment that is very different than what we have seen over the last 50 years that hasn't worked.

I am not suggesting that Cuba is changing instantaneously. I don't think the President is suggesting—

Mr. PEARCE. The President suggested that they needed to change and they didn't change, sir. I don't think so.

If we pursue this normalization, do you think that the treaty obligations between the two should take place, like the extradition of fugitives, 70 fugitives up and down there?

One guy named Charlie Hill killed a New Mexico cop back in 1971. He's been living a life of freedom down there. So would you hope that we get to see Mr. Hill back in New Mexico and just see if he is guilty or not?

Secretary LEW. Congressman, I am going to have to defer to my colleagues who have expertise on things like extradition—

Mr. PEARCE. You don't have a personal opinion about complex things like extradition and—

Secretary LEW. I just don't have enough facts. I—

Mr. PEARCE. —enforcement of rule of law? You don't have opinions about—

Secretary LEW. No, I do have opinions on the rule of law on democracy, and that is one of the—we have been seeing that for the last 50 years the policy of embargo and cutting Cuba off has done nothing to improve it. And I am certainly hopeful that the policy change we have put in place will lead to the kinds of changes that I think we all want to see in Cuba.

Mr. PEARCE. Yes. Judging from President Castro's comments today, it doesn't look like it is moving that way very fast. He says, "You can't ask me this many questions." It is kind of a laugh, really.

So do you know Mr. David Cohen?

Secretary LEW. Yes, I do.

Mr. PEARCE. He was here in November of 2014. We had a fairly energetic discussion about the funding of ISIS. And you alluded to that earlier in the conversation today.

You said it is hard to get in there to blow up the—you were referring to blowing up the oil. What does that mean, it is hard to get in there?

Secretary LEW. We have gotten pretty good at it, actually. We have targeted points of real vulnerability, particularly the tanker trucks that move oil in the country into the—

Mr. PEARCE. What I just read is that—so when he was here he said they are getting a million dollars a day.

Secretary LEW. Yes. I think that—

Mr. PEARCE. And so now they—that is $365 million a year. Now then, in December of 2015 it is 500, and that report talks about trucks getting in the line to get oil filled up and they wait months. Months in the line to get one truck of oil, and our airplanes are flying overhead, meanwhile they are sitting down here in a line that is five kilometers long.

And so what exactly does it mean that we are being successful at interrupting? Because it doesn't—if their revenue is going up—now, keep in mind the price of oil in 2014 was at 70 at the time he testified. So 70 down to 30, and they are doubling their revenues. It doesn't sound like that we are being very effective, honestly, sir, with all due respect.

Secretary LEW. Congressman, as I said earlier, it is very difficult work and we have to keep at it. They are going to keep changing with they do and we have to keep up with their changes. By blowing up—

Mr. PEARCE. I have 25 seconds, sir, and if I could comment—very difficult work. It is not difficult to wait. You have—

Secretary LEW. This is an important issue. I would think you would want to know the answer—

Mr. PEARCE. You have UAVs sitting up there, they are watching every tank, and when a tanker truck gets full you simply pop it with some incendiary—

Secretary LEW. No, that is not what we do, Congressman. We actually have been very successful identifying where they keep their tanker trucks, getting at them when they are not full of oil, when they are not with people—

Mr. PEARCE. If they are waiting in lines five kilometers long, it is not hard to know where they are keeping them—

Secretary LEW. The reality is this is going to be an ongoing challenge. It is not something that will be solved once and for all. But the fact that they have had to cut salaries to fighters because they are starved of cash means that we are making progress. We have to keep at it.

Mr. PEARCE. They made $2 billion last year, sir. They are not starved for cash. According to the CNN—

Chairman HENSARLING. The time of the gentleman has expired.

Secretary LEW. In a classified setting, I would be happy to go through some of—

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from Ohio, Mrs. Beatty.

Mrs. BEATTY. Thank you, Mr. Chairman.

Thank you, Ranking Member Waters.

And thank you, Mr. Secretary.

Let me go back to the subject of international monetary financial policies and start by thanking you and those in your OTA office for working with my staff and office on Somalian remittance. We have the second-largest Somalian population in the country and, as you know, with the weak central banking, they have had great difficulties.

So you have been responsive; you have sent a team of folks over to work on something difficult.

Let me spin off on this, because sitting here through this entire hearing has been disappointing to me. And I want to apologize just in part to you, but more to the people who are watching, because they lump us all together and talk about "The Congress" and what we are doing.

I read an article in the American Banker, and I was hoping that we would have learned from this, because last week we had another one of your colleagues here, Directory Cordray with the CFPB. And this article talks about how ineffective it is when you are rude and disrespectful and you don't allow people to answer the questions—people who are well-versed and seasoned.

Mr. Chairman, I would like to enter this into the record, if possible.

Chairman HENSARLING. All such exhibits are allowed under general leave and without objection.

Mrs. BEATTY. Thank you.

I also want to thank you for your answers to the questions about the subpoenas. Now, while I am not a lawyer, practical law talks about, in article after article, when an individual or people like your staff receives subpoenas that it is very customary for them to contact the parties who have subpoenaed them and try to respectfully and informally work out the differences. So I also applaud you for that.

I think it is also important for the American audience who watch us to know who we are talking to beyond our titles. And so when I think about your rich history, I think about you not only being the 76th Secretary of the Treasury; a White House Chief of Staff; you mentioned in reference being an OMB Director and tons of other jobs; you have worked for a Congressperson; you have worked for a Speaker of the House, Tip O'Neill; and most impressive, you married your childhood sweetheart and you are still married, the all-American dream with two children.

But let's talk about you in your role as Harvard graduate, and Georgetown Law School graduate. Your close friends say you are exceedingly meticulous. Some would say that you are a brilliant scholar.

I think it is important when we hear the question after question, that clearly you understand the question, and from where I sit you have clearly not only answered the question but gone far beyond the call of duty, as one in your position who is responsive for the international monetary financial policies of the trillions and trillions of dollars. You have shared with us the great growth in the economy; you have shared with us how we have reduced unemployment.

And so I say to you, as this Congresswoman, proud to sit here, that I say to you the two most important words that I was taught and the two most powerful words that one can say, and that is "thank you." My mother taught me that a long time ago. Because she said sometimes it is better to listen than to talk louder than the person.

Because you were asked the question, "What would happen if a person in a regular job were sitting there and answered?"

Let's change that around, Mr. Secretary, and ask, "What if a regular person talked to us in that loud voice, pointing their finger and pencil and not letting you answer the question?"

You don't have to answer that, Mr. Secretary. We know what that answer would be.

And lastly, my father, who knew me best, said, "Remember to always say I'm sorry."

I'm sorry for what you have had to go through.

I yield back

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from North Carolina, Mr. Pittenger.

Mr. PITTENGER. Thank you, Mr. Chairman.

Mr. Lew, good afternoon to you.

Mr. Lew, on your last visit when you were here and I had occasion to talk with you we discussed at some length information-sharing between Homeland Security's Trade-based—Trade Transparency Units, and also FinCEN's role and their sharing together and how important that was. And to the extent that they are sharing, in terms of related to trade-based money laundering, that we would be successful.

When I asked this question to you about sharing between Homeland Security and FinCEN, your response to me at the time was, "I started out with a strong bias that we ought to work as one government and that we need to cooperate and collaborate. I started out sympathetic to this initiative."

So that was your statement then, and then in response to my questions to you, we got a response back from your staff for the record that stated the following: "Treasury and DHS are in regular contact regarding ways our two agencies can better inform our respective efforts to combat terrorist financing. We are confident that we can achieve this important goal through our ongoing strategic relationship while at the same time maintaining our respective database autonomy."

Mr. Lew, there seems to be a conflict in terms of perspective and philosophy of how they would work together in information-sharing that is really so vital. If Homeland Security has certain data that we are not accessing at FinCEN, that certainly restricts your ability to be able to intercept the information we need.

Could you kindly respond to this different viewpoint between your staff and yourself?

Secretary LEW. I am not sure it is a different viewpoint. Our activities in tracking down terrorist financing depend on the constant flow of information from intelligence agencies and other partner agencies like DHS. And likewise, we provide enormous amounts of information on an appropriate basis back to them. The question of whether or not—

Mr. PITTENGER. Let me ask you, are you willing to enter into an agreement with DHS in terms of information-sharing?

Secretary LEW. I am not aware of a problem right now in terms of information-sharing. What I do know is that full access to all the database would put a lot of information that is not necessary into a place that it probably shouldn't be. And I think the question is, how do we make sure the right information is fully shared, and we each protect systems where personal privacy is at issue for the other information as well.

I am happy to follow up. After you and I talked at the meeting, we talked in North Carolina, as well, about it. I have followed up with my staff and have urged them to keep working on this.

It has not been brought to my attention that there is a problem in terms of the flow of information, but if there is something specific that you are concerned about, I agree—

Mr. PITTENGER. I think the word that stuck to me was that there should be a sense of autonomy coming from your staff. That is directly opposite, in terms of what I heard, and I just want to make sure that there is an ongoing effort to share this data.

You have incredible access to data, and I am familiar with the work that you have and what you contribute. And, frankly, I think that we have a greater need for access with the private sector in their efforts to try to work along our side. But this access to data is a very critical component among agencies, among the private sector, and, frankly, with our allies around the world.

Secretary LEW. Yes. I really do believe that the practices we have at Treasury lead the world in how to get the right information into the right hands, and we provide an enormous number of leads to the appropriate agencies.

Mr. PITTENGER. Yes, sir.

Secretary LEW. You are asking about a querying of data basis on a kind of real-time basis. I—

Mr. PITTENGER. Exactly. I need some follow up on that, if you could.

Two other questions, quickly. FATF has an important role in terms of bringing its members countries, 34 countries, into those four regulatory compliances, but they are not an enforcer. What is your response of what we do with countries like Turkey, Kuwait, and Qatar, who clearly have been complicit in terms of transferring, financing, and being accessible on that?

Secretary LEW. Look, we raised these issues very strongly in bilateral—

Mr. PITTENGER. What tools do we really have? I have raised the issues too. I have been to those countries. They dodge every way they can. But what do we—

Secretary LEW. I think we are making progress, though I think it is—

Mr. PITTENGER. It is a nice word. And I am not trying to really cut you off, but I don't have much time.

The reality is they are very aggressive in their efforts, they have been, and we really haven't done much—seen much cooperation from them in terms of not being complicit with the financing component.

And my last question deals with Iran and the banks that come under SWIFT authority. Do you believe that these banks are going to be able to access—I didn't get a clear answer from you—that they can have access and work with American financial institutions?

Chairman HENSARLING. Brief answer, please.

Secretary LEW. I think that what I said in the earlier response is that we will comply with the Joint Comprehensive Plan of Action and lift the nuclear sanctions; we will keep other sanctions in place. Part of the agreement was to give Iran access to money that it has a right to. We will work on making that happen.

It is not going to be our goal to block transactions that are legitimate under the Joint Comprehensive Plan of Action, but we will enforce on other areas like terrorism and the like.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Washington, Mr. Heck.

Mr. HECK. Thank you, Mr. Chairman. I ask unanimous consent to enter into the record correspondence dated March 18th to the gentleman from Wisconsin from the Assistant Secretary for Legislative Affairs at the Department of the Treasury.

Chairman HENSARLING. Again, these are allowed under general leave, but without objection, it is so ordered.

Mr. HECK. Thank you for being here, Mr. Secretary. Earlier you had indicated verbally, and I just want to confirm that, in fact, on the dates December 17th, January 21st, and March 18th, you had extended an offer to sit down and work through the issue of the supply of certain materials and response to request, that being in addition to, by my best count, more than 5,000 pages of documents you had already submitted. Is that correct, sir?

Secretary LEW. That is correct.

Mr. HECK. I would like to associate myself with the remarks of the gentlelady from Ohio. I was first elected to the State House of Representatives 40 years ago this year, and my muscle memory as a fairly young man was formed by strict rules prohibiting the impugning of another person's motives. And I have been somewhat surprised in my now 39 months here that that is allowed on too often an occasion.

But I took the time to actually look up the House rules. And the House rules do indicate that committee meetings shall be in strict conformity with an observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed.

So the specific words that I want to associate myself with, with respect to the gentlelady from Ohio are "I'm sorry." You didn't deserve that, and I, frankly, found it to be an egregious breach of our own rules.

Now on to the substance, last fall I think it was Under Secretary Sheets who was here, and I queried him as to whether or not we had actually reached out to the newly formed Asian Infrastructure Investment Bank to see about ways in which we might collaborate, cooperate with that new deep pool of funds available. He seemed to indicate that it was really important that they engage in best practices but response didn't go much farther than that.

There have been a couple of intervening events that it seemed to me might affect the degree of which we are reaching out: President Xi's visit, the IMF quota reform. So my question, sir, is have we reached out to them? Is this an area where we might collaborate or cooperate more to invest in infrastructure?

Secretary LEW. Congressman, I appreciate your comments.

And with regards to the Asian Infrastructure Bank, we have made clear from the start that we think it is a good thing for there to be more investment in infrastructure. And we didn't have an objection in principle to a new institution but that it was critical that a new institution adhere to high standards.

I am actually quite pleased that sitting here today I can say that our pressure for high standards has been heard by the other countries participating and by China itself. And as they approach making their first commitments, they are certainly saying all the right things about adhering to high standards.

In terms of collaboration with them, the way that we have talked to them about collaborating is through the existing—the older international financial institutions, where if they can collaborate on projects, the new institution piggybacks on the safeguards and the standards of the older institutions. So there is work underway looking at co-financing, for example.

We have also offered on a bilateral basis to provide any technical advice that we can. Because frankly, a lot has been learned in the last 70 years, and those lessons don't all need to be relearned. They say that it is going to be open for fair contracting practices, and I trust that American firms will want to participate in that. But we have not explored joining any more formally.

Mr. HECK. Thank you.

On the subject of infrastructure, it seems to me that what we consider to be infrastructure has evolved very considerably over the centuries, from the 18th Century—roads, bridges, aqueducts; the 19th Century—railroads and later sewers; the 20th Century—phones, water treatment, water lines; and in the 21st Century, broadband. All physical.

But it occurs to me that when it comes to economic development we might want to consider "soft" infrastructure investments, namely standing up a financial regulatory framework, especially in underdeveloped nations, for whom not having a developed financial regulatory framework is a great impediment to economic development.

Thank you, Mr. Chairman.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from Missouri, Mrs. Wagner.

Mrs. WAGNER. Thank you. Thank you, Mr. Chairman.

And thank you, Secretary Lew, for coming and for staying the duration here.

Following up on my colleague Mr. Guinta's discussion with you, I want to bring up the ongoing TTIP negotiations that have been occurring with our counterparts in the E.U. Next month, I know the President will be traveling to Germany to discuss efforts to advance negotiations on this trade deal. However, as we all know, financial services continues to be an issue that is not on the table.

As you said last year, sir, you support increasing market access but view talks on regulation with I believe the word was skepticism. Different regulatory regimes, especially when they aren't equivalent, would seem to affect market access significantly. Isn't it difficult to draw a line between market access and regulations, sir?

Secretary LEW. No, Congresswoman. Actually it is standard practice for market access to be something that is negotiated in a trade agreement.

It would be very unusual for prudential regulatory issues to be covered in a trade agreement. We don't think it is appropriate for prudential regulatory issues to be handled there.

There are a lot of places where we collaborate around the world, including with our European friends, to try and reach agreement on goals that we all share in terms of high standards. We have the high standards we are trying to pull everyone up to.

I don't think that a trade agreement that could end up chipping away at some of our protections would be the place for prudential regulation to be reopened.

Mrs. WAGNER. With all due respect, many participants have said that previous mechanisms, so to speak, to engage the regulatory coherence have fallen short, such as the Financial Markets Regulatory Dialogue, the FMRD. Doesn't this trade agreement represent a unique opportunity, sir, to get communications and coordination between the U.S. and the E.U. right?

Secretary LEW. In my conversations with the European Commission, I have actually heard in the last few months a recognition that opening the prudential issues in TTIP would not be acceptable to us, and I have heard a renewed interest in using the Financial Markets Regulatory Dialogue as a place to try to drive those discussions, which we think is a right way to do it and we are happy to engage that way.

Mrs. WAGNER. I heard quite differently, that it is just feckless and, frankly, non-effective. And as a former United States Ambassador and Diplomat to one of the financial hubs in Luxemburg, I find your response concerning.

On the subject, moving on, of comparing E.U. and U.S. in terms of financial service regulations, I would like to bring up the E.U.'s call for evidence that is currently ongoing looking at unnecessary regulatory burdens and other unintended consequences.

In fact, just last week European Commissioner for Financial Stability Jonathan Hill said, "You can't expect to get everything right or to predict exactly how rules are going to interact."

Secretary Lew, do you disagree with Lord Hill's statement?

Secretary LEW. I think that Lord Hill's statement reflects the fact that we always need to keep asking is what we are doing right and appropriate, and we certainly take that view in terms of our analysis of everything that we do.

Mrs. WAGNER. It doesn't seem FSOC has ever taken up such a comprehensive review such as what the E.U. is currently doing. Do you support dialogue here in the United States.

Secretary LEW. Well—

Mrs. WAGNER. Let me finish my question, sir, please—here in the United States, similar to what the E.U. is doing with the call for evidence to look at the impacts that all—all of our post-financial crisis regulations have had on economic growth and financial stability?

Secretary LEW. Our prudential regulators are in the middle now of a regular process that is every 5 years of reviewing their regulations to look back and see which regulations require reconsideration. I think that is the right way for it to happen. They have been having hearings around the country.

They each have the authority over their own organic statutes. It is not an FSOC responsibility.

And I must say, when I was OMB Director and I did a lookback of the Federal agencies that report directly, I was struck that it was not in my purview to go into the independent agencies. This other process is the right way to do it.

Mrs. WAGNER. The E.U.'s call for evidence asks for real analysis regarding the cumulative impact of regulations, including regulations that have yet to be implemented. How have you all looked at future regulations, such as Basel 4.0 and the fundamental review of the trading book, and how these fit in with our current structure?

Secretary LEW. Our view is that we always need to be looking at the risks of the future, not the past. We have to make sure that our financial regulatory system doesn't become out of date. And we do that domestically; we do that internationally as we participate in various multilateral bodies.

Mrs. WAGNER. I think I have run out of time.

I yield back.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from Kentucky, Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

And, Mr. Secretary, thanks for your testimony today. I wanted to follow up on the questions from my colleague, Mr. Pittenger, as a member of the Terrorism Financing Task Force. As you know, the work of Treasury is critically important, particularly the Office of Technical Assistance.

We know from our hearings—our hearings have revealed significant gaps in the anti-money laundering and counterterrorist financing capacity in many developing countries. And my question to you is, given the role of the Office of Technical Assistance and the Agency for International Development at the State Department within the U.S. Government, which of these agencies takes the lead in providing that assistance to our allies in other countries?

Secretary LEW. Obviously, the Office of Technical Assistance has the subject matter knowledge to be most capable in this area. USAID has resources in some places that we don't. We collaborate together to try and work in partnership.

One of the reasons we have proposed over the next several years to double OTA is it is, I think, one of the most important ways that we can build the capacity in other countries, not just in terrorist financing.

One of the things you need to do is have transparency and an openness in the business environment to get those countries where they need to be. That gives you the ability to deal with terrorist financing.

So you get multiple improvements by building the kind of infrastructure in this area. I have seen tremendous progress made in places where our OTA advisers are in there.

Mr. BARR. Obviously, given today's news, the tragedy in Brussels, we continue to be reminded that we must confront radical Islamic terrorism.

Secretary LEW. Yes.

Mr. BARR. We must be proactive. Disengagement is not an option.

And so I would hope that we certainly coordinate within our own government, in terms of who takes the lead on providing that technical assistance. Because we know from our work and our oversight that these developing countries have significant gaps in terms of their financial systems, their law enforcement systems, judicial systems.

Secretary LEW. I totally agree. I don't think the problem is coordination. The reason we ask for more resources is we just don't have enough people out there, and I think we could do a lot more good work with more people.

Mr. BARR. Let's talk about the Financial Action Task Force. Obviously, that task force peer reviews countries, and makes recommendations. Should we work with the FATF to have recommendations on coordinating technical assistance to developing countries?

Secretary LEW. We do work with the FATF on coordinating assistance. We work with the IMF on coordinating assistance. Between ourselves, FATF, and IMF, that is where most of the assistance is coming from, and we work very closely together constantly.

Mr. BARR. I think we do have a good model there and we do need to have recommendations on better coordination. Under Secretary Kimmitt, in our hearing, indicated that while we have plenty of Commerce Department and USAID attaches over a number of our embassies, there are only a couple dozen Treasury attaches in our embassies deployed worldwide. That seems to me to be an insufficient number, given the threat environment.

And it doesn't seem—it wouldn't seem to me that we can sufficiently project our economic or our counterterrorism financing objectives without more Treasury attaches deployed worldwide. Would you agree with that?

Secretary LEW. I wouldn't say no to more Treasury attaches. I would not suggest any inadequacy in the Treasury attaches we have out there. They do a tremendous job.

Mr. BARR. I am not suggesting that, but a couple of dozen—wouldn't you agree that having Treasury attaches deployed in more places would be at least as important as agriculture attaches?

Secretary LEW. I am not going to question the value of other attaches. I can tell you the value of Treasury attaches is very high.

Mr. BARR. We need to continue to work on that.

Quickly, in my remaining time, let me ask you about insurance capital standards and sequencing. I am concerned that the IAIS standard-setting process might front run and prejudice the Federal Reserve process for insurance capital standards rulemaking. Obviously Congress weighed in by requiring the Fed to implement nonbank-centric standards, more insurance-based capital standards.

What we don't want is for the international community to make an end run on that. Do you share those concerns? And what is Treasury doing to ensure that the IAIS timeline accommodates the work of the Fed going first?

Secretary LEW. We discussed earlier how important it is for us to make progress with a covered agreement. If we get a covered agreement that would make clear what the line between prudential and capital issues is, that would be the—be a lot of protection to our firms. We don't think that other countries should set capital requirements for our—

Mr. BARR. That is good to hear because domestic regulators have adopted FSB rules for banking, so we would hope that Treasury would work with Fed to prevent—

Secretary LEW. I'm not sure I agree with that characterization of the FSB rules for banking, but I am happy we agree on insurance.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Pennsylvania, Mr. Rothfus.

Mr. ROTHFUS. Thank you, Mr. Chairman.

And if we could stay on this international insurance issue for a minute, I am concerned that foreign negotiators will use this process as a vehicle to impose rules that put U.S. firms at a disadvantage by unfairly targeting products they offer.

As you know, the IAIS has approved higher capital charges for some U.S. insurance products by labeling them as nontraditional. However, there are similar insurance products offered by foreign firms that have not been subjected to a higher capital charge.

I see this as a clear example of foreign negotiators using international rules to hurt U.S.-based firms. Why does this imbalance exist, and what is Treasury doing to address it?

Secretary LEW. I have tried to respond, Congressman, that the E.U. is implementing insurance regulatory reform that they call Solvency II, that will subject an issuer to disadvantageous treatment if the insurer's country of domicile is not recognized as equivalent by the E.U.

One of the reasons to get this covered agreement is to have a frame preventing that from happening. So we are very much engaged and very much focused on this.

Mr. ROTHFUS. Chair Yellen testified before this committee recently and lamented the headwinds that are facing the economy. I would argue that many of the headwinds that we face are manmade and self-imposed. I consider the Affordable Care Act, where we had the Congressional Budget Office say that is going to cost 2 million jobs—

Secretary LEW. I was with you on the first half of the sentence.

Mr. ROTHFUS. But then you look at EPA regulations that are throwing middle-class workers in my district out of work.

And then you look at the Dodd-Frank Act, which was sold as a way to end too-big-to-fail and product consumers when it ends up enshrining is too-big-to-fail in law. And, of course, former Treasury Secretary Geithner acknowledged that it didn't end too-big-to-fail.

And it was sold as protecting consumers, and I see consumers losing products like free checking.

A 2015 report by the Office of Financial Research (OFR) pointed out that market liquidity had become more fragile, that broker-dealer inventories had shrunk, and that those inventories had concentrated in high-quality liquid assets. The Office of Financial Research highlights several factors contributing to fragility in fixed income markets, namely bank capital standards and the Volcker Rule. Do you agree with OFR that these regulations are a factor leading to reduced fixed-income liquidity?

Secretary LEW. Congressman, as I have testified to this committee before, we are open to looking at any of the contributing factors. Market liquidity is an important element in any well-functioning financial system. And by most measures of market liquidity, particularly in the Treasury markets, we are now within historical ranges.

That said, there are things going on in the markets that require more attention. That is one of the reasons we have put out a request for information to try and understand how some of the transformation and the structure of our markets is affecting the way the markets perform and potentially liquidity.

I think that we are in a world now of electronic trading, high-frequency trading, algorithmic trading, where many, many—really most of the transactions taking place are not what people think of as traditional individuals making decisions. That is having, potentially, an effect as well.

So we are doing a request for information to try and get to the bottom of it.

Mr. ROTHFUS. I guess I am trying to—I think you would agree in part, then, with some of the conclusions—

Secretary LEW. I don't attribute great weight to the notion that regulatory changes are a key driver. I think if you look at the stability of our financial system, the health of our economy, and the health of our markets—in the beginning of this year we had substantial market volatility—

Mr. ROTHFUS. Regulatory—

Secretary LEW. —and nobody questioned—

Mr. ROTHFUS. I'm sorry. You said regulatory actions are not a key driver?

Secretary LEW. I said I am not convinced that they are a key driver. Yes, that is what I said.

Mr. ROTHFUS. Okay. I would like to touch on something that former Treasury Secretary Larry Summers recently mentioned. He penned an op-ed in the Washington Post saying it is time to kill the $100 bill. In that piece he discusses a recent paper by Harvard University's Kennedy School of Government and advocates for stopping the issuance of high-denomination notes like the 500 euro note and the $100 bill, or even withdrawing them from circulation.

According to Mr. Summers, who has apparently supported this idea since the late 1990s, "Removing such currency from circulation would reduce corruption and crime around the world while having little downside for legitimate business or savers." Summers goes on so far to call for a global agreement to stop issuing high-denomination notes.

Steve Forbes recently wrote in The Wall Street Journal that he is concerned that this idea would actually harm average Americans. And I am wondering if you have an opinion on this?

Secretary LEW. Look, I think there is a big difference between the $100 bill and the 500 euro note or the 1,000 Swiss franc note. I think very large bills like the 500 euro bill are problematic. I think the $100 bill is the most—

Mr. ROTHFUS. They are problematic because?

Secretary LEW. Because the ease with which you can move large amounts of money is five-fold from what a 100 euro bill would be.

Mr. ROTHFUS. I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Colorado, Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman.

And thank you, Mr. Secretary, for taking the time to be here.

I want to be able to visit with you. Actually, I will go off of my colleague's comment, where you just made the comment that you are not convinced that regulatory changes are a key driver in terms of some of the challenges that we are having.

And I would like to go back to when we visited last year. We were talking about small banks and the impacts that they are feeling because of the regulatory burdens that are being placed on them. I am sure you are well-aware that we have had more consolidation of banks, fewer applications for new banks starting up into our communities, providing the access that you were talking about just a little earlier in regards to liquidity, to be able to grow the economy.

Because we have, frankly, a tale of two economies in this country, given your opening statement that was rather glowing on the American economy. As you travel through the 3rd District of Colorado, we are continuing to see in many cases what the real unemployment level, double-digit unemployment, more businesses shutting down than new business startups.

And many of those businesses have expressed to me that their challenge is being able to get capital from their local banks. The banks are telling us they are having an inability to be able to make those loans because of expanded regulations.

And when you are making the comment that regulatory changes are not a key driver, we have had testimony come in from Fed Chair Yellen and FDIC Vice Chair Hoenig acknowledging that there is a problem with rules and regulations and the impact on our financial markets. Do you dispute their comments?

Secretary LEW. I would like to see the specific comments to respond to rather than just—

Mr. TIPTON. They were talking about the trickle-down regulatory effect.

Secretary LEW. I think we are talking about different things when we use the word "liquidity." Typically, liquidity is used to talk about matching buyers and sellers in markets for stocks and bonds.

I think what you are asking about is a slightly different question and it is not something we typically refer to as liquidity, but it is, what is the availability of lending to small businesses and maybe individuals.

We believe that the credit box has gotten narrower in some ways than it needs to be. That is why, for example, the FHA last week moved to try and make clear that the credit box for mortgages should be eased some. I think on the small business side, a lot of small businesses before the financial crisis got access to capital by having individuals really tap into their home equity.

So it is a different question than what happens—

Mr. TIPTON. I guess my point is in regards to the regulations that we are seeing on a lot of our community banks. Last year, when we sat down and visited you had expressed that you hadn't really talked about this in terms of the FSOC. In fact, when we reviewed the minutes from 2010 to 2014 it had not been raised once.

What is the threshold that has to be passed? What metrics have to be in place for—to have those conversations take place at your level?

Secretary LEW. Look, I have had conversations with all of the prudential regulators about the need to use the flexibility that they have to not have a one-size-fits-all approach. And I don't believe they have a one-size-fits-all approach. But they need to keep looking at what can they do to provide the kind of proper accommodation to small institutions that don't present the kinds of risk that some of the larger ones do.

When we talk about small institutions, we are not always talking about the same thing. The real community banks are quite small. Even the $50 billion threshold that is now in place for a SIFI is way bigger than your typical community bank.

When the people raise questions of institutions of hundreds of billions of dollars, we are not talking about community banks anymore.

Mr. TIPTON. But unfortunately, as Chair Yellen, and again, Mr. Hoenig pointed out as well, we are seeing that trickle-down effect of regulations that are impacting those. Is that an important thing for you to be able to address?

Secretary LEW. I think we have to do two things at the same time. We have to make sure that our system is safe and sound and that we are not exposed to the kind of financial crisis that did so much damage to this country in 2007, 2008. And I think we have to constantly be asking ourselves, "Are there things that we can do to make it easier for small financial institutions?" We are doing both of those.

Mr. TIPTON. I guess the point, Mr. Secretary, that our banks are asking, the community banks, which did not cause the financial crisis is, "When can we expect to be able to see some action, rather than talk?"

Secretary LEW. The kinds of things that we have discussed in this hearing room and other hearing rooms, there are areas like the regularity of reviews for small banks, where we are open to having conversations. But when we see a piece of legislation that would really repeal major parts of financial reform, that is a place we are not going.

So it is a question of can you have a conversation about the reasonable thing.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Arkansas, Mr. Hill.

Mr. HILL. Thanks, Mr. Chairman.

And thank you, Mr. Secretary, for being here.

Let me add my comments on previous questions submitted. As a former Treasury employee, you are making me look bad. I submitted questions to you on June 17, 2015, like Representative Guinta, and I hope you will assure me that you will get prompt answers to my questions.

Secretary LEW. I will certainly go back and—

Mr. HILL. They are all softballs. They are easy. I promise.

On the subject of TTIP, I know my colleague from Missouri touched on that, but I want to have a nuanced question on that with you. I know you have been involved, and certainly OASIA has been involved in the negotiating team on development of TTIP.

And are you pleased with TTIP as it relates to financial services from your briefings and review of it?

Secretary LEW. I think that we have had challenging discussions but we are making some progress now. I believe that financial market access should be part of the TTIP negotiation. I don't believe that prudential regulations should be.

I think we have made some progress with the Europeans, and to shift the discussion of prudential regulation to the existing international bodies that are set up to appropriately deal with it.

Mr. HILL. There is a really important derivative issue over in the subject of data management and data centers that was a big part of TTIP. Financial services are not included.

Secretary LEW. I think you mean TPP.

Mr. HILL. I'm sorry, TPP. And I have heard concerns that that data center issue is problematic. Our international services companies are not being treated like nonfinancial services—

Secretary LEW. The data localization issue is a very difficult one. We generally oppose data localization requirements. I put a considerable amount of effort into making sure that data localization was not required in parts of the financial services industry like electronic payments, where it was really no more than a nontariff barrier.

In the area of financial institutions, the issue is that our own prudential regulators feel that they need to be guaranteed access to timely and appropriate prudential information, and there has been experience during the financial crisis where that was cut off.

So we are trying to reconcile legitimate interests of the financial institutions not to have nontariff barriers and costs imposed on them, but also the needs of our prudential regulators to be guaranteed access to information.

We are trying to work our way through that, as I have said before, to see if we can thread the needle. TPP is closed, so we can't reopen TPP. Perhaps there could be some mention in some side piece that is helpful. But really the question is going forward, what are the—what will be the framework for a TTIP or for a future BIT negotiation?

Mr. HILL. I think the financial services players can certainly provide regulators data that they need in order to do their job looking forward and meeting expectations. But it is concerning that financial services companies, some of the biggest and best in the world that are headquartered here, are not getting the same accordance on data localization that nonfinancial services are. So I respect your view on it, but I think it deserves more discussion.

Secretary LEW. Yes. And the reality is that the problem did exist during the 2008 financial crisis, so it is not ancient history.

Mr. HILL. No, I understand. But also people have changed a lot of things in their operating style since then.

Secretary LEW. And that is why we are trying to work our way through it.

Mr. HILL. Yes. TARP—it is hard to believe we are talking about TARP this many years later. Large banks have been facilitated through the Treasury to exit TARP with—on pretty favorable terms and close down that part of the program. But a lot of small banks have not had that favorable treatment from the Treasury, particularly those that are in the community development program.

I am wondering if I could have your commitment that if people bring you a market-oriented offer to exit their TARP position that they could be done by the end of the Obama Administration?

Secretary LEW. It would be my fondest hope for us to be able to say that TARP was completely done—

Mr. HILL. I would think so. I would think it would be one of—

Secretary LEW. We have made huge progress—

Mr. HILL. —the feathers in your cap.

Secretary LEW. Yes.

Mr. HILL. But there are a lot of small institutions that are not getting, I think, the attention when they are bringing quality opportunities to exit TARP. I really urge you to look into it.

Secretary LEW. We will continue to put every effort into it. It has been challenging to get proposals of the quality you are describing, and that is why it has been slow.

Mr. HILL. The other thing that is on my mind is recently, I introduced a bill that was marked and moved forward on commercial mortgage-backed securities. And the Fed has a rulemaking that I think will put conduit loans and some other kinds of commercial mortgage-backed securities really in jeopardy from refinance risk over the next couple of years, and I think Treasury should be very interested in the bill we have put forward in this committee.

Secretary LEW. I am happy to take a look at it.

Mr. HILL. Thank you.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from Maine, Mr. Poliquin.

Mr. POLIQUIN. Thank you, Mr. Lew, very much for being here. I appreciate it.

I would like to follow up on a little bit of the discussion a short time ago with Mr. Guinta, from New Hampshire. One of the new regulators, as a result of the Administration's new financial regulations, is the CFPB. They have a new office building for their 1,500 employees downtown, Mr. Lew, and it cost the taxpayers about $200 million. And the CFPB doesn't own the building; they spent about that amount of money to rehab it, and I think that is a huge waste of taxpayer money, sir.

Mr. Cordray was here, the Director of the CFPB, in March, and he testified in front of this committee when Mrs. Wagner questioned him, and I quote—"It was the Treasury who was in charge of all Bureau operations at the time the decision was made."

And so my question to you, sir, is there have been follow-up letters that date back now 288 days asking you specifically in Treasury, the folks who work for you, who, in fact, at the CFPB or Treasury—they said it was you folks who were in charge—made the decision to waste that kind of money? Do you know who that was?

Secretary LEW. Congressman, I responded earlier that we did follow up on this and provide the Inspector General findings. I am happy to go back and—

Mr. POLIQUIN. With all due respect, sir, I have the letter right here that you responded to which was dated June 16th of 2015. It says, "The Treasury is working to respond to your requests." I repeat, "The Treasury is working to respond to your requests."

That was 288 days ago. It was signed by Mr. Randall DeValk. So I am just asking you for a commitment now, Mr. Lew, if you don't mind, can you give me a specific day when you will get back to us as to who was responsible for wasting that kind of money?

Secretary LEW. Congressman, without agreeing to your characterization, I am happy to follow up.

Mr. POLIQUIN. Okay. And when will you follow up and specifically give us the date when you will get back to us who is responsible for making that decision?

Secretary LEW. Congressman, after this meeting we will get back and work—

Mr. POLIQUIN. Okay. It has been 288 days, Mr. Lew. I don't want to be rude, but that seems to be an awful lot of time. Here is what concerns me—

Secretary LEW. On August 25th, we did—Treasury informed the committee that a report by the Inspector General of the Federal Reserve Board found that the work authorizations related to the renovation were finalized after the CFPB—

Mr. POLIQUIN. Mr. Lew, here is what—

Secretary LEW. We have responded, but I am happy to go back and see what additional responses—

Mr. POLIQUIN. I appreciate that.

Here is what I am concerned about, Mr. Lew. These are very simple questions I am asking you. They are not complicated at all. You are the Secretary of the Treasury of the United States of America, and if you are unwilling or unable to answer a simple question, I think it puts in doubt to the American taxpayers how you are going to be able to make the decisions that affect our capital markets, our economy, and our freedom.

Secretary LEW. We have provided 200 pages of information to the committee on the condition of the building when it was transferred—

Mr. POLIQUIN. Okay. I am looking for who was—

Secretary LEW. So we have given a lot of material and I am happy to look and see what you are looking for—

Mr. POLIQUIN. Great.

Secretary LEW. —and see if we can be helpful.

Mr. POLIQUIN. Thank you. And you won't give me a specific commitment when, so let's move on.

Mr. Lew, you are familiar, I am sure, with the budget that was submitted by President Obama a short time ago that never balances ever. You are familiar with that budget?

Secretary LEW. I am familiar with the budget, yes.

Mr. POLIQUIN. Okay. And you are also familiar, I assume, Mr. Lew, with the fact that it increases spending by $2.5 trillion, increases taxes by $3.4 trillion, with this budget?

Secretary LEW. There are a variety of policies in the budget, but it would restore taxes to roughly where it was when we had a balanced budget the last time—

Mr. POLIQUIN. Okay. And I am sure you also know that this budget that never balances increases the debt from the current $19 trillion to $27 trillion. It triples from when the time the President arrived. So you are familiar with this budget?

Secretary LEW. I am also familiar with the percentage of GDP—

Mr. POLIQUIN. Okay.

Secretary LEW. —which stabilizes as a—

Mr. POLIQUIN. Okay, so you are familiar with this budget.

Secretary LEW. —percent of GDP and the debt as a percent of GDP.

Mr. POLIQUIN. Thank you, sir. Do you think short-term interest rates will remain at zero forever?

Secretary LEW. No, I don't, but neither does our budget. Our budget assumes interest rates that are far above what the current market—

Mr. POLIQUIN. Okay. Then I also assume that you are familiar with the OMB projections that in 3 years, the annual interest payments on the debt at that time will be about $440 billion in 1 year, which will equal what we spend on Medicaid.

And I am sure you are also familiar with the fact that in 7 years, the OMB projects that the interest on the debt will exceed what we spend on national defense.

So my question to you, sir is, given the fact that this Administration continues to submit budgets to us that increase spending, increase taxes, increase the debt, never balance, at what point, Mr. Lew, do you think those interest payments—not the percent of the GDP represented by the deficit—but when do those interest payments become a concern of yours?

Secretary LEW. Look, Congressman, as GDP grows, nominal dollars grow, and having cut the deficit by three-quarters from 10 to 2.5 percent of GDP has put us on a stable path. We have more work to do but we are not in a moment of crisis like we were when the President took office. We are in a stable, sustainable place.

Mr. POLIQUIN. Mr. Lew, I would debate you a little bit on that, with all due respect. I am a former State treasurer of Maine. There are 49 States that have to balance their budgets; the government here does not. They spend what they want, and borrow what they need.

Do you think a balanced budget amendment to the Constitution is something that we need, Mr. Lew?

Secretary LEW. No, I do not.

Mr. POLIQUIN. Tell me why you don't.

Secretary LEW. I think you are out of time, but I am happy to respond if the chairman would like me to.

Mr. POLIQUIN. I would appreciate that, Mr. Chairman, if the Secretary could respond to that question.

Chairman HENSARLING. Quick response, please.

Secretary LEW. I think that the responsibility for making policy rests with the Congress and the President, that a mechanical approach that would make it difficult if not impossible to respond to crises or economic turmoil—

Mr. POLIQUIN. Those are not, with all—

Secretary LEW. —would be very, very bad. I am happy at another time to—

Mr. POLIQUIN. With all due respect, Mr. Lew, there are bills that have been submitted that I have co-sponsored, along with others, that give plenty of flexibility in that budgetary process. The American people have seen that the Congress and the Administration cannot live within its means. Don't you think it is time to help them with a—

Chairman HENSARLING. The time of the gentleman has expired.

I would like to thank the witness for his testimony today.

The Chair notes that some Members may have additional questions for this witness, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to this witnesses and to place his responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

I would remind the witness that we have over a dozen questions which are still pending by both Democrats and Republicans from the June hearing. So I would ask our witness to please take this seriously and have Treasury respond promptly.

This hearing stands adjourned.

[Whereupon, at 1:20 p.m., the hearing was adjourned.]

A P P E N D I X

March 22, 2016

EMBARGOED FOR DELIVERY

Jacob J. Lew
Secretary, United States Department of the Treasury
Testimony before the House Committee on Financial Services
Hearing on the National Advisory Council on International Monetary and Financial Policies and on the State of the International Financial System
March 22, 2016

Chairman Hensarling, Ranking Member Waters, and Members of the Committee, thank you for the opportunity to testify today.

I want to begin by acknowledging the bipartisan passage of the omnibus appropriations bill in December, which is already contributing to our economic growth and rebuilding our leadership internationally. This agreement demonstrates that we have the capacity to find common ground on difficult issues and lays a foundation for addressing some of our long-term challenges.
Over the past seven years under the President's leadership, we have seen a sustained economic recovery and an unprecedented decline in the federal budget deficit. But more work remains to make sure we are upholding the basic American belief that everyone who works hard gets a fair shot at success. In recognition of this, the FY 2017 President's Budget puts forward the building blocks of a social compact for the 21st century and creates the conditions for sustained economic growth. The budget also makes critical investments in our domestic and national security priorities while adhering to the bipartisan budget agreement signed into law last fall, and it lifts sequestration in future years so that we continue to invest in our future.

I would also like to thank Congress for passing the International Monetary Fund (IMF) quota and governance reforms last December. The IMF has promoted stability, jobs, and growth for the past 70 years. The reforms we put in place reinforce the central leadership role of the United

States in the global economic system. Passage of IMF reforms is strengthening our hand in global economic fora such as the G-20 at a time of rising economic uncertainty. Moreover, we are now better positioned to further our international policy objectives, such as multilateral support for Ukraine, through IMF engagement.

Last year was a landmark year for international development, which, in addition to IMF quota reform, saw the adoption of the Addis Ababa Action Agenda and the 2030 Agenda for Sustainable Development, and culminated with the successful adoption of the Paris Agreement on climate change. Our budget request affirms the U.S. commitment to the international financial architecture and to maintaining our global leadership.

The international financial institutions (IFIs)—the IMF and multilateral development banks (MDBs), including related multilateral trust funds—are a critical part of the President's approach to bolstering national security and driving long term prosperity. Our investments in these institutions promote our strategic interests and international stability. They help unlock the next generation of export markets for America's businesses and workers, while fostering private sector development and entrepreneurship. Additionally, these investments are some of the most cost-effective ways to reinforce economic growth at home and respond to critical challenges abroad, like financial instability, poverty, environmental degradation, and food insecurity.

International Monetary Fund (IMF)

The IMF remains the foremost international institution for promoting global financial stability. Through its three main activities—surveillance, technical assistance, and lending—the IMF promotes economic stability and helps prevent and resolve financial crises when they occur, thereby promoting growth, enhancing U.S. national security, and alleviating poverty in its member countries. At a time of increased economic uncertainty, the IMF is actively working with countries vulnerable to low oil prices, financial market volatility, and other external shocks to provide policy advice and financing, when appropriate.

Examples of how the IMF advances U.S. interests are numerous. The IMF was a first responder providing significant financial support to Ukraine, helping a key U.S. ally sustain momentum on economic reform in the face of Russian aggression and make progress in addressing endemic corruption. IMF engagement in the Middle East has helped reduce economic vulnerabilities in key U.S. allies, such as Jordan and Tunisia, and is providing advice to help Iraq address the large fiscal gap resulting from the oil price shock and the fight against ISIL. The IMF also supports the Sustainable Development Goals through capacity building and financing for low-income countries, actively encourages transparency and accountability in all of its member countries, and works with the G-20 to encourage policies that foster strong, sustainable, and balanced global growth.

The IMF is an important partner for the United States and the Financial Action Task Force (FATF) in the fight against illicit finance. Since 2000 the IMF has recognized that combatting money laundering and terrorist finance is essential to the integrity and stability of the financial sector, based on the FATF's standards. Since that time, the IMF has integrated AML/CFT measures into its lending conditionality, economic surveillance and capacity building activities.

The United States plays a key role in shaping IMF policy and institutional issues through its role as the IMF's largest shareholder. Over the past year, the United States supported creation of an IMF debt relief facility for low-income countries hit by public health disasters such as the Ebola virus, and encouraged an active capacity-building role for the IMF in helping developing countries mobilize domestic resources and use them effectively for development. The United States welcomed reforms to the IMF's policy on public debt limits in IMF-supported programs so that limits would be more comprehensive and tailored to country risks. At the direction of Congress, the United States championed reforms to the Exceptional Access Lending Framework to tighten requirements on debt sustainability.

Multilateral Development Banks (MDBs)

Our investments in MDBs, including the World Bank and the regional development banks, promote national security, economic growth, and poverty reduction. The MDBs finance investments in developing and emerging economies, including in infrastructure, health, education, governance, and business climate reform.

The assistance and technical know-how of the MDBs has nurtured the economic reforms, infrastructure, and social investments that have driven the growth of some of our most strategic trade partners. They also play an important role in building sustainable and transparent economic growth in emerging and developing countries. Additionally, the MDBs are vital partners in containing national security threats, especially at a time when we are asking the MDBs to do more to address the root causes of refugee and other forced displacement crises, to better integrate refugees into host countries, to support pandemic responses, and to invest in sustainable infrastructure that contributes to global growth and creates jobs. As an example, the Inter-American Development Bank (IDB) has taken a leading role in helping El Salvador, Guatemala, and Honduras implement reforms to spur economic growth, which will help address the root causes of the flow of vulnerable migrants to our border.

In addition to meeting our current commitments, it is urgent that Congress address our prior unmet commitments, which are approaching $1.6 billion. Doing so with respect to the World Bank is particularly urgent, as failure to meet our unmet capital commitments to the Bank will result in a loss of U.S. shareholding, which would not only impact our voting power, bringing us closer to losing our veto, but also damage our credibility and weaken our ability to shape policy priorities. The World Bank provides critical support for strategic U.S. priorities such as responding to the Syrian refugee crisis, delivering financing to Ukraine, and financing infrastructure in the poorest countries in Africa and Asia.

The international community, including the FATF, G-7, and the G-20, is continuing its focus on addressing the serious threat posed by illicit actors misusing legal structures, like shell companies, to hide their identity and help perpetrate a range of financial crimes. The United States Government plays a leadership role in each of these fora as we have long recognized the importance of addressing this vulnerability. Much of this work is focused on countries requiring the disclosure of the beneficial owner, the individual or individuals who ultimately owns or controls a legal entity when it is formed. One key component of these efforts is to make beneficial ownership information more readily available to law enforcement agencies to investigate financial crimes such as money laundering and high-level corruption. The MDBs have made great strides in recent years to enhance transparency though the collection of information on the beneficial owners of legal entities to safeguard their funds and minimize the potential that these funds are diverted from their intended purpose.

Treasury supports the goals of recent legislation, the *Consolidated and Further Continuing Appropriations Act, 2015,* that requires that MDBs collect and verify the beneficial ownership information of legal entities that receive appropriated funds. We commend the World Bank for the recent steps it has taken to collect this information not just for private sector investments, but for all procurement funded in World Bank projects and to publish it online.

Addressing Complex Global Challenges

When it comes to global challenges such as protecting the environment, food insecurity, and gender imbalances, the world continues to rely on multilateral institutions and strong U.S. leadership within them to help developing countries make concrete investments. U.S. support for specialized multilateral funds leverages resources from other donor countries and the private sector, significantly multiplying the impact of American taxpayer dollars.

In particular, the Global Environmental Facility (GEF) helps countries protect the environment—including preserving the ozone layer, protecting fisheries, combating wildlife trafficking, and reducing mercury pollution that can contaminate our food supply. The Green Climate Fund (GCF) is designed to be a key element of the collective global effort to build climate resilience and reduce carbon pollution by enabling developing countries to invest in those goals and transition to a more sustainable development path through national planning.

The budget request includes funding for a targeted number of other important programs, including the Central America and Caribbean Catastrophe Risk Insurance Program, the World Bank Global Infrastructure Facility (GIF), the Global Agriculture and Food Security Program (GAFSP), and the International Fund for Agricultural Development (IFAD).

Successful development also depends on good governance and a well-functioning state. For over 25 years, Treasury's Office of Technical Assistance (OTA) has provided advice and training to government officials in developing and transitional countries so they can build effective public financial institutions. OTA helps countries improve government operations across several areas, including planning and executing budgets, managing debt, collecting revenue, developing sound banking systems, and combating corruption. OTA is particularly helpful with our foreign policy, security and economic priorities in Ukraine, Central America, Africa, Asia, and other regions.

Conclusion

U.S. leadership in the IFIs enables us to influence how and where resources are deployed—often on a scale that we cannot achieve through our bilateral programs alone. They allow us to promote U.S. national security, and global economic growth and poverty reduction. No other institutions so effectively leverage our limited resources in service of our national and global interests. However, bipartisan support is required to ensure that our influence in the IMF and MDBs remains as strong today as it has been over the past several decades. Treasury looks forward to continuing the dialogue with Congress on the important role of the IFIs in the global economy, especially as we implement the IMF reform legislation and negotiate replenishments of several of the MDB windows that serve the world's poorest countries.

I look forward to working with you on these critical issues and welcome your questions.

Thank you.

AMERICAN BANKER.

You'll Never Get Real Oversight of the CFPB This Way

By Rob Blackwell
March 18, 2016

WASHINGTON — Republicans on the House Financial Services Committee finally caught Consumer Financial Protection Bureau Director Richard Cordray in a lie on Wednesday, when he responded to a lawmaker by saying, "I actually enjoy coming before the committee."

Unless Cordray is a masochist, there is no way that could be true.

For three hours, Cordray was subjected to hostile questioning from most of the GOP panel members and a few Democrats. They demanded answers about everything from the agency's plan to rein in payday lending to allegations of discrimination and retaliation against employees. If bankers — many of whom are frustrated with the CFPB given the sheer number of regulations it has released — were watching, many doubtless would have been cheering on the sidelines.

But if the committee meant to conduct true oversight of an agency so many Republicans clearly detest, it failed miserably.

Time and again, lawmakers effectively stepped on their own lines, asking Cordray important questions and never bothering to let him respond. They allowed theatrics to trump (pun intended) substance, using their time to berate the CFPB chief instead of engaging in a productive discussion.

Generally, the exchanges worked like this:

1. The lawmakers asks a question.
2. Cordray starts to answer.
3. The lawmaker interrupts Cordray, yelling at him that he hasn't answered the question.

Perhaps the most glaring example of this was an exchange between Rep. Ann Wagner, R-Mo., who seized on comments made by Cordray earlier that he had never "ducked and dodged" questions from committee members and that he responds to all letters from panel members in a timely fashion.

"All right, Director Cordray, let's have a conversation," Wagner said.

She noted that the committee had sent a subpoena to the CFPB in December, requesting documents related to serious accusations that the agency discriminated against employees and retaliated against those who raised issues internally.

"Despite you saying the CFPB is committed to transparency and compliance, always answer our letters, never duck or dodge, you all have failed once again to respond adequately to this subpoena," she said.

Here's where the problems start. Following is a transcript of the exchange:

> **Wagner:** You have failed to comply.
>
> **Cordray:** In what way?
>
> **Wagner:** That's the—
>
> **Cordray:** Give me a specific—
>
> **Wagner:** You haven't responded to the subpoena or to the letter.
>
> **Cordray:** Give me a — of course we've responded. We've produced another, I think, 20,000 pages of documents.
>
> **Wagner:** Not in any adequate way, shape, or form.
>
> **Cordray:** Well, okay, tell me how it's inadequate? That's just...
>
> **Wagner:** Will you submit — will you absolutely right now commit to complying with our committee? If so, when?
>
> **Cordray:** We have been working to comply all along. We will continue to work to comply.
>
> **Wagner:** "Working to comply," Director Cordray, is what we call ducking and dodging.

Except the person ducking and dodging the question appears to be Wagner, not Cordray. After accusing him of a failing to adequately respond to a subpoena — potentially a crime — she never provides specifics as to how the agency's response is inadequate.

And make no mistake, this is an important question. *American Banker* first reported in 2014 that the agency was likely to give higher evaluations — and therefore higher pay — to white employees than African-Americans or Hispanics. The agency responded by scrapping its employee compensation system and remitting $5 million to most affected of the staff members. But there are ongoing questions about allegations of retaliation by management, questions that aren't resolved by pointlessly scolding Cordray.

And unfortunately, this type of exchange was the rule, not the exception. To be sure, Congressional hearings often bring out lawmakers' dramatic sides, resulting in grandstanding. But the ones with Cordray in the House Financial Services Committee are particularly histrionic. In contrast, the Senate Banking Committee hearings with the CFPB chief are far more sedate, and are all the more illuminating because of it.

Rep. Scott Garrett, R-N.J., used his time to question Cordray about the CFPB's efforts to study arbitration clauses. But the exchange quickly devolved into bickering about whether the 2010 Dodd-Frank Act, which mandated that the CFPB look into arbitration, trumps the 1929 Federal Arbitration Act, which allows arbitration clauses in contracts.

Following is a transcript of part of the exchange:

Garrett: Has Congress ended the ability of arbitration?

Cordray: So in the Military...

Garrett: That's a yes or no question.

Cordray: In several respects, yes, they have.

Garrett: I didn't say 'in several respects.' I said—

Cordray: Yes, in several respects they have.

Garrett: — have they ended the use of arbitration?

Cordray: Under the Military Lending Act they barred arbitration clauses in lending contracts to service members.

Garrett: So we can't seem to get—

Cordray: Under Dodd-Frank they barred it in residential mortgage contracts, for the most part.

Garrett: Have we totally eliminated arbitration?

Cordray: No, but they then—

Garrett: Okay. Thank you.

Cordray: — but they gave us, then, authority Congress conferred it to us. I'm not making it up.

That exchange is exhausting to read, let alone watch — now imagine dozens like it playing out over three very long hours.

Sometimes lawmakers resorted to props to make their point. Rep. Steve Stivers, R-Ohio, had an aide hand Cordray a toddler's T-shirt and asked him to put it on. Cordray understandably declined.

"You wouldn't fit in it," Stivers told him. "So the two ways you could fit in that are go on a massive diet and restrict yourself, which is what a lot of our community financial institutions are doing to make themselves smaller to serve their clients less; or they could strain the T-shirt and break the T-shirt, the T-shirt being the regulation. That's the problem you're putting folks in."

There's a serious point in what Stivers is saying: the proliferation of regulations is crushing small institutions. But the point is lost amid a ridiculous discussion about a child's T-shirt.

It's a good example of why this semiannual hearing is so often a disappointment. Lawmakers are raising important issues, including the CFPB's tendency to use enforcement authority in lieu of rulemaking powers, the need for regulatory relief for small banks, the agency's plans to rein in certain products and its treatment of its staff. But those issues are subsumed by the posturing and shouting.

It's sometimes as if the lawmakers believe they are in the finale to the movie "A Few Good Men," with the congressman playing Tom Cruise's role and Cordray cast as Jack Nicholson's character.

"Was it Elizabeth Warren who absolutely ordered and authorized the [building] renovation, sir?" Wagner demanded at the end of the hearing.

"I don't know. It seems like that's what you're trying to get me to say," Cordray replied.

"I want the truth, sir," Wagner replied.

Maybe they can't handle the truth. One thing's for sure: We're not going to get to it this way.

Rob Blackwell is the Washington bureau chief of American Banker. The views expressed are his own.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Rep. Andy Barr

Question 1:

Secretary Lew, as you know, Kentucky has a long and proud association with the sport of thoroughbred horse racing. We are coming up on the 142nd running of the Kentucky Derby this May and, hopefully, on the First Saturday in May we will get the first look at another Triple Crown Winner.

The horse breeding and racing industry in this country is a $26 billion industry that nationwide accounts for nearly 400,000 jobs and produces almost $2 billion in tax revenue. Just as important as the breeders and owners, however, are the people who go to the track, follow the races and place their bets. In short, pari-mutuel wagering is the lifeblood of this very important industry.

I and several of my House colleagues from both sides of the aisle have written and met with your staff in the Office of Tax Policy to talk about the critical need to update the tax reporting and withholding rules that apply when someone is lucky enough to have a winning pari-mutuel wager.

We are grateful that Treasury is looking seriously at our concerns and has included these issues in its current project related to the reporting and withholding of other gambling winnings.

What concerns me, Mr. Secretary, is that we have no sense of when Treasury may finish its work hopefully to modernize the rules that apply to pari-mutuel wagers. My constituents, and those with ties to the industry across the country, are anxious to have clarity, especially as we approach Triple Crown season.

- **Can you please give me a sense of when we might see the new rules you are working on?**
- **Understanding that not everyone has deep understanding of the uniqueness of pari-mutuel wagering, has Treasury been proactive in reaching out to stakeholders, including racetracks, tote companies, horseplayers, and state racing officials to ensure any new rules accurately and fairly reflect the realities of wagering in the 21st Century?**
- **Is Treasury contemplating any other administrative or regulatory guidance, short of new regulations, that also might address the administrative and recordkeeping burdens imposed on pari-mutuel wagering?**

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Answer:

Personnel from the Treasury's Office of Tax Policy and the IRS Office of Chief Counsel are currently working on a regulatory project under § 31.3402(q)–1 regarding identical wagers in the case of winnings from pari-mutuel gambling. We have received significant input from industry stakeholders and interested parties in response to a prior request for comments, and this input has been very helpful in understanding these issues. We are considering the comments received and hope to have this guidance out soon. Following the issuance of this guidance, interested parties will have an opportunity to comment. Treasury and IRS will weigh these comments in considering whether and what additional steps should be taken.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Rep. Keith Ellison

Carried Interest

Question 1:

Many have decried the tax loophole known as "carried interest" which allows managers of private equity, venture capital and other private investment funds to receive their share of profits, as carried interest, instead of regular income. Under current law, the income they earn as is often taxed at the long-term capital gains rate of 20 percent. That's about half the rate most would pay if their income were taxed as ordinary income, once you add payroll taxes to the top marginal rate of 39.6 percent.

In a New York Times editorial on June 12, 2014, economist Victor Fleischer recommended that the administration take unilateral action to end this costly and unfair tax dodge which furthers income inequality and the wealth gap. Fleischer stated that the Administration should direct the Internal Revenue Service to reclassify managers as service providers, which would require that their income be taxed as ordinary income. Others, such as David Lebedoff have made similar arguments.

- **Can the Treasury Department direct the IRS to tax fund managers as service providers under Section 707(a)(2)(A)? This section of the tax code addresses the kinds of compensatory arrangements between a partner and the partnership.**

Answer:

Carried interest reform continues to be an important priority for the Administration, as reflected in the Administration's FY 2017 budget proposal to tax at ordinary rates a partner's share of gain on an "investment services partnership interest." A version of this proposal has been in all the Administration's Budgets since 2009.

In July 2015 we issued proposed regulations under Section 707(a)(2)(A) that, when finalized will tax fund managers at ordinary rates on certain amounts that lack entrepreneurial risk (including income resulting from so-called "management fee waivers"). While the proposed regulations are narrower in scope than the Administration's budget proposal, the proposed regulations once finalized will require many fund managers to pay ordinary income tax rates on a larger amount of their overall income. Treasury and the Internal Revenue Service are continuing to evaluate our authority to address the carried interest issue through administrative action, but there are limitations. For example, Mr. Fleischer states in the editorial cited in your question, "[t]axing fund managers as service providers under section 707 would be at odds with the legislative history[.]" We therefore continue to believe that a legislative approach to carried interest reform is the best and most appropriate course of action.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Corporate Inversions

Question 2:

Corporations are renouncing their American citizenship. This results in less revenue to support our legal and patent systems, airports and bridges, educational systems, and more. When corporations invert, they avoid federal taxes, yet still claim benefits paid for by other business and individual taxpayers.

The New York Times explored one of these proposed mergers – between Pfizer and Allergan, a company that previously renounced its citizenship – in a recent story.

The Times article noted that this merger would likely lead to even more such inversions and tax avoidance. Stephen Shay, former Obama Administration appointee as Deputy Assistant Secretary for International Tax Affairs and multinational tax expert, was quoted as saying that Treasury "has the prerogative to make a more muscular application of its administrative authority than they have already."

Both House and Senate members urged you last month to apply more fully every tool at your disposal to stop these inversions and stem the flow of revenue that we are losing as a result of these tax-motivated deals. One form of tax avoidance is what tax lawyers call a "hopscotch" transaction – a move that one of the prior Treasury Notices addressed.

But these narrow notices have been circumvented, and the problem has only worsened.

The Wall Street Journal counted the Johnson Controls-Tyco deal as the 12th expatriation since the first Treasury Notice in September 2014. Just lowering the threshold in that prior notice would prevent the Pfizer merger from going through or, if it proceeded, result in tens of billions more to the U.S. Treasury.

- **Will Treasury adopt regulations that will prevent Pfizer and other multinationals from dodging their responsibility to help pay for our national security and other vital public services?**

Answer:

On April 4, 2016, the Treasury Department and the Internal Revenue Service (IRS) issued temporary regulations that both limit the ability of U.S. companies to invert and reduce the tax benefits of inversions. In addition to formalizing Treasury's two previous actions in September 2014 and November 2015 that limited the ability of U.S. companies to invert and reduced the tax benefits of inversions, these temporary regulations take additional actions to limit inversions and the tax benefits of inversions. In particular, the temporary regulations address "serial inversions." They prevent a foreign company (including a recent inverter) that acquires multiple U.S. companies in stock-based transactions over a short period of time from using the resulting increase in size to avoid the statutory inversion ownership thresholds for a subsequent U.S.

acquisition. Furthermore, on April 4, 2016, the Treasury and the IRS also issued proposed regulations to curb the use of earnings stripping by focusing on transactions that some multinational firms use to generate large interest deductions in the United States by simply transferring financial instruments that they characterize as debt between subsidiaries without financing new investment in the United States.

We will continue to explore additional ways to limit inversions. But only new anti-inversion legislation can stop these transactions. Until that time, creative accountants and lawyers will continue to seek new ways for companies to move their tax residences overseas and avoid paying taxes here at home. We urge Congress to take action, and we believe the best way would be to enact comprehensive business tax reform with specific anti-inversion provisions. These proposals are detailed in our FY 2017 Budget submission. The Administration has been working with Congress for several years in an effort to reform our business tax system, make it simpler and more pro-growth, and address the incentives that encourage companies to invert, and we will continue to do so.

Currency Manipulation & TPP

Question 3:

In November 2015, the monetary authorities of the Trans-Pacific Partnership (TPP) countries released a joint declaration to address unfair currency practices. Through the declaration, the TPP countries re-affirmed their commitment to avoid currency manipulation and pledged to increase transparency and reporting requirements on exchange rate policies and data and engage in multilateral dialogue on macroeconomic and exchange rate policy issues. However, the declaration falls short of including any enforceable mechanism against currency manipulation.

- **In your view, does this side agreement provide enough protection for U.S. businesses and workers against unfair currency practices by other TPP countries, now and in the future?**

Answer:

The Joint Declaration contains strong elements that promote accountability in exchange rate policies, including commitments to exchange rate policies that avoid unfair currency practices, bilateral and multilateral engagement, and to increased transparency on exchange rate issues. On currency standards, countries are making significant commitments at senior levels on important exchange rate policies. No country takes these commitments lightly.

The Joint Declaration builds in unprecedented transparency provisions that will allow TPP countries and stakeholders to better monitor implementation of the exchange rate commitments. TPP countries will publicly report their foreign-exchange intervention and foreign reserves data, some for the first time. Further, the Joint Declaration also includes an ongoing review process where the United States and TPP partners can hold each other accountable for fulfilment of the commitments. The Joint Declaration applies to all TPP countries to prevent unfair currency practices. In the future, it will also apply to those countries that accede to the TPP, subject to transparency and other conditions determined by existing TPP authorities.

De-risking/ Remittance Flows to Developing Countries

Question 4:

Money Service Businesses

In January of 2015, Treasury hosted a roundtable to discuss some of the challenges that money service businesses were, and continue to have, in securing the bank services they need to help customers send money abroad.

- **Can you provide an update on the work that Treasury has done since that roundtable to promote financial access for lawful and legitimate money services businesses (MSBs)?**

Answer:

Treasury remains actively engaged on the issue of access to financial services in the United States for money services businesses (MSB) and clarifying the expectations for financial institutions with respect to their MSB customers. Since the January 2015 Treasury-sponsored MSB roundtable—which brought together more than 100 participants from the private sector, government, and regulatory community—Treasury has continued its efforts to promote financial access for MSBs and their customers, while continuing to safeguard the financial system from abuse.

As part of Treasury's efforts to further clarify regulatory expectations with respect to MSBs. The Financial Crimes Enforcement Network (FinCEN), a bureau of the Treasury Department, has issued detailed guidance clarifying regulatory expectations with respect to MSBs. In March 2016, FinCEN published guidance reiterating anti-money laundering (AML) program obligations that MSB principals must understand and appropriately account for when assessing the risks associated with their agents. This clarifying guidance is intended to facilitate a better understanding of how MSB principals and their agents can comply with AML requirements. This guidance also helps inform financial institutions' understanding of what to expect in MSB AML programs and better enable them to assess the risk of doing business with MSBs. This guidance complements the 2005 interagency guidance published by FinCEN and the Federal Banking Agencies (FBAs) to help banks better understand their AML and countering the financing of terrorism (CFT) obligations with respect to their MSB clients. By clarifying regulatory expectations, FinCEN and the FBAs are working to ensure that banks have the flexibility to provide services to a wide range of MSBs while remaining in compliance with the Bank Secrecy Act.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Forty-five states plus the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands have entered into the Nationwide Cooperative Agreement and Protocol for MSB Supervision to promote a nationwide framework for cooperation and coordination among state MSB regulators. FinCEN utilizes authorities granted under the Money Remittances Improvement Act of 2014 to access and analyze examinations conducted by state supervisory agencies, thereby improving oversight of nonbank financial institutions that otherwise lack a federal regulator, such as MSBs. By allowing federal regulators to rely on state examinations, regulators are able to more efficiently ensure compliance with laws and regulations while also reducing costs for MSBs themselves.

Internationally, Treasury continues to engage with multilateral bodies, such as the Financial Action Task Force (FATF) on the effective implementation of AML/CFT standards, including those related to correspondent banking and financial access for MSBs. For example, Treasury played an important role in the drafting of the FATF's revised guidance issued in February 2016 highlighting that financial institutions should identify, assess, and manage the money laundering and terrorist financing risks associated with individual MSBs, rather than avoid this category of customers entirely.

Question 5:

There has been a substantial amount of discussion in this Committee about humanitarian situation in Somalia, and the dire need for Somalia to build up its financial capacity. Remittances play a vital role in paying for basic needs such as food, health care, education, and seed capital for small entrepreneurs. If we do not find ways to remediate the remittances situation, we run the very real risk of unintentionally contributing to Somalia's instability, which could lead to a collapse, and provide the perfect opportunity for extremist groups to take over. This concern is especially dire due to the worst drought in sixty years plaguing the Horn of Africa. It is estimated that 4.7 million Somalis need food aid, and that the 2016 Somalia Humanitarian Response Plan only received 4% of its funding to date, with $850 million in aid still needed. As you know, Somalia has a new Anti-Money Laundering Law. Passing this law is progress.

- **What do you think the impact of that law will be in the short- and long-term? What else must Somalia do to ensure that law works to ensure funds do not reach al Shabaab criminals but still provide life-saving education, food and small business investments?**

Answer:

The key to facilitating remittances to Somalia while also reducing the risk of money launderers or terrorists exploiting remittance services is to help Somalia develop a functioning and regulated financial system that includes a robust anti-money laundering and countering the financing of terrorism (AML/CFT) regime. The passage of an AML/CFT law in Somalia is an important step towards building Somalia's regulatory and supervisory capacity.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

While passing an AML/CFT law is progress, Somalia must now take steps to implement and enforce the law, promulgate regulations, establish a functioning financial intelligence unit, and begin conducting examinations of financial institutions. This includes the implementation of the provisions in the AML/CFT law that establish money laundering and terrorist financing offences and require reporting entities—including money transmitters—to conduct customer due diligence. The United States government is actively helping the government of Somalia in this work.

- **Can you discuss the work that Treasury is involved in to assist in the development of a durable financial sector with appropriate regulations and oversight? How high a priority is restoring and expanding remittances to Somalia?**

- **What progress has Somalia's central bank made in developing the technical capacity, staff, and regulations needed to oversee the commercial banking sector and its MSB sector?**

Answer:

Helping Somalia build strong, stable and transparent systems is an important priority of the U.S. government, as is the continuation of remittances to Somalia. Treasury's ongoing efforts include: (i) providing technical assistance to Somalia; (ii) engaging with international institutions and partners; (iii) engaging the Somali-American community and the financial institutions that serve them; (iv) promoting financial access for the money service business (MSB) sector overall; and (v) coordinating with other agencies, including the State Department and the United States Agency for International Development, to help build Somalia state capacity and support humanitarian assistance efforts.

Treasury's Office of Technical Assistance (OTA) is providing training to the Central Bank of Somalia (CBS) on risk-based supervision to help build capacity to implement banking regulations and carry out examination and supervision procedures. OTA recently completed the last of six training sessions for the CBS in Nairobi in July 2016, and both OTA and the Government of Somali report that this engagement has been going very well. Treasury is discussing with the State Department and the CBS the possibility of continuing this work in FY 2017.

Treasury also supports efforts by the World Bank to employ a trusted agent to establish oversight of licensed money transmitters in Somalia and to assist the CBS in building its supervisory and regulatory capacity. The World Bank is also assisting the CBS to draft and implement new regulations and guidelines for money transmitters in Somalia.

Additionally, Treasury supports efforts by the Department of State to help build Somalia's financial sector by: (i) developing the CBS' capacity to implement regulation, examination and supervision procedures; (ii) strengthening the capacity of Somalia's remittance sector to identify customers, report transactions, detect suspicious activity, and assist law enforcement; and (iii) developing a customer identification and verification system in Somalia.

Further, Treasury has worked with the International Monetary Fund (IMF) and other stakeholders to support the launch of a Staff Monitored Program in Somalia, which may provide a framework for further reforms in Somalia and put the country on a path towards eventual debt relief.

- **What specific approaches has Treasury staff considered to restore and expand remittances to Somalia?**

Answer:

In addition to offering technical assistance to Somalia, the Department of the Treasury engages with the Department of State, the U.S. Agency for International Development (USAID), international organizations, and foreign partners to coordinate technical assistance and build the capacity of the Somali Central Bank to develop a regulatory framework and supervisory regime for financial institutions in Somalia. Treasury participates on the Somalia Remittances Stakeholder Advisory Council, which includes representatives from Treasury, State, USAID, the United Kingdom, World Bank, IMF, African Development Bank, CBS, and Central Bank of Kenya, to coordinate multilateral efforts on the Somalia remittances issue.

Treasury also engages routinely with the Somali-American community – including representatives of money transmitters serving that community, non-governmental organizations serving East Africa, and regional banks – on Somalia remittances and the importance of long-term capacity-building in Somalia. As detailed above, banks are concerned with the risks associated with remittances to Somalia. An increased willingness to bank remitters serving the Somali-American community depends on Somalia developing a functioning and well-regulated financial system.

- **If Congress was to pass a law directing the Treasury Department to establish a special regulatory regime for qualifying MSBs that transfer remittances to Somalia in order to enable them to access bank accounts, what should we consider? What criteria should be included to enable MSBs to participate? Obviously an impeccable state and IRS exam, access to 24-7 oversight, clean audits, but what else?**

- **A significant portion of remittances to the Horn of Africa now flow through legal, though insecure channels outside the banking system. Do you consider this an acceptable situation from an AML/CFT point of view? If financial crime results from this situation and causes a significant disruption in remittances to Somalia, what action would you take to restore the flow of money and prevent further financial crime?**

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

- **If Congress was to pass a law directing the Treasury Department establish its own remittances pipeline, how should that be structured? What transfer services does Treasury have at its disposal and how could it be engaged to enable humanitarian remittances to reach Somalis abroad?**

- **In what ways might a failure to service MSBs through the formal financial system contribute to a further lack of transparency in financial flows?**

Answer:

The Treasury Department believes that an appropriate legal framework is in place for MSBs. To comply with their Bank Secrecy Act obligations, MSBs must register with FinCEN, implement AML/CFT programs, and comply with certain recordkeeping and reporting obligations. MSBs are examined by their state regulators and, as appropriate, by FinCEN for compliance with these obligations. We believe our risk-based framework fosters financial inclusion and protects the U.S. financial system from abuse.

Remittances and humanitarian assistance continue to flow to Somalia through bank and cash courier channels. Some money transmitter businesses have decided to ship or transport cash directly to their affiliates abroad. This is legal, so long as individuals and companies transporting, mailing, or shipping more than $10,000 in currency or other monetary instruments into or out of the United States complete and provide a Report of International Transportation of Currency or Monetary Instruments to U.S. Customs and Border Protection.

Treasury recognizes the vital role of MSBs in the United States as well as in economies around the world, including in Somalia. According to the World Bank, remittances to developing countries have grown consistently from $303 billion in 2009 to $441 billion in 2015, roughly 46 percent. The United States remains the top remittance-sending country in the world, sending $56.3 billion abroad, or $19.4 billion more than the next-largest sender. Further, the United States has had the lowest average remittance-sending costs (6.034 percent for $200 in the first quarter of 2016) in the G-7 over the past eight years, well below the global and G-7 averages.

Treasury remains committed to preserving access to financial services for the MSB industry as a whole, including money transmitters, and to providing essential financial access to customers that are less likely or unable to use traditional banking services, including in developing countries and underserved populations. MSBs advance financial inclusion globally and, without MSBs, those customers that are unable to access traditional banking services might seek to do business through less regulated channels. MSBs also provide crucial information under the Bank Secrecy Act to regulators and law enforcement to improve financial transparency and combat illicit financial activity. In Fiscal Year 2014, MSBs filed roughly 720,000 suspicious activity reports and 355,000 currency transaction reports.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Question 6:

In response to my question submitted for the record to a March 2015 Financial Services Committee hearing you stated that "Treasury has engaged in discussion with the Federal Banking Agencies regarding an update to its 2005 guidance to banks on the regulatory expectations related to the provision of banking services to MSBs."

- **Over the past year, what decisions have been made about whether additional interagency guidance on remittances to Somalia specifically or MSBs generally would be useful and effective? I had hoped that interagency guidance would have been published last year.**

Answer:
In November 2014, FinCEN issued a statement that reiterated the expectations detailed in the 2005 interagency guidance regarding MSBs. Shortly thereafter, several other Federal banking agencies issued similar statements. Since then, the Bank Secrecy Act Advisory Group (BSAAG), a statutorily mandated advisory group consisting of industry, law enforcement and regulators (both state and Federal) chaired by the Director of the Financial Crimes Enforcement Network (FinCEN), determined this year that the broader issue of de-risking should be prioritized as a key topic. The BSAAG formed a specific working group to discuss the issues. Re-issuing the 2005 interagency guidance has been a frequent topic of discussion in the working group as well as the broader BSAAG. Industry participants have not been consistent as to whether it would be useful to re-issue the 2005 guidance either in its same format or with updates because some participants believe that it could worsen banking access for MSBs because it would either restate risks associated with MSBs stated in the 2005 guidance or include discussions on new risks related to emerging technologies in the MSB space.

Currently, the BSAAG de-risking working group is focused on four major initiatives, including bringing more transparency to the overall MSB industry and the supervision of the industry, providing consistent regulatory guidance on banking MSBs, and developing best practices for addressing the Bank Secrecy Act compliance obligations. We continue to discuss within BSAAG and with the banking regulators additional guidance that may be useful to address banking MSBs and the current de-risking environment.

In this effort to address the four major initiatives highlighted by BSAAG, and in the spirit of the Money Remittances Improvement Act (MRIA), FinCEN has been working closely with the Conference of State Bank Supervisors (CSBS) and individual state bank commissioners to bring more transparency to the industry, through their Nationwide Multi-state Licensing System (NMLS). We have worked with CSBS to publicize the MSB information that is publicly available and determine if additional information would be useful from the industry on a quarterly basis. FinCEN is also working closely with CSBS, state regulators and the IRS to educate Federal bank examiners on the enhanced and coordinated supervision efforts of the MSB industry to address any misperception that the industry is not properly supervised.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Question 7:

There has been a substantial amount of discussion in this Committee about humanitarian situation in Somalia, and the dire need for Somalia to build up its financial capacity.

In response to questions submitted for the record for a March 2015 hearing you stated that FinCEN continues to weigh whether sharing MSB exam information would improve financial access for MSBs, by making due diligence more effective.

- **What is Treasury's current thinking on allowing MSBs to share their exams with financial institutions with which they wish to open accounts and engage in wire transfers?**

Answer:
FinCEN has spoken to both the IRS and state regulators regarding MSBs' ability to share examination findings with banks. Treasury continues to consider the implications – legal and policy – of allowing the sharing supervisory examination information beyond the examined financial institution itself. In discussions with state regulators, FinCEN learned that certain states allow their MSBs to share certain exam findings with banks.

Question 8:

Money Remittances Improvement Act

Last Congress, we passed the Money Remittances Improvement Act (PL 113-156) to improve oversight of non-depository financial institutions.

- **Please provide an update of how that law is being implemented? What conversations have you had with all of the implementing entities including states, the Internal Revenue Service, FinCen and others? Which states do you think will participate in the coordinated oversight? What benefit do you see occurring because of this law? What limits**

Answer:

Last year, FinCEN signed a Memorandum of Understanding (MOU) with the State Regulatory Registry/CSBS Board to obtain access all state MSB licensing data contained in the NMLS. Since signing the MOU, FinCEN has obtained access to state licensing data and began analysis of whether MSB registration data and state licensing data would be useful to determine scope and risks within the MSB industry. We are now working with CSBS to obtain the licensing data in bulk format to facilitate use of the data in combination with other FinCEN data. FinCEN hopes to use this licensing data to determine risk within the MSB industry and share such information with the IRS and the states to better risk-scope coordinated examinations.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Earlier this year, FinCEN also held a meeting with the IRS and state examination authorities regarding exam scheduling coordination. Since the passage of the MRIA, FinCEN has coordinated the sharing of examination schedules between the IRS and the states, and FinCEN will soon begin participating in the states' quarterly examination coordination calls.

In coordination with certain states' regulatory authorities, FinCEN issued guidance that reiterates expectations for MSB principals regarding the supervision of their agents to better streamline state and IRS examination for MSB industry. We are also working with the states so that they better inform FinCEN when concerns are raised through these streamlined examinations so that FinCEN can engage in further risk assessments.

Currently most states that license MSBs through the NMLS, now over thirty, are participating in the supervision discussions. FinCEN is also discussing supervision coordination with states that do not use the NMLS system for licensing, and is working with CSBS to determine whether MSBs can voluntarily use the NMLS to register with FinCEN. If possible, FinCEN participation in the NMLS could increase other states use of the system.

Overall, state and Federal supervision coordination discussions have been successful. These discussions are ongoing, with FinCEN and the state regulators continuing to find ways to improve MSB examination and bring transparency to the industry and its supervision.

Question 9:

Suspicious Activity Safe Harbor

In your conversations with industry, financial regulators and law enforcement, are you hearing that institutions feel they have sufficient ability to share threat information related to money laundering and terrorism financing both among industry participants and with government?

- **If not, would you support a clarification in law that institutions should be free from liability for sharing information they find to be suspicious and possibly related to illicit activity?**

Answer:

Treasury, based on its past conversations with industry, law enforcement, and regulators, would support two amendments to the SAR safe harbor and section 314(b) statutes, respectively.

First, the judicial rulings are not uniform with respect to whether a bank or bank official must have a "good faith" belief that a violation occurred before filing a SAR. We would support an amendment clarifying that the safe harbor for the filing of a SAR does not require an institution to show that it filed the SAR in good faith. This will assure an institution that it may file a SAR without running the risk that it will be exposed to civil litigation for complying with federal law.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Second, Treasury would support an amendment that expands the safe harbor for information sharing related to financial institutions when sharing customer financial information with each other. Currently, section 314(b) provides a safe harbor from liability to financial institutions when sharing between themselves information regarding persons suspected of possible terrorist or money laundering activities. The expansion would allow financial institutions to have a safe harbor for sharing information for the purposes of identifying and reporting activities that involve "any suspicious transaction relevant to a possible violation of law or regulation," not only those activities with suspected ties to possible terrorist activity or money laundering. Expanding the ability to share information regarding other crimes pursuant to the safe harbor would protect financial institutions that share information with one another without requiring a suspicion that the crime involves money laundering or terrorist activities.

Question 10:

AML/CFT Technical Assistance

The United Nations has identified a need for donor nations to improve coordination of their development assistance programs.

- **Given this, what steps is Treasury taking to improve coordination across the U.S. government, with multilateral institutions, and with other donor countries?**

Answer:
Treasury has an established history of coordination with a wide range of technical assistance implementers, both from within the U.S. government (USG) as well as with international partners. This coordination is necessitated by the fact that AML/CFT regime development involves a wide-range of counterparts—from regulators to financial intelligence units to law enforcement, prosecutors and judges—and effective implementation of AML/CFT best practices requires resources that often extend beyond a single implementer.

Coordination between USG implementers is facilitated by the Security Sector Assistance Presidential Policy Directive, which mandates coordination in all aspects of programmatic delivery including determining counterpart needs; identifying programmatic funding; ensuring that each agency provides assistance in line with its comparative advantage; and preventing programmatic duplication. In addition to Treasury, key USG interlocutors include the Departments of State, Justice, Homeland Security, and Defense, as well as USAID. Coordination takes place both in Washington, D.C. by headquarters staff and in the field during implementation of projects.

Treasury also coordinates with multilateral institutions and other donor countries. Coordination occurs in a number of ways. Most often coordination of assistance occurs in the field during project implementation as assistance providers seek opportunities to build on each other's efforts and prevent duplication. In this instance, Treasury also seeks to work with the recipient country to emphasize the need for it to take a leadership role in coordinating the assistance it receives.

The Financial Action Task Force (FATF)-Style Regional Bodies (FSRBs) also offer a forum for coordination of assistance between bilateral and multilateral assistance providers. Many of the FSRB meetings include sessions for coordination of assistance between providers; some also offer an opportunity for providers to meet jointly with a recipient country. Treasury's policy and technical assistance offices work together to effectively contribute to these discussions and emphasize the core principles of effective technical assistance, including recipient country political will and commitment to sustainable outcomes.

Question 11:

Despite the importance of building strong institutional capacity for fighting the financing of terrorism, few resources here at home and abroad have been dedicated to meeting this challenge. Treasury's office of Technical Assistance, for example, only received $23 million in direct appropriations in FY 2016 ($4.5 million less than requested) and the IMF's entire AML technical assistance budget is less than $7 million per year.

- **Do you believe these funding levels are adequate?**

Answer:

The President's FY17 budget request for Treasury's Office of Technical Assistance (OTA), which is a $10 million increase over the program's current funding level, recognizes the need to provide additional resources to help countries around the world to strengthen oversight of their financial sectors through AML/CFT regime development in order to combat corruption and illicit financial flows.

IMF technical assistance on AML/CFT issues reaches about 30 countries a year, primarily financed by a donor-funded Trust Fund that was recently renewed. The United States does not contribute to the trust fund but is encouraging the IMF to prioritize its AML/CFT capacity building work. The IMF also participates in the broader Financial Stability Board (FSB) Correspondent Bank Coordination Group, which is reviewing how the international community can work together to support domestic capacity building. The most important thing the IMF can do is continue to make AML/CFT assessments and capacity building a regular part of its work. In addition, the IMF's broader efforts to help countries strengthen their financial sectors and improve economic governance and transparency form an important foundation on which the international community's more specific work on AML/CFT is built.

- **In your view, what explains the low levels of support for increasing multilateral funding for counter-terrorism financing technical assistance or capacity building efforts?**

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Answer:

Treasury is committed to advancing the fight against terrorist financing and money laundering, including through technical assistance and capacity building. These efforts are essential to developing and maintaining robust and effective AML/CFT frameworks in jurisdictions around the globe. To this end, Treasury's OTA provides much-needed help to build capacity, as do the World Bank and the IMF.

- **How might additional funding assist Treasury in fulfilling requests from foreign countries looking for assistance in shoring up AML/CFT deficiencies? Or in other words, how many requests for assistance do you have to turn down in a given year given your limited funding constraints?**

Answer:

Strong and growing demand for Treasury technical assistance to help developing and transitioning countries strengthen AML/CFT regimes and other financial sector deficiencies exceeds the resources that are appropriated to Treasury's OTA. OTA seeks to supplement its direct appropriation with transfers from other agencies, but such transfers do not fill the gap.

In the last year, OTA has received 10 new requests for AML/CFT assistance from countries in Asia, Africa, Latin America and Eastern Europe, and expects to receive additional requests this year. OTA is assessing the requests, and with additional resources we would be able to accommodate more technical assistance engagements. OTA expects that demand for such assistance will continue to grow as more countries request our help to address deficiencies that may contribute to potential reductions in correspondent banking relationships.

- **How does Treasury's reliance on supplemental funding transfers from the State Department, U.S. Aid and others affect the office of Technical Assistance's ability to engage in sustainable, long-run capacity building projects?**

Answer:

While funding received by OTA from other USG agencies has been an important component of the program's overall resources, such funding is no substitute for annual appropriations. With the exception of an increase in interagency funding last year to support OTA's work in Ukraine, the total amount of transfer funding has declined from 2010 to 2015. This decline reflects budget constraints at other agencies. The President's budget request recognizes Treasury's comparative advantage in public financial management and financial sector strengthening and seeks to provide more funding directly to OTA so that it can respond quickly and in a sustained way to growing demand for financial technical assistance in support of U.S. foreign policy, national security, and economic development priorities.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Question 12:

IMF/World Bank

- **What is the specific value added by the IMF and World Bank in terms of countering-terrorism financing? To what extent to IMF and Bank programs work in concert with or conflict with U.S. counter-terrorism financing efforts?**

Answer:

The World Bank and the International Monetary Fund (IMF) are key allies in our efforts to combat money laundering and terrorist financing. The World Bank and the IMF participate in the Financial Action Task Force (FATF) and FATF-regional style bodies, and their direct engagement in developing standards puts these organizations in a strong position to provide advisory services and assistance at a country level. After 9/11 the Boards of the World Bank and the IMF now recognize the FATF recommendations as the appropriate international standards for combating money laundering and the financing of terrorism and these two organizations are the only non-FATF entities that are permitted to assess jurisdictions' compliance with the global AML/CFT standards promulgated by the FATF. To this end, the IMF incorporated the FATF standards into its Financial Sector Assessment Program (FSAP). The World Bank's and the IMF's intimate understanding of global standards, combined with their neutrality, global footprint, focus on growth, and extensive work with developing countries, make these organizations essential providers of technical assistance and key actors in improving effective global implementation of AML/CFT standards.

- **Can you clarify how the potential for forced evictions affects US Treasury's votes on projects from international financial institutions? I'm concerned because last September, the U.S. Treasury voted in support of the *Enhancing Shared Prosperity through Equitable Services* program of the World Bank in Ethiopia, despite the fact that the program is based on a previous program with known linkages to evictions. The U.S. Appropriations Act in place at the time specifically mandated that the Secretary of the Treasury instruct the United States executive director of each international financial institution to vote against financing for any activities that directly or indirectly involve forced evictions in Ethiopia. What is the Treasury's policy regarding such cases?**

Answer:

We closely review any Multilateral Development Bank (MDB) project that may lead to forced eviction. First, we determine whether a project's activities would result in eviction. If the project is likely to lead to evictions, we consider whether such evictions are forced by considering a range of factors, including whether consultations with the locally affected population are adequate, prior, and appropriate; whether compensation and appropriate livelihood support will be provided to affected individuals; whether grievance redress mechanisms will be available; and if robust monitoring will be carried out for the project. In carrying out our assessment, we consult with the State Department, USAID and, when possible, civil society.

The World Bank's Enhancing Shared Prosperity through Equitable Services (ESPES) project aims to improve the provision of basic services (e.g., health, education, clean water) to rural communities in Ethiopia. The project also aims to build the capacity of local governments to consult with their citizens, manage their finances, and assess and mitigate the environmental and social risks of small-scale infrastructure, which all address the gaps found in earlier projects. Given the project's focus and design (disbursement will be linked to specific targets and a screening tool is embedded to avoid any World Bank involvement in activities that may lead to forced eviction), it is unlikely to lead to evictions. Nonetheless, we will continue to closely monitor the implementation of this project.

We would also note that the World Bank's Inspection Panel—an independent complaint mechanism for communities who believe they have been harmed by World Bank projects—investigated the predecessor project of ESPES ("Protection of Basic Services" or PBS). The Panel's investigation report concluded that the involuntary taking of land and use of force and intimidation were not consequences of PBS, but that the World Bank could have done a better job in managing the situation.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Rep. Rubén Hinojosa

Question 1:

In January 2015, during the High-Level Economic Dialogue, President Obama and Mexican President Peña Nieto agreed to double the Bank's capital from its current $3 Billion, to $6 billion, split evenly between the two nations. This week, I will be introducing the North American Development Bank's General Capital Increase Authorization Act of 2016, legislation which will authorize the Bank's capital increase. In the coming weeks, I hope to work with my colleagues on this committee to get this important piece of legislation passed.

- **Can you tell us why the Bank is seeking to double its capital?**

Answer:

Doubling the NADB's capital will allow the NADB to sustain its annual lending of around $250 million without risk of a credit rating downgrade, which would severely hinder investments in environmental infrastructure along both sides of the U.S.-Mexico border.

- **Is the Bank in financial trouble?**

Answer:

No. The NADB maintains strong financial ratios and has a strong portfolio. As its loan portfolio continues to grow, some of the key capital adequacy ratios that ratings agencies monitor will near their thresholds, placing NADB at risk of a downgrade unless it either shrinks annual lending from $250 million to around $70 million or receives additional capital.

- **How will the capital increase help the Bank enhance its capacity to support continued investments along the US-Mexico border?**

Answer:

The general capital increase (GCI) will help NADB maintain its credit rating, preventing an immediate increase in the cost of funding to NADB and its project sponsors, which would severely impact NADB's capacity to promote the development of environmental infrastructure in the border region. The GCI will allow the NADB to continue funding projects at the current level of roughly $250 million per year. This financing helps to catalyze the development of projects that have a significant environmental impact.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Question 2:

In June 2015, Moody's rated the NADBank as "Aa1" reflecting the bank's strong capitalization and liquidity positions, as well as noting the support of the Bank receives from both the U.S. and Mexico. Moody's rated the Bank's outlook as stable.

- **Do you expect the Bank will maintain its strong financial position moving forward?**

Answer:

Yes. NADB's capital adequacy ratios will improve significantly with the new capital injection. NADB's portfolio remains extremely healthy. NADB plans to sustain lending around current levels and is taking steps to catalyze a greater share of private financing for its projects, which will also contribute to an efficient use of new capital.

- **What is the default rate on the Bank's lending portfolio?**

Answer:

NADB does not currently have any loans in default.

Question 3:

How does the NADBank fit within bilateral relationship between the United States and Mexico?

Answer:

The NADB deepens our relationship with Mexico as our countries jointly address cross-border environmental issues like air quality, clean energy, and clean water. NADB's financing helps improve municipal services, lowers the costs of energy for households and businesses, and improves quality of life. This supports job creation, economic growth, and more prosperous communities on both sides of the border.

Question 4:

How have NADBank investments along the US-Mexico border helped alleviate high poverty rates? How have these investments helped our two nations address mutual security challenges?

Answer:

NADB's investments have contributed to improved quality of life and livelihoods through investments in areas like wastewater collection and treatment, solid waste collection, paving roads, and renewable energy. These investments have in turn contributed to cleaner water, reduction of waterborne diseases, reduced air pollution, faster transport, and cheaper electricity for households and businesses. By helping increase incomes, improve quality of life, and create jobs and business opportunities, the NADB helps create more prosperous, stable, and secure border communities.

Question 5:

Since 2010, the Bank's lending portfolio and debt issuances have grown significantly.

- **During these past six years, the bank's lending portfolio has grown 280% from about $480 million to now standing at approximately $1.2 Billion. Why has the Bank's lending portfolio grown considerably?**

Answer:

The growth of the NADB's portfolio is a sign of its success as it has become more established. The NADB has become a trusted partner for communities and businesses along the border, and so demand for its financing is increasing. Private and public project sponsors are increasingly turning to the NADB as a financier of choice.

This has led to NADB financing about $250 million in lending per year, contributing to the significant portfolio growth over the past six years.

- **Has the increased lending portfolio had a negative impact on the Bank's financial position?**

Answer:

The increased lending portfolio reflects the NADB's role as a trusted financier of critically needed environmental infrastructure for border communities. We welcome such portfolio growth as NADB serves the border region.

The increased portfolio has not diminished the quality of lending or NADB's inherent financial strength, but it has placed certain key capital adequacy ratios near thresholds that might contribute to a credit rating downgrade unless NADB receives more capital or curtails lending to significantly lower levels.

Question 6:

In that same time frame, the Bank's debt has grown from zero dollars to a bit over $1 Billion.

- **Why did the Bank decide to take on debt in 2010, and how has the Bank's level of debt affected the Bank's lending capacity and financial position?**

Answer:

Like other MDBs, the NADB's ability to leverage its equity at reasonable borrowing costs allows it to significantly scale up lending capacity. NADB was able to borrow at sufficiently low rates to pass those costs on in its loan pricing and make financially viable investments.

NADB's debt-to-equity ratio is one of the ratios approaching the threshold for maintaining its current credit rating, so without additional capital the NADB will not be able to fund additional lending through debt without risking a credit downgrade. With the additional capital from the capital increase, NADB's debt-to-equity ratio will remain stable.

- **What steps has the Bank taken to ensure that its debt issuances do not become an oversized liability for the bank?**

Answer:

NADB maintains a prudential limit on debt such that total debt cannot exceed an amount equal to the callable portion of its subscribed capital plus the minimum liquidity level required under a very conservative liquidity policy.

Question 7:

2011, I introduced HR 2216, the "North American Development Bank Enhancement Act," a bill to allow the Bank to expand its mandate beyond environmental infrastructure projects and include infrastructure projects that promote growth in trade and commerce between the United States and Mexico.

- **Has the Bank's Board of Directors taken a look at expanding the Bank's mandate beyond projects with a significant environmental impact?**

Answer:

NADB's charter restricts NADB financing to environmental projects. While the Board has had occasional discussions on the activities that NADB can fund within its environmental mandate, the Board has not considered expanding NADB's mandate.

- **Would Treasury support efforts to expand the Bank's mandate?**

Answer:

NADB has specialized expertise in environmental infrastructure, and border communities, and investors highly value its specialized role and strong impact in financing environmental infrastructure.

Given the current constraints on NADB's financial and operational capacity, Treasury believes that it is appropriate for NADB to remain focused on environmental infrastructure at this time.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Rep. Blaine Luetkemeyer:

Question 1:

The Consumer Financial Protection Bureau (CFPB) recently announced that it is making small business lending one of its policy priorities over the next two years, giving both small businesses and small business lenders cause for concern. This wasn't the intent of Dodd-Frank. The Dodd-Frank Act created the CFPB with the express mission to protect consumers, and not with the intent to regulate small business lending. Do you believe the CFPB's recent statements with respect to small businesses are consistent with its mission and authority?

Answer:

Per the statute, the purpose of CFPB is to implement, and where applicable, enforce federal consumer financial law to ensure all consumers have access to financial products and services, and to ensure that those products and services are fair, transparent and competitive. In some cases, this includes the authority to carry out certain provisions related to small businesses, such as the enforcement of fair lending laws and related data collections. Specifically, the Equal Credit Opportunity Act was amended to allow CFPB to collect and publish minority-owned, women-owned, and small business loan applicant data. CFPB's recent statements inform the public of that authority and pending activity.

Question 2:

The presence of online marketplace lending is growing, and more and more consumers are opting not to apply for loans with an online lender. The Treasury just finished collecting information on online marketplace lending last fall and, on Friday, Comptroller of the Currency Tom Curry stated the Office of the Comptroller of the Currency (OCC) plans to release a white paper on financial innovation very soon. Does Treasury believe that the growth of online marketplace lending poses a threat to financial stability? If so, how does Treasury plan on addressing this risk? Would this include examinations by the OCC or another regulator?

Answer:

Although online marketplace lending originations are growing at a fast pace, Treasury does not believe the industry poses a threat to financial stability.

The activities of online marketplace lenders fall under a series of regulations across state and federal regulators. Loans originated by online marketplace lenders are subject to many of the same federal laws as loans originated by financial institutions. In the case of federal consumer protection laws, these laws apply equally to both parties.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Question 3:

What are your greatest areas of concern coming out of the Treasury's most recent collection of information on online marketplace lending and the OCC's upcoming white paper?

Answer:

The greatest area of concern for Treasury is that these business models, operations and data-driven algorithms supporting this industry have largely developed in favorable credit conditions. Although lenders have demonstrated methods to improve operational efficiencies, both the durability of technology-driven operations and credit underwriting, and the sustainability of investor demand for loans has not yet been tested. Treasury believes it is important to consider policies that may minimize risks to borrowers through a changing credit environment.

Question 4:

We've seen that recently the CFPB and the OCC are focusing more on online marketplace lending. The CFPB has even sent out consumer guidance that has warned about the potential risks involved in online marketplace lending, calling it a "young industry" that "does not have the same history of government supervision and oversight as banks or credit unions." Does Treasury share the same concerns as the Bureau about online marketplace lending?

Answer:

Treasury has spoken with the CFPB about marketplace lending and discussed our findings from the Request for Information. As stated previously, Treasury shares concerns that the business models, operations, and data-driven algorithms supporting this industry have yet to be tested through a full credit cycle.

The activities of online marketplace lenders fall under a series of regulations across state and federal regulators. However, they are not identical to financial institutions. Although financial institutions and online marketplace lenders are largely subject to the same statutory requirements when originating loans; financial institutions are subject to a higher degree of oversight by the prudential regulators while online marketplace lenders are not subject to the same federal oversight, particularly for small business lending. Effective oversight, particularly of small business online marketplace lenders, could enable greater transparency and support safe and affordable products for borrowers.

Question 5:

In his Fiscal Year 2017 budget proposal, President Obama recommended $10 million for a pilot program that would allow community development financial institutions to engage in small-dollar, short-term lending. Will Treasury supervise these loan programs and products? What oversight will Treasury provide of CDFIs that engage in this program?

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Does Treasury expect participating CDFIs to profit from this program, or it is assumed that the $10 million will not be entirely repaid?

Answer:

The CDFI Small Dollar Loan Program (SDLP), authorized by Section 1206 of the Dodd–Frank Act, will provide financial assistance in the form of grants for loan loss reserves and technical assistance (TA) to enable CDFIs to establish and maintain small dollar loan programs as an alternative to predatory payday lenders. Eligible applicants will be limited to CDFIs and partnerships between CDFIs and any other federally insured depository institution with a primary mission to serve targeted investment areas, such as low-income credit unions or minority depository institutions. Awardees will be required to provide non-federal matching funds in an amount equal to 50 percent of the amount received from the CDFI Fund. Dodd-Frank defines small dollar loans as those that do not exceed $2,500.

Treasury will coordinate with the prudential regulators to ensure it does not conflict with any of their regulations or guidance and will set program guidelines that conform to evidence-based best practices. In addition, the CDFI Fund will ensure that applicants are evaluated with respect to their compliance with any regulations as well as the CFPB's Proposal for Regulating Payday Lending. A CDFI's ability to receive an award will depend in part on its compliance with any safety and soundness rules governing small dollar lending, as well as with best practices demonstrating a borrower's ability to repay a loan. Moreover, as with all CDFI Fund programs, Treasury will establish compliance and reporting requirements to ensure that grantees adhere to the program guidelines and use the funding appropriately.

Treasury does not expect participating CDFIs to profit from this program. The SDLP will not be designed to offer permanent subsidy to CDFIs providing such loans, but rather to help with the initial start-up costs and to address perceived risks that have prevented banks and credit unions from starting such programs on their own. Because banks and credit unions often overestimate risks associated with small dollar loans, grants for loan loss reserves will help to overcome institutional fears over starting a small dollar loan program. Research and experience, however, have demonstrated that with a well-designed product and appropriate underwriting, losses typically range between 2 percent and 6 percent – both manageable and in line with loss rates for similar types of unsecured loans. Similarly, technical assistance grants would allow banks and credit unions to establish a streamlined underwriting and servicing process that will allow them to make safe and affordable loans to borrowers without ongoing subsidy.

Questions for the Record for Secretary Jacob J. Lew
House Financial Services Committee
"The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System"
Hearing held March 22, 2016

Rep. Luke Messer:

Question 1:

Last year, the Financial Stability Board ("FSB") began evaluating possible "structural vulnerabilities" associated with asset management activities, including activities of mutual funds. I understand that the FSB plans to issue a consultative document, which will include policy recommendations, by September of this year.[1]

Secretary Lew, I note that you Chair the Financial Stability Oversight Council ("FSOC") and are one of three members of the U.S. delegation to the FSB (Fed, SEC, Treasury). U.S. stock and bond mutual funds are highly regulated, have a long history of successfully meeting shareholder redemptions, and do not experience financial distress or disorderly failure like banks do. What actions have you taken to ensure that the FSB—a body whose leadership is dominated by central bankers—understands these fundamental features of U.S. mutual funds and does not propose applying inappropriate, bank-oriented measures that would harm these funds and the millions of Americans who invest in them to meet retirement savings and other important financial goals?

As the Chair of the FSOC and a member of the FSB, how will the FSB's evaluation of the asset management industry inform FSOC's own ongoing review of asset management activities?

Answer:

While the FSB and FSOC both seek to strengthen financial stability, they have distinct processes and are independent of one another; decisions reached in one forum do not predetermine decisions made in the other. On April 18, FSOC convened in a public session and voted to issue a written statement updating the public on FSOC's review of potential risks to financial stability from asset management products and activities. FSOC has developed a domestic consensus on potential risks to financial stability from asset management products and activities, and FSOC's work helps to provide leadership internationally on these issues. In addition, the chairperson and staff of the Securities and Exchange Commission (SEC) have played important roles in the FSOC's evaluation of asset management activities, and the SEC is also a member of the FSB.

[1] FSB Chairman Mark Carney stated in a February 22, 2016 letter: "By the Hangzhou Summit [in September 2016], the FSB will publish a consultative document with its assessment of any structural vulnerabilities associated with asset management activities and policy recommendations to address them". http://www.fsb.org/wp-content/uploads/FSB-Chair-letter-to-G20-Ministers-and-Governors-February-2016.pdf.

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Question 2:

FSB Chair Mark Carney has stated that once the FSB's work on asset management activities is completed, the FSB will finalize its methodology for identifying asset management entities for possible designation as global systemically important financial institutions ("G-SIFIs").[2] So far the FSB has issued two consultation papers addressing this topic. FSB's first consultation paper proposed a methodology that identified only U.S. regulated funds (mutual funds and ETFs) for possible G-SIFI designation. Despite an extensive record showing that G-SIFI designation is inappropriate for these funds, the second consultation paper continued to single out these U.S. funds as candidates for potential designation and added criteria to identify large asset managers (appearing again to target U.S. asset managers) as potential G-SIFIs.

Given that U.S. mutual funds are the most transparent and regulated investment funds in the world, do you agree that only U.S. funds should be of concern to the FSB?

Is it in the best interest of the United States to target only U.S. investment funds and asset managers for G-SIFI designation?

How did you arrive at this decision to target only U.S. regulated funds and U.S. asset managers for review – did you vote in favor, did you abstain, did you object to the focus on only U.S. entities?

Do you expect the FSB to revise its G-SIFI methodology further based on the results of the FSB's review of asset management activities? If so, how?

Answer:

In response to G-20 Leaders, the FSB developed a framework to strengthen the resilience of the financial system to potential risks from global systemically important financial institutions (G-SIFIs), and called on the relevant international standard-setting bodies to develop methodologies for identifying G-SIFIs in their respective parts of the financial sector.

The G-20 tasked the FSB and IOSCO to develop methodologies to identify non-bank non-insurance (NBNI) G-SIFIs, which includes methodologies for asset managers and investment funds as well as other entities such as finance companies, and these methodologies are still being developed. Finalizing these methodologies would provide national authorities with tools for assessing NBNI entities for risks to financial stability.

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[2] FSB Chairman Mark Carney stated in a February 22, 2016 letter: "Once the above activity-based work [on asset management] is completed, the FSB, jointly with IOSCO, will conduct further analysis and finalise the assessment methodology for asset management under the global systemically important financial institutions (G-SIFI) framework." http://www.fsb.org/wp-content/uploads/FSB-Chair-letter-to-G20-Ministers-and-Governors-February-2016.pdf.

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The proposed thresholds in the FSB-IOSCO draft methodologies for identifying potential NBNI G-SIFIs were merely an initial screen to be used to filter entities before the national authorities conduct a deep-dive analysis and assessment of those firms. Exceeding the initial threshold does not necessarily indicate the entity is global systemically important. According to the draft methodologies, national authorities would be responsible for identifying global systemically important NBNI entities, if any, in their jurisdictions.

The FSB and IOSCO undertook two rounds of public comments of on draft NBNI G-SIFI identification methodologies (January 2014 and March 2015) and held a series of meetings with global asset managers. In July 2015, the FSB postponed the finalization of the NBNI assessment methodologies until its analysis of potential risks associated with asset management activities is complete, so that the activities analysis can inform the revised methodologies.[3]

Question 3:

I am concerned that the International Association of Insurance Supervisors (IAIS) Consultation on G-SII Assessment Methodology from November of last year is a deeply flawed document that does not further the goal of reducing systemic risk. I am particularly concerned that the approach to Non-Traditional, Non-Insurance (NTNI) products would penalize guaranteed lifetime products commonly available in the U.S. and would disadvantage U.S. companies and U.S. consumers. What are the problems with the NTNI approach in your view and what actions will the Treasury Department, as an IAIS member, take to secure necessary changes?

The NTNI approach categorizes guaranteed lifetime products in the U.S. as systemically risky, but not products in the EU with similar risk characteristics. Is that fair or reasonable, and how do you propose to fix this unequal treatment? Would you agree that insurance products with similar risk characteristics should be treated equally regardless of origin?

I am very concerned that the IAIS standard setting process might front-run and prejudge the Federal Reserve Board process for insurance capital standards rulemaking. The Fed process should be as informed, thoughtful, and transparent as possible, and should not be rushed by events occurring at the IAIS. Do you share those concerns and what is your Department doing to ensure that the IAIS timeline accommodates the important work of the Fed?

Answer:

The United States is represented at the International Association of Insurance Supervisors (IAIS) by Treasury's Federal Insurance Office (FIO), the Board of Governors of the Federal Reserve System (Federal Reserve), and the 56 insurance regulators of the states, District of Columbia and

[3] See http://www.fsb.org/2015/07/next-steps-on-the-nbni-g-sifi-assessment-methodologies/

territories. In this work, the U.S. representatives coordinate closely to represent the interests of the United States. Through FIO, Treasury has worked at the IAIS to promote the development of global insurance supervisory standards that promote both financial stability and a level playing field for U.S. insurers operating on a multinational basis.

The IAIS is currently re-evaluating its understanding of non-traditional, non-insurance (NTNI) activities or products of insurers, many of which contributed to the financial crisis. The global insurance sector is evolving rapidly, and concepts such as NTNI should be reviewed and reconsidered to confirm that the definition and application remain current and accurate. Working with other members of the U.S. IAIS delegation, FIO supports an approach that categorizes products with similar risk characteristics equally regardless of the country of origin.

IAIS standards are not self-executing. In the United States, any insurance supervisory standard is only effective if implemented through our domestic regulatory process by either the state insurance regulators or the Federal Reserve. To this end, when representing the United States at the IAIS, FIO works closely with the Federal Reserve and the state insurance regulators in support of insurance capital standards that accommodate U.S. practices.

Question 4:

Regarding the designation of Global Systemically Important Insurers (G-SIIs), should the FSB and IAIS put in place procedures for de-risking? Do they need an off-ramp a firm can take to cease being classified as a G-SII?

Do you object to Congressional oversight of the international standard setting and G-SII designation process at the IAIS and FSB? If so, please explain why.

Do you believe greater that transparency through public comment periods and congressional oversight would improve international standard setting process at the FSB for G-SII designations and insurance capital standards?

Answer:

At the IAIS, FIO, working with the other U.S. members, supports a G-SII methodology (i.e., a process to identify G-SIIs) that allows for annual consideration of all aspects of an insurer's risk profile, including activities undertaken by an insurer to limit or eliminate identified risks. To enhance the understanding of the insurers involved with the G-SII methodology of both the process and insurer-specific standing as a result of the process, FIO supports an extensive exchange of information with insurers being evaluated through that exercise. The extensive exchange of information between IAIS and the insurer will promote the insurer's awareness and understanding of the IAIS's key considerations and enable the insurer to determine whether how to adjust its risk profile.

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Treasury welcomes the opportunity to engage with Congress on prudential insurance matters of global importance, and FIO staff have continually engaged with Congressional staff and members, including through testimony at hearings, on many occasions.

The FSB identification of G-SIIs is premised upon the IAIS's annual recommendation. The IAIS has a policy and practice of public engagement and transparency that, in recent years, has increased opportunities for stakeholder engagement. Through the 2014 IAIS structural reform that eliminated the prior annual fee, the IAIS became open and transparent to all stakeholders, not just those that could afford the annual fee. As a result of the IAIS 2014 structural reform, the IAIS: made its website both more informative and accessible to all of the public; began to provide a monthly newsletter, public meeting minutes, and opportunities for the public to submit written comment on papers released for consultation; hosted briefings on consultation papers at the time of release; and provided summaries of and replies to comments received on consultation papers. In addition, after public sessions in 2014 that were limited to approximately 14 hours for those stakeholders that paid the annual fee, beginning in 2015 the IAIS hosted approximately 140 hours of public consultations for all stakeholders in cities around the world.

Question 5:

As the prudential regulator of designated SIFIs, it appears as though the Federal Reserve has a vested interest in maintaining SIFI designations and preventing companies from being de-designated. The Fed has scores of employees who regulate these companies who would have to be laid off if these companies were de-designated.

Secretary Lew, as the Chair of FSOC, what steps have you taken to manage this glaring conflict of interest? Do you believe it is appropriate to remove the Chair of the Fed from the voting membership on FSOC to eliminate any appearance of a conflict of interest?

Answer:

The FSOC is an important forum for the heads of the federal financial regulatory agencies to come together to identify and respond to potential threats to financial stability. By statute, the FSOC has 10 voting members, and each member agency contributes meaningfully to the FSOC's work. It is appropriate for the Federal Reserve chairman to have a voting membership on the FSOC.

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Rep. Dennis A. Ross:

Question 1:

Secretary Lew, I understand that Treasury is working to finalize a rule to implement the qualified financial contract recordkeeping requirements of the Dodd-Frank. I have heard concerns that the current scope of the rule is needlessly broad and burdensome, and it would generate so much data that it would render the stated purpose of the rule moot.

- **Can you comment on how Treasury is working to address these concerns and what the timetable is for a final rule?**

Answer:

Treasury published for public comment a proposed rulemaking to implement the qualified financial contract (QFC) recordkeeping requirements under Title II of the Dodd-Frank Act in January 2015. We received comments from trade associations, asset managers, insurance companies, clearing organizations, a nonprofit organization, and a private individual. In general, commenters acknowledged the need for the Federal Deposit Insurance Corporation (FDIC) to have QFC records necessary to exercise its role as a receiver of a covered financial company under Title II of Dodd-Frank. However, some commenters also requested relief from certain aspects of the proposed rulemaking that they argued were unduly burdensome. Treasury staff, in consultation with the FDIC, is carefully considering all comments received and working expeditiously to finalize the rule.

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Rep. Keith J. Rothfus:

Question 1:

Clarification on Treasury position on IAIS Non-traditional Non-insurance framework:

Secretary Lew, at the hearing I remarked on the decision of the International Association of Insurance of Supervisors (IAIS) to approve higher capital charges for some U.S. insurance products such as variable annuities by labelling them as non-traditional, non-insurance (commonly referred to as NTNI). I also noted that there are other insurance products outside of the U.S. with similar characteristics that, for some reason, have not become subject to a higher capital charge.

- **Please explain why this imbalance exists between U.S. products and non-U.S. products in terms of being deemed NTNI.**
- **Outside of advocacy for a covered agreement, what is Treasury doing to fix this imbalance?**

Answer:

The United States is represented at the International Association of Insurance Supervisors (IAIS) by Treasury's Federal Insurance Office (FIO), the Board of Governors of the Federal Reserve System (Federal Reserve), and the 56 insurance regulators of the states, District of Columbia and territories. In this work, the U.S. representatives coordinate closely to represent the interests of the U.S. insurance consumers and industry. Through FIO, Treasury has worked at the IAIS to promote the development of global insurance supervisory standards that promote both financial stability and a level playing field for U.S. insurers operating on a multi-national basis.

The IAIS is currently re-evaluating its understanding of non-traditional, non-insurance (NTNI) activities or products of insurers, many of which contributed to the financial crisis. The global insurance sector is evolving rapidly, and concepts such as NTNI should be reviewed and re-considered to confirm that the definition and application remain current and accurate. NTNI, as originally defined, appeared to be biased against the United States insurance sector, in part because of the absence of FIO during its development. With the engagement of FIO and, more recently, the Federal Reserve, the United States continues to advocate for globally balanced and technically defensible approaches to financial stability.

To improve the IAIS understanding and application of NTNI, working with other U.S. members of the IAIS and with our international counterparts, FIO has pursued an approach that would change the terminology, improve the IAIS assessment of financial stability risk within the global insurance sector, and fairly and accurately identify and assess risk in non-U.S. insurance markets.

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Rep. Patrick E. Murphy:

Question 1:

The Treasury Department has put in place new procedures to uncover the identities of real estate buyers in New York and Miami in order to bring to light illegal activities in the business of real estate through limited liability companies.

- **While I understand that this endeavor is intended to ensure that money does not fall into the wrong hands, I also have concerns that the broad brush used to pursue this may unduly burden legitimate real estate business in Florida.**

- **Have measures been considered to achieve the goals of the Department, which I share, while placing fewer burdens on the people of Florida in the real estate business for the right reasons?**

Answer:

In January 2016, the Financial Crimes Enforcement Network (FinCEN) issued Geographic Targeting Orders (GTOs) that temporarily require certain U.S. title insurance companies to identify the natural persons behind companies used to pay "all cash" for high-end residential real estate in the Borough of Manhattan in New York City, New York, and Miami-Dade County, Florida. These GTOs were narrowly scoped to target the highest risk transactions in the least burdensome manner. FinCEN is particularly concerned about the narrow segment of the real estate market in which a legal entity (e.g., a shell company) pays "all-cash" (i.e., without a bank loan) for residential property. Because these purchases do not involve bank loans, such transactions do not receive the same level of anti-money laundering scrutiny from banks. Moreover, the use of a shell company in such transactions may serve to obfuscate a person's involvement. FinCEN issued the GTOs to mitigate this vulnerability and to prevent evasions of the Bank Secrecy Act. As such, the information generated by the GTO will help law enforcement and inform FinCEN's broader rulemaking in this sector to ensure that any regulatory measures are appropriately tailored to combat money laundering while minimizing burden on affected parties.

Further, to mitigate burden on affected businesses, the GTO requires reporting on a very limited subset of transactions. For example, the GTO covers only transactions for residential property in Miami-Dade County over $1,000,000 (and $3,000,000 in Manhattan), and only those that involve a legal entity purchasing the property without bank financing. FinCEN also engaged extensively with affected businesses prior to the GTOs becoming effective to ensure that the scope of the GTOs captures the most relevant information without imposing unnecessary burden.

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__Question 2:__

On April 4, the Department proposed regulations addressing whether an interest in a related corporation is treated as stock or indebtedness, or as part stock and part indebtedness, for federal income tax purposes. These regulations were proposed in conjunction with others to limit cross-border merger transactions, or "inversions," and certain post-inversion transactions.

I am concerned about how this may impact international treasury management practices, such as cash pooling and related party financing, and the potential burden on competitiveness if they were to prevent multinationals from engaging in treasury management techniques designed to minimize external borrowings and manage internal liquidity.

- **Has a comprehensive study been performed of whether, and to what extent, the proposed regulations will negatively impact the U.S. economy?**

- **Documentation requirements, which if not satisfied generally will result in the re-characterization of debt as equity for federal income tax purposes, may impose significant compliance burdens. Has the potential drag on profitability for U.S. companies been fully analyzed?**

__Answer:__

Courts historically have analyzed whether a financial instrument should be treated as stock or indebtedness for federal tax purposes by applying various sets of factors to the facts of a particular case. Congress enacted section 385 to authorize the Secretary of the Treasury to prescribe such regulations as may be necessary or appropriate to determine whether an interest in a corporation is to be treated as stock or indebtedness for purposes of the Tax Code. The Treasury Department has been studying related party debt and earnings stripping for some time. Notices issued in 2014 and 2015, which primarily addressed inversion-related transactions, stated that Treasury was considering guidance to address strategies that avoid U.S. tax by shifting or "stripping" U.S.-source earnings to lower-tax jurisdictions, including through the use of intercompany debt.

The proposed regulations are motivated in part by the significant incentives for related parties to engage in transactions that result in excessive indebtedness and that shift deductions to higher-tax rate jurisdictions, for example to the United States. The proposed regulations under section 385 are generally limited to financial instruments issued among related parties. With respect to cash pooling, which is sometimes described as a system of advances – or lending and borrowing – among related parties such as subsidiaries of a multinational firm, sometimes for short-term liquidity, but other times for longer-term financing, we specifically requested comments about whether special rules are warranted for such cash pools, cash sweeps, and similar arrangements. We will take those comments into consideration when issuing final regulations.

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In response to your question about economic impacts, Treasury believes the overall economic effects to be modest. In this regard, it is useful to refer to the material related to the proposed regulation that Treasury issued under Executive Order 12866. Treasury's summary of impacts stated that the "primary effect of the proposed regulations is expected to be an increase in corporate revenue." Treasury further stated that:

> "Because the proposed regulations affect only certain purported indebtedness issued between related parties, the effects of the proposed regulations on real resources are expected to be small. In addition, Treasury estimates that the paperwork burden associated with the proposed regulation addressing the substantiation of the treatment of certain interests issued between related parties as indebtedness would be approximately $15 million."

Question 3:

The Department has laid out a comprehensive approach to dealing with the debt crisis in Puerto Rico that would require action on the part of Congress.

In the event that Congress fails to take action, what would the Department's "plan B" look like? How will the Puerto Rican people be impacted if no action is taken over the course of 2016?

Answer:

In October 2015, the Obama Administration released a Roadmap for Congressional Action to support Puerto Rico. In response, Congress – on a bipartisan basis – recently provided the Commonwealth with the tools it needs to comprehensively restructure its debt. On June 30, 2016, President Obama signed the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA).

PROMESA provides Puerto Rico with the debt restructuring authority outlined in the Congressional Roadmap coupled with strong fiscal oversight. The Administration is committed to naming the members of the Oversight Board, to include Puerto Rican representation, and helping to stand it up as soon as possible. But PROMESA is not, in and of itself, going to be sufficient to solve all the problems that Puerto Rico faces. While it is an important first step on the path of creating more stability, actions to support the growth of the economy and to address shortfalls in the provision of health care on the island are also needed. The Administration will continue to work with Congress to help Puerto Rico gain access to Medicaid parity and much needed economic growth incentives.

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