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NOMINATIONS OF: ADEWALE O. ADEYEMO, AMIAS MOORE GERETY, AND JAY N. LERNER

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

ON

NOMINATIONS OF:

ADEWALE O. ADEYEMO, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR INTERNATIONAL MARKETS AND DEVELOPMENT, DEPARTMENT OF THE TREASURY

AMIAS MOORE GERETY, OF CONNECTICUT, TO BE ASSISTANT SECRETARY FOR FINANCIAL INSTITUTIONS, DEPARTMENT OF THE TREASURY

JAY N. LERNER, OF ILLINOIS, TO BE INSPECTOR GENERAL, FEDERAL DEPOSIT INSURANCE CORPORATION

SEPTEMBER 29, 2015

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NOMINATIONS OF:

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AMIAS MOORE GERETY, OF CONNECTICUT, TO BE ASSISTANT SECRETARY FOR FINANCIAL INSTITUTIONS, DEPARTMENT OF THE TREASURY;

JAY N. LERNER, OF ILLINOIS, TO BE INSPECTOR GENERAL, FEDERAL DEPOSIT INSURANCE CORPORATION

TUESDAY, SEPTEMBER 29, 2015

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10 a.m., in room SD–538, Dirksen Senate Office Building, Hon. Richard Shelby, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY

Chairman SHELBY. The Committee will come to order. This morning we will hear testimony on several nominations.

Mr. Adeyemo—is that correct?

Mr. ADEYEMO. Yes, sir.

Chairman SHELBY. OK.——is nominated to be Assistant Secretary of the Treasury for International Markets and Development, which is primarily a national security position. He has served as Deputy Chief of Staff of the Treasury Department since 2012. He was also the Chief of Staff at the Consumer Financial Protection Bureau for 16 months in 2010 and 2011.

As the Assistant Secretary, he would directly oversee the process by which foreign persons seek approval to purchase controlling interests in U.S. businesses with national security implications. In this position, he would also support the management of Treasury's portfolio on international financial services, regulation, trade, banking and securities, development, and technical assistance.

Mr. Amias Gerety is nominated to be Assistant Secretary of the Treasury for Financial Institutions. Mr. Gerety has been working in the Treasury Department since January of 2009. He has recently served as the Deputy Assistant Secretary for the Financial

Stability Oversight Council and is currently serving as the Acting Assistant Secretary for Financial Institutions.

If confirmed, he will be responsible for managing Treasury's efforts regarding regulations and legislation affecting financial institutions including systemic risk designations. He will also be responsible, among other things, for coordinating Treasury's initiatives on financial education policy as well as overseeing the Terrorism Risk Insurance Program and the Community Development Financial Institutions Fund.

The Committee will also consider the nomination of Mr. Jay Lerner for Inspector General of the Federal Deposit Insurance Corporation. Mr. Lerner has extensive experience in law enforcement at the Department of Justice as well as in other Government oversight and supervisory roles.

The Committee looks forward to receiving testimony from the nominees today and their responses to our questions.

Senator Brown.

STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Chairman Shelby, for holding today's nomination hearing. Congratulations to the three of you. I am hopeful that as we do this hearing and learn more about you, the confirmation can be affirmative and speedy if you earn it, as I think you will.

Last week, we held a hearing on Adam Szubin's nomination for a key counterterrorism post in the Treasury Department. It was the Committee's first nomination hearing of this Congress. I am pleased we have three nominations today before the Committee. It has been a long time coming. Mr. Lerner and Mr. Adeyemo were first nominated last year. Mr. Gerety was nominated in February. Before I discuss their outstanding qualifications, I want to express my hope that the Committee will make progress in our nominations backlog. We have seven nominees who have yet to receive a hearing. Not one nominee has received a vote from this Committee in this entire Congress. They all deserve full, fair, and prompt consideration.

On Thursday, the Committee will hold an executive session to mark up oil exports legislation. I have expressed my interest and hope that we use that opportunity to act on Mr. Szubin's nomination. It was clear at that hearing last week that he has this Committee's support.

That said, we have a distinguished panel of public servants before us today.

Mr. Adeyemo has been nominated to be Assistant Secretary for International Markets and Development at the Department of Treasury. The position he has been nominated for is responsible for leading Treasury's efforts related to CFIUS as well as international financial service regulation, trade, development, technical assistance, and climate finance. After the financial crisis and as economies around the world continue to recover, it is essential that Treasury engage with their international counterparts to implement strong financial services regulation, fair trade, and foreign investment that protects our national interest. I look forward to hearing about your priorities in this role.

Mr. Gerety has been nominated to be Assistant Secretary for Financial Institutions at Treasury. The Assistant Secretary is responsible for developing and coordinating the Treasury's policies regarding financial institution legislation and regulation that affect financial institutions, Federal agencies that regulate or insure financial institutions and securities markets. As we continue to implement and enforce Wall Street reform, this position is key to ensuring that strong regulations promote financial stability and safety and soundness and robust consumer protections. I think, too, Mr. Gerety, as this moves forward, keep in mind what the chief financial services lobbyists in this town said right after the President of the United States signed Dodd-Frank. He said, "It is halftime." So it is clear that some interests in this town seem oblivious that there was a financial crisis. They seem to suffer from amnesia, some of them Members of Congress, many of them lobbyists, and the move by many of them will be to delay and dilute and weaken these rules. And all of you should have that at the back of your mind as you do this job.

Mr. Gerety played an important role since the beginning of the current Administration to help our country recover from the worst financial crisis since the Depression. I believe he will continue that superb work, Mr. Chairman, if we confirm him for this position.

Mr. Lerner has been nominated to be the Inspector General at FDIC. That job heads an independent division within the agency that conducts audits and investigations and reviews of FDIC programs and operations. The IG is required by law to provide written reports to the FDIC on why failed institutions resulted in a material loss to the Insurance Fund and to make recommendations for preventing additional losses in the future. It is a vital task in understanding both what causes bank failures and how to prevent bank crises.

Steve Linick, the current IG at the Department of State, a frequent witness for this Committee, during his tenure at the Federal Housing Finance Agency's Inspector General wrote that Mr. Lerner "not only has a strong background in combating waste, fraud, and abuse, which is critical for an Inspector General, but also understands the world of banking and financial regulation." I look forward to hearing your testimony today, too.

Congratulations to the three of you.

Mr. Chairman, we are all grateful that this Committee is beginning to move on nominations.

Chairman SHELBY. Thank you.

Will all three of you stand and raise your right hand? Do you swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ADEYEMO. I do.

Mr. GERETY. I do.

Mr. LERNER. I do.

Chairman SHELBY. Do you agree to appear and testify before any duly constituted committee of the U.S. Senate?

Mr. ADEYEMO. Yes.

Mr. GERETY. Yes.

Mr. LERNER. Yes.

Chairman SHELBY. Do you have any family members, any of you—we will start with you, sir—that you want to introduce who are here today?

Mr. ADEYEMO. I do not at this time, Senator.

Chairman SHELBY. OK. Do you, sir?

Mr. GERETY. Thank you. I want to thank my family and friends for being here: my three children, Susie, Pierce, and Jenny; my wife, Margaret; my mom, Adelia; and my brother, Rowan, and my sister-in-law, Clara. Thank you all for being here.

Chairman SHELBY. Do you have some?

Mr. LERNER. I would like to introduce my supporting and loving girlfriend, Libby Stern, behind me. Thank you.

Chairman SHELBY. Thank you.

Sir, we will start with you. Your written testimony will be made part of the record in its entirety. You proceed as you wish.

STATEMENT OF ADEWALE O. ADEYEMO, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR INTERNATIONAL MARKETS AND DEVELOPMENT, DEPARTMENT OF THE TREASURY

Mr. ADEYEMO. Thank you, Mr. Chairman.

Chairman Shelby, Ranking Member Brown, and distinguished Members of this Committee, thank you for giving me an opportunity to be here today. It is a privilege to be the President's nominee to serve as the Assistant Secretary for International Markets and Development. I am grateful to Secretary Lew for his support of my nomination and his confidence in my ability to serve our country in this role.

While they could not be here today, I want to acknowledge my father and mother who immigrated to this country in search of the American dream and the opportunity to give my brother, sister, and me a better life. They have worked hard, as an elementary school principal and a nurse, to give opportunities to their children, but along the way they have instilled in us the values that guide us every day. They often remind us that this country affords the chance to do anything we want if we work hard. And they have taught us that we have a responsibility to serve the community and the country that has afforded them so many opportunities.

This desire to instill the value of service in me led my father to wake me early on the morning of February 11, 1990, to watch as Nelson Mandela was released from prison. Although the images on my television were of a reality thousands of miles from my home in California, I could feel the hope Mandela inspired not only in South Africans but also in my father. Watching Nelson Mandela go from prisoner to president and start the process of bringing together a country was more than inspirational; it motivated me to imagine how I could use public service to improve the world around me. And it continues to remind me that events far from home can make a meaningful difference in the lives of Americans.

Serving in Government is in many ways the fulfillment of my childhood dream. I joined the Treasury Department in the midst of the greatest economic downturn since the Great Depression. I worked alongside policymakers charged with coordinating the international response to the global recession. The policies the United States advocated internationally played a pivotal role in

breaking the back of the global recession and restoring economic growth at home and abroad.

In 2010, I was given the opportunity to help implement a part of the Wall Street Reform and Consumer Protection Act. I had the honor and privilege of working for Senator Warren as the first Chief of Staff of the Consumer Financial Protection Bureau. Helping to build an agency devoted to protecting consumers was deeply personal for me. I grew up in the Inland Empire, a region of Southern California where, in 2010, one in every 14 homes faced foreclosure. These were not just numbers to me; they were my friends and my family. I know the impact that a lost job, cut in hours, or a bad financial decision can have on the ability to stay in the home your children grew up in. I am grateful to have played a role in standing up an agency that helps consumers better understand and deal with their financial choices.

Before and after my time at CFPB, I have worked on a variety of international economic issues, including our trade and investment policy agenda, the Committee on Foreign Investment in the United States, and our engagement with the multilateral development banks. I have represented the United States in bilateral and multilateral settings, and no matter the destination there is always admiration for the strength and resilience of the American economy. Our recovery from the Great Recession is no accident. It is the direct result of the determination and persistence of the American people and the policy choices we have made.

However, we have more work to do. We still face a number of economic challenges, and we also have opportunities. Our decisions in the coming years will determine our ability to meet the future needs of the American people, like my neighbors in California and the families across this country. As the global economy becomes more complex and interconnected, the policy choices we make now will have an impact on our ability to advance our economic and strategic interests in the future. While a great deal of the work in International Affairs at the Treasury Department is mitigating risks, in a number of areas we have an opportunity to advance our economic agenda. If confirmed as the Assistant Secretary for International Markets and Development, I plan to do just that, by working to level the international playing field for American workers and firms, protecting our national security, and advancing our development agenda.

It would be my privilege to work with this Committee to advance America's economic interests at home and abroad.

Thank you for taking the time to consider my nomination. I am happy to take your questions.

Chairman SHELBY. Thank you.

Mr. Gerety.

STATEMENT OF AMIAS MOORE GERETY, OF CONNECTICUT, TO BE ASSISTANT SECRETARY FOR FINANCIAL INSTITUTIONS, DEPARTMENT OF THE TREASURY

Mr. GERETY. Chairman Shelby, Ranking Member Brown, and distinguished Members of the Committee, thank you for inviting me to testify today. It is an incredible honor to be nominated to

serve as the Assistant Secretary for Financial Institutions and to be here today before this Committee.

I want to thank President Obama for nominating me and Secretary Lew for entrusting me with this opportunity. I have learned so much from my colleagues at the Treasury Department, and I am committed to continuing to earn the trust that they have put in me if I am fortunate enough to be confirmed for this position.

I believe that public service can make a meaningful difference in the lives of our fellow Americans. I was raised in a family that held service as both a calling and a career. My paternal grandfather served as a senior official in the Eisenhower administration at the Civil Service Commission and at the State Department, where he assisted refugees fleeing Communist regimes in Eastern Europe. My maternal grandfather served as a parish priest in Jersey City before becoming an Episcopal bishop in Washington and New York. Their examples of public leadership have guided me from a young age.

During the 6½ years I have been at Treasury, I have had the tremendous opportunity to work with you and your staffs, with others in Congress, with the private sector, independent regulators, and other important stakeholders. We have been able to collaborate to pursue policies that support the economic and financial well-being of homeowners and small businesses, and support firms whose lending powers economic growth and the savers who invest in these firms. I have been inspired by entrepreneurs who need credit to expand and thrive and by local leaders who are transforming communities in partnership with Federal lending programs.

Over the course of my private sector career, I have helped companies both large and small as they interact with the financial system and seek support to grow and expand. These experiences range from a T-shirt company improving its efficiency ahead of an initial public offering or helping an insurance company manage and build relationships with independent agents and brokers. Each experience has given me a perspective on how a stable and effective financial system supports economic growth and expands economic opportunity across the country.

In Government, I have also seen firsthand the challenges and limits of Federal response, when economic confidence is shaken, households have been ill-protected, and the financial system is not able to support economic growth. If confirmed, I will work to safeguard our financial system and confront financial and economic threats, whether from malicious cyber activity or from panic in financial markets. I have learned the importance of coordination and open dialogue as we work to reform our financial system, and I am committed to continuing this critical collaboration.

As memories of the most searing financial crisis in generations begin to recede, I look forward to engaging with this Committee and Congress to move forward on pressing national priorities: working to make sure that our financial system is both stable and supportive of economic growth; expanding access to credit for small businesses and low-income communities; and building on our experience so that financial services act as a ladder of opportunity toward economic and financial security.

Thank you again for your time, and I look forward to answering your questions.

Chairman SHELBY. Thank you.

Mr. Lerner.

STATEMENT OF JAY N. LERNER, OF ILLINOIS, TO BE INSPECTOR GENERAL, FEDERAL DEPOSIT INSURANCE CORPORATION

Mr. LERNER. Thank you, Chairman Shelby, Ranking Member Brown, and Members of this Committee. It is truly an honor to appear before you today as the nominee to serve as the next Inspector General at the Federal Deposit Insurance Corporation.

At the outset, I would like to recognize and thank my kind and caring family, friends, and colleagues for their support. In particular, I would like to acknowledge the contributions of my parents, as I am blessed for the opportunities that they have afforded me and the qualities they have instilled in me: honesty, integrity, perseverance, responsibility, and hard work. I am also grateful to my supportive girlfriend and my three wonderful sisters and their families. My eight nieces and nephews have kept me grounded and act as reminders of the importance of what we do here today—public service.

The FDIC plays a critical role in maintaining the stability of our financial system and protects the savings of millions of hard-working Americans. It insures more than $6 trillion in deposits at approximately 6,300 financial institutions and directly examines and supervises more than 4,000 of those institutions. In addition, the FDIC plays an important role in consumer financial protection, resolution and receivership of insolvent institutions, and management of significant assets in the Deposit Insurance Fund.

The FDIC Inspector General conducts audits and evaluations which make recommendations for improving the FDIC's operations, as well as investigations which preserve the integrity of the system and protect the savings of bank customers, families, and businesses. In this time of pressing need to improve efficiency and effectiveness at Government agencies and to eliminate waste, the position of the FDIC Inspector General is an extremely important one.

I believe that I am particularly well suited to serve as the Inspector General at the FDIC. I have substantial leadership and management experience, and I have conducted oversight and handled complex banking and financial matters. I trained as an accountant and passed the Certified Public Accountant examination, and I am an experienced lawyer and prosecutor as well. I am confident that this background has prepared me well to be successful as an Inspector General, if I am confirmed.

I have worked in public service for more than 23 years, and it has been a privilege to serve this country. Currently, I am the Chief of Staff and Senior Counsel at the Department of Justice Office of the Inspector General, and I have worked in the IG community since early 2011. I have seen firsthand the many challenges an Inspector General faces and have learned how to run a strong IG office that can achieve results. I have also gained considerable leadership and management experience under the guidance of the

current Inspector General, Michael Horowitz, as well as other leaders in the office and in the IG community. During my tenure, I have been the congressional liaison and have worked with the Justice Department's leadership, so I can appreciate the importance of an IG's unique reporting responsibilities to keep both Congress and the agency head fully informed.

Importantly, I understand the critical role that independence plays in the Inspector General's mission. The core principles of integrity, objectivity, fairness, and accountability must guide an IG's judgment and decisionmaking. These are essential attributes to maintain the public's confidence in the work of the office. If confirmed, I intend to oversee an office that conducts audits and evaluations in a thorough and comprehensive manner; pursues investigations aggressively and follows the facts wherever they may lead; issues fair-minded and impartial reports; and makes recommendations to improve the agency's programs.

Prior to my current position with the Department of Justice OIG, I gained extensive experience working on banking and financial matters and am, therefore, familiar with how banks operate and their relationships with regulators. I served as Assistant Chief in the DOJ's Fraud Section, where I worked on enforcement initiatives against financial crimes. I prosecuted banking and money-laundering cases while in the Money Laundering Section at DOJ, and I worked at two law firms on similar financial matters. Much of my professional career has focused on conducting effective oversight and ensuring accountability, and this background will form a strong foundation to be a successful Inspector General.

In closing, I understand the challenges ahead and look forward to the opportunity to serve the American people in this new role. I would like to thank the Committee for consideration of my nomination, and I look forward to continuing to work with you and your staffs, if I am confirmed.

I would be pleased to respond to any questions that you might have. Thank you.

Chairman SHELBY. Thank you.

Mr. Gerety, you have been the Acting Assistant Secretary for Financial Institutions since March. Prior to that, you were the Deputy Assistant Secretary for the FSOC. This Committee has put forward legislation—that you are familiar with—that would bring accountability and transparency to FSOC's designation process for so-called systemically important firms. If confirmed, would you commit to working with Congress to improve the designation process based on existing concerns?

Mr. GERETY. Thank you, Mr. Chairman. I appreciate the opportunity to be here today. In my role as Assistant Secretary, if confirmed, for Financial Institutions, I would not have direct oversight of the Financial Stability Oversight Council work. Nonetheless, I think what the Council has demonstrated in its years is its ability to work with Congress to understand those concerns and to modify its procedures over time to increase transparency and clarity.

I think most recently the Council took steps this past year to make a series of changes that give people earlier information, more public transparency, and also a better opportunity to understand the process after designation. So I think those concerns are ones

that the Council staff have listened closely to, and I would be glad to continue working with Congress to understand those concerns.

Chairman SHELBY. Thank you.

Mr. Adeyemo—I am getting close maybe.

Mr. ADEYEMO. You are getting it.

[Laughter.]

Chairman SHELBY. The business of insurance in the United States is currently regulated by the States, as you know. Congress codified that approach in the McCarran-Ferguson Act of 1945, more than half a century ago. Nonetheless, the Financial Stability Board, FSB, is now issuing directives on insurance even though it is neither a State nor a U.S. Federal regulator.

Does Treasury develop consensus positions with the U.S. State insurance regulators for FSB advocacy on insurance issues? If not, do you believe that it should?

Mr. ADEYEMO. Thank you for having me here, Mr. Chairman. We work very closely with the 50 State regulators and the six regulators who represent jurisdictions to develop a U.S. position on these issues, and I think that we also consult and actively speak with industry about their position on these issues as we work within the FSB and other international organizations.

We also consult with and work actively with Congress, and if confirmed for this job, I look forward to working with you and your staff and the Members of this Committee as we develop America's position in those institutions.

Chairman SHELBY. Mr. Lerner, there have been many press reports of the Department of Justice's Operation Choke Point, an effort by the Administration to choke off legal businesses the Administration finds objectionable by denying them access to financial services. In your current position, did you ever recommend opening an investigation into Operation Choke Point?

Mr. LERNER. Thank you, Mr. Chairman. I am glad you raised that issue. Operation Choke Point raises some very serious allegations and some very serious concerns. We were following the media and press reports at the Department of Justice Office of the Inspector General, and we received an inquiry from congressional staff, a call, in the summer of 2014. At that time, we were not investigating the matter, and the matter appeared to be mostly attorney misconduct and allegations of attorney misconduct. Operation Choke Point, as you know, was run by attorneys, and Section 8E of the IG Act prohibits the IG's Office from looking into allegations of attorney misconduct. Those allegations go to the Office of Professional Responsibility. They have exclusive jurisdiction over those matters. The IG's Office has argued against it and advocated repeal of the Section 8E provision. But that is the law, and we have tried to comply with the law. So we have not——

Chairman SHELBY. What is the law again?

Mr. LERNER. It is Section 8E of the IG Act.

Chairman SHELBY. And what does it say?

Mr. LERNER. It basically says that the Office of Professional Responsibility, another office in DOJ, has exclusive jurisdiction over those matters. There is a pending legislative bill that would repeal that provision, and the IG's Office has argued to repeal that provision for many, many years.

Chairman SHELBY. Do you agree with the Department of Justice approach in Operation Choke Point; in other words, you are going after—withholding financial support for businesses that are legal, nothing illegal?

Mr. LERNER. As I said, I think it raises some very serious questions in terms of prosecution strategies, legal interpretations under the FIRREA law. OPR looked at that issue and issued its report in July.

Chairman SHELBY. If you are confirmed, how would you use your position, if you could, to ensure that the Federal Deposit Insurance Corporation does not pressure banks to cut ties with legal businesses?

Mr. LERNER. Thank you. That is a very important question and a high priority for me, if I am confirmed for this position. As you know, the FDIC OIG issued its report about 2 weeks ago and raised some serious questions that will require follow-up, including the recommendations, which is part of its normal follow-up procedures, as to how those communications are made to banks and how the communications are made from the headquarters of the FDIC to its regional directors. There is also an ongoing investigation in terms of the refund-anticipated loans that were identified in that report. I intend to ask a lot of very difficult questions and to continue those investigations and get to the bottom of it. It is a high priority for me as an IG.

Chairman SHELBY. Sir, I will come back to you. The Committee on Foreign Investment's review process is mandated by the Foreign Investment National Security Act to preserve a necessary line between uninhibited foreign investment and the protection of U.S. national security. In your opinion, where is that line, if you can designate it? And if confirmed, how would you fulfill that mandate?

Mr. ADEYEMO. Senator, thank you for the question. I think that our primary goal, the primary goal of CFIUS, is to protect the national security of the United States. As you stated, we do have an open investment policy in the United States, but our goal is also to make sure that any investment in this country is mindful of our paramount national security interest. And our goal is always to make sure that we look at the national security interest first in terms of does the company that is being acquired have contracts with the U.S. Government that are essential, or is it a critical infrastructure component. And in doing that, the legislation that this Committee designed provides us with the flexibility we need to make sure that we are able to address those national security concerns either by mitigation or, in the very rare circumstance, a block of a transaction. I think that over the last few years, as we have implemented the law through regulations and through practice, we have found the ability to deal with most of the cases during review. Some of them have moved to investigation. And when we have been in an investigation, we have used mitigation when needed to make sure that we are always mindful of national security.

Chairman SHELBY. Is national security paramount to commercial interests?

Mr. ADEYEMO. In terms of the CFIUS process, it is, yes.

Chairman SHELBY. Thank you.

Another question to you on political interference in FOIA inquiries. While serving as a high-ranking official at Treasury, you created a new review process for sensitive FOIA requests, deviating from prior policy at the Treasury. Such requests were reviewed by a special committee including yourself and representatives from Public Affairs, Legislative Affairs, and the General Counsel's office.

Do you believe it is appropriate for high-ranking political appointees to be involved in the FOIA release process? And if so, why?

Mr. ADEYEMO. Thank you for the question, Senator. My understanding is that before we created this process, there was a review process that was used where various officials throughout the Treasury Department reviewed FOIA requests. When we arrived at Treasury in 2009, I was charged with working with the International Affairs Office, the Office of Terrorism and Financial Intelligence, and the Office of the Assistant Secretary for Management. The Assistant Secretary for Management is charged with working with FOIAs. We had a huge FOIA backlog at that point.

Working with the officials charged with working on the FOIA system, we decided to try and create a process to clear the backlog and also deal with incoming requests. One of the issues with the FOIA process was that we were not getting enough people to pay attention to the FOIAs on a regular basis, so we set up a bi-monthly meeting, and our goal was to set up a process and framework for dealing with the FOIA requests, not in any way to interfere with them getting out but, rather, to help move them out more quickly.

I think that when we look at the numbers, what we found was that by 2010 we had reduced our backlog dramatically, and over the last few years, we have actually released more FOIAs than have come into the Treasury Department departmental offices.

Chairman SHELBY. Sir, did you or the review committee ever override the advice of a career FOIA officer with respect to releases or exemptions? If so, explain.

I will ask it again. Did you or the review committee ever override the advice of a career FOIA officer with respect to releases or exemptions?

Mr. ADEYEMO. In the time I participated in the review committee, I never overruled a career FOIA official or our lawyers in terms of making determinations about the release of FOIAs.

Chairman SHELBY. Thank you.

Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.

Mr. Gerety, I will start with you. The Independent Community Bankers, in endorsing your nomination, Cam Fine said—if I could read this—"I can personally attest to his intelligence, knowledge of financial policy, and dedication to public service. He appreciates the critical role played by community banks in our national economy. He has demonstrated his willingness to address the ongoing challenge of "too big to fail" institutions and the threat they pose to our financial system and economy."

Mr. Gerety, describe how Treasury has worked to ensure that regulators tailor regulations for smaller and regional institutions as they implement Wall Street reform?

Mr. GERETY. Thank you. It is a great opportunity for me——

Senator BROWN. And also if you could sort of take that and kind of expand in a way to ensure that regulations are not sort of one size fits all. So answer that together, if you would.

Mr. GERETY. Absolutely. I think that one of the very significant opportunities that I have had in my time at Treasury is to build relationships with the private sector and with community bankers—I was meeting yesterday with a group of community bankers from the Northeast—and try to take opportunities as often as possible to understand the perspective that they can offer in terms of the granularity of local economies, local businesses, and the local way that community banks handle regulation and make sure that they run their banks in a safe and sound manner.

I think certainly when I look at our forward-going priorities, we are constantly searching for opportunities to make sure that our financial system is diverse and includes a very healthy role for thousands of community institutions, both banks and credit unions.

I believe that the Wall Street Reform and Consumer Protection Act has a tiered and tailored approach and that in implementation we need to continue to build on that approach, both in the direct implementation of regulations in the reform effort, but also looking back over the course of regulations. I am encouraged by the banking regulators' seriousness with which they are doing their decennial review, the every-10-year, called the "EGRPRA process." And, also, I am struck by the fact that often seemingly small things like simplifying a form can make a very big difference in terms of the regulatory approach and the burden associated with being a community bank. So just last week, we saw the banking regulators come together and release a proposal to simplify the call report.

So I think there are opportunities through engagement, through understanding the direct experience of community bankers all across the country to make sure that our approach in designing standards lives up to the principle that the toughest standards and the highest scrutiny should be on the firms that are the largest, most complex, and pose the most risk.

Senator BROWN. Is there a way through FSOC, when sending examiners and auditors into, say, regional banks or mid-sized or small banks, to sort of collapse their duties into fewer numbers of people so that you do not have regulators saying different things in different ways and asking for duplicative information?

Mr. GERETY. Thank you, Senator. I think the issue that you highlight is an important one because it comes at a difference between what you might think of as the standard and what you might think of as the actual supervisory or regulatory process. And one of the things that I have found interesting when I speak with regional bankers, community bankers, and others is that they do support higher capital, they do support higher liquidity; but they often express concerns about the way those standards are implemented or the way those standards are approached. And I think our job as policymakers is to work with them to understand those concerns and to work with our colleagues across Government to try to make sure that the standards are forefront and that we can make the process of supervision as clear as it can be so the focus

is on the economic and financial standard for a safe and sound system.

Senator BROWN. Thank you.

Mr. Adeyemo, the financial crisis obviously made clear how interconnected we are, our financial system is, inside the world's economies, if you will, and the need for coordination when it comes to financial regulation. Share with us the importance of engaging with international counterparts to strengthen financial regulation, to sort of prevent a race to the bottom, to ensure fair trade, to encourage foreign investment. Talk through your views about that, if you would.

Mr. ADEYEMO. Thank you for the question, Senator. I completely agree that the financial system is more integrated, more interconnected, more complex today than it has ever been. I think that what we did in this country was that we acted quickly and decisively to address some of the financial risks that were created prior to the financial crisis.

Our goal in the International Affairs Office since Congress took steps in the Wall Street Reform and Consumer Protection Act, was to make sure that other countries met the high standard that we have set domestically. We have been working to do that through bilateral relationships but also through bodies like the FSB to make sure that our firms and our workers not only enjoy a level playing field, but that we are protected from the risks that exist abroad.

As you know well, many of our trading partners have large financial institutions as well, and the economic problems in those countries have an impact on our trading relationships and on our economy. Our goal has been to make sure that large firms internationally, to help protect ourselves from the risks that they pose to our economy as well.

Senator BROWN. Thank you.

Mr. Lerner, the FDIC Chair announced significant changes to the agency's information security governance structure. The IG's most recent report, annual report, describes the significant progress made in implementing these changes. I know of your interest in that. Talk about your priorities as IG. Expand on them, if you would, especially in the area of cybersecurity.

Mr. LERNER. Thank you, Senator Brown. As you mentioned, cybersecurity is one of my top priorities. I think it is critical to the Nation's infrastructure, stabilizing the financial system as well as it is a national security issue. In fact, I am aware there is another hearing going on before the Senate on this issue. I see it as a critical issue to protect the savings of hard-working Americans, and I would like to explore ways that the IG's Office can participate and contribute to that discourse.

The IG's Office issued a report in March of 2015, just a few months ago, which identified a few areas where the IG's Office can contribute. In particular, the things are like the guidance to the banks, the examination process, making sure they have the proper staffing, training, competencies, and supervision of the supervisors and the examiners, as well as ensuring the safety and security of the cyber systems within the FDIC. I see that as a critical, important area, and I would like to explore it further.

Senator BROWN. OK. Thank you.

One more question, Mr. Adeyemo. Do you have any thoughts on the CFIUS' handling of the acquisition of Smithfield by the Chinese company a couple of years ago maybe? Congress raised many concerns. Do you know much about that? Do you have any thoughts on how CFIUS—how it played out?

Mr. ADEYEMO. So, Senator, I do not currently have responsibilities for the CFIUS portfolio, and as you know, we do not comment on cases that are reviewed by CFIUS. What I can tell you is that, if confirmed for this role, I look forward to reviewing cases with our national security in mind. I think that the statute designed by this Committee gives CFIUS the flexibility to look at cases that pose a risk to our national security and attempt to find ways to mitigate that risk; and if we cannot mitigate that risk, to block those transactions. I look forward to working with your staff and you to look at ways that we can continue to do that in an effective way that protects America.

Senator BROWN. Is the statutory balance about right?

Mr. ADEYEMO. I believe that the statute provides us with the right level of balance.

Senator BROWN. OK. Thank you.

Chairman SHELBY. Senator Warren.

Senator WARREN. Thank you, Mr. Chairman.

I want to start by welcoming Wale Adeyemo. Wale and I worked closely together when I was helping set up the new consumer agency, and as he testified, he was the agency's first Chief of Staff. I do not say this lightly. Wale is a miracle worker. He works hard. He is smart. He manages people and projects with amazing skill, and he understands policy all the way down.

And here is one other thing I want to make sure everybody on this Committee knows. Everyone who works with Wale likes him, Republicans and Democrats, everyone, Inspectors General, Secretary Geithner, Secretary Lew, me. He really is a remarkable guy.

I did not have anything to do with Wale getting this nomination. In fact, I am sorry, Wale, I just did not know. I did not know until I got the call from the FBI background checkers that he had been nominated or was about to be nominated. But he is a great choice.

Wale knows where he came from. He remembers who he grew up with, and he tries every day to make this a better country. So I hope that everyone on this Committee will support him and that he gets an up-or-down vote from the Senate very quickly. We are lucky to have him in service. And I want to thank all of you for being here today and thank you for your service.

I just have one question I will focus on in the time I have left, and that is a question around systemic risk. Mr. Gerety, as you know, in Dodd-Frank Congress directed the Fed to impose tougher standards on banks that have more than $50 billion in total assets. That covers about 40 of the biggest banks in the country, about one-half of 1 percent of the 6,500 banks that we have in the United States, but about 95 percent of all the banking assets in the United States.

Now, this tougher scrutiny is designed to focus the attention of the regulators on where the risk is—not on community banks or

credit unions but on the biggest banks that can threaten our financial security.

Of course, among these 40 biggest banks, some are riskier than others, and Congress knew that, so it directed the Fed to tailor its rules to match the risk that a particular bank poses.

There has been some talk recently about exempting many of these banks from the tougher rules that are imposed on banks with $50 billion or more, above that threshold, and there is talk about increasing the threshold to as much as $500 billion.

So what I want to ask, Mr. Gerety, is: As Acting Assistant Treasury Secretary for Financial Institutions, you have gotten a close look at the risks posed by banks of different sizes. Based on that experience, do you think it makes sense to exempt banks with up to $500 billion in assets from heightened standards in Dodd-Frank rather than just directing the Fed to tailor the rules appropriately for riskier and somewhat less riskier banks?

Mr. GERETY. Thank you, Senator. I think you raise an important principle at the heart of our approach in financial supervision, which is that the toughest standards should be applied and the highest scrutiny should be applied to the largest and most complex financial institutions.

As the Secretary has said, raising the number that high raises significant concerns. It would leave only a handful of firms subject to the statutory enhanced prudential standards and raises the risk that firms that we saw in the crisis—Countrywide, Washington Mutual, Bear Stearns—of course, were significantly below that threshold, also demonstrated that they could pose risks to the system more broadly.

I think the central question for us is: How do we make sure that the tailoring is appropriate? It is very clear that a $50 billion institution is different than a $2 trillion institution and also that it is different than a $2 billion institution. I think that we have seen the Federal Reserve and the banking regulators look at ways to design different standards, even above $50 billion. But I know that we continue to hear concerns from firms, particularly at the lower end of that threshold. And I think there is always continued dialogue that would be very valuable to make sure that those standards are appropriately tailored and that they appropriately capture the risk that may exist within a range of financial institutions in our country.

Senator WARREN. All right. Thank you very much, Mr. Gerety. To me, this is an easy decision. We can raise the threshold and cut loose half or more of the biggest banks in the country and just hope they do not make the same mistakes that they made in 2008 when they nearly brought down the whole economy and had to be bailed out. Or we can play it safe, keep the threshold where it is, and rely on the Fed to follow the law and tailor the risks—tailor the regulations to the risks that are posed by different large financial institutions. You know, since the American taxpayers are on the hook when the economy starts to implode, I suspect that most of them would prefer that Congress play it safe here. Thank you.

Thank you, Mr. Chairman.

Chairman SHELBY. Senator Brown, do you have another question?

Senator BROWN. No. Thank you.

Chairman SHELBY. If there are no other questions, I want to thank all the participants here today, and we will try to see if we can move your nominations.

Thank you very much. The Committee is adjourned.

[Whereupon, at 10:45 a.m., the hearing was adjourned.]

[Prepared statements, biographical sketches of nominees, and responses to written questions supplied for the record follow:]

PREPARED STATEMENT OF ADEWALE O. ADEYEMO

TO BE ASSISTANT SECRETARY FOR INTERNATIONAL MARKETS AND DEVELOPMENT, DEPARTMENT OF THE TREASURY

SEPTEMBER 29, 2015

Chairman Shelby, Ranking Member Brown, and distinguished Members of this Committee, thank you for giving me an opportunity to be here today. It is a privilege to be the President's nominee to serve as the Assistant Secretary for International Markets and Development. I am grateful to Secretary Lew for his support of my nomination and his confidence in my ability to serve our country in this role.

While they could not be here today, I want to acknowledge my father and mother who immigrated to this country in search of the American dream and the opportunity to give my brother, sister, and me a better life. They have worked hard, as an elementary school principal and a nurse, to give tremendous opportunities to their children, but along the way, they have instilled in us the values that guide us every day. They often remind us that this country affords the chance to do anything we wanted if we work hard. And they have taught us that we have a responsibility to serve the community and the country that has afforded them so many opportunities.

This desire to instill the value of service in me led my father to wake me early on the morning of February 11, 1990, to watch as Nelson Mandela was released from prison. Although the images on my television were of a reality thousands of miles from our home in California, I could feel the hope Mandela inspired not only in South Africans but also in my father. Watching Nelson Mandela go from prisoner to president and start the process of bringing together a country was more than inspirational, it motivated me to imagine how I could use public service to improve the world around me. And it continues to remind me that events far from home can make a meaningful difference in the lives of Americans.

Serving in Government is in many ways the fulfillment of my childhood dream. I joined the Treasury Department in the midst of the greatest economic downturn since the Great Depression. I worked alongside policymakers charged with coordinating the international response to the global recession. The policies the United States advocated internationally played a pivotal role in breaking the back of the global recession and restoring economic growth at home and abroad.

In 2010, I was given an opportunity to help implement a part of the Wall Street Reform and Consumer Protection Act. I had the honor and privilege of working for Senator Warren as the first Chief of Staff of the Consumer Financial Protection Bureau. Helping to build an agency devoted to protecting consumers was deeply personal for me. I grew up in the Inland Empire, a region of Southern California, where in 2010, 1 in every 14 homes faced foreclosure. These were not just numbers to me; they were my friends and family. I know the impact that a lost job, cut in hours, or one bad financial decision can have on the ability to stay in the home your children grew up in. I am grateful to have played a role in standing up an agency that helps consumers better understand and deal with their financial choices.

Before and after my time at the Consumer Financial Protection Bureau, I have worked on a variety of international economic issues, including our trade and investment policy agenda, the Committee on Foreign Investment in the United States, and our engagement with the multilateral development banks. I have represented the United States in bilateral and multilateral settings, and no matter the destination there is always admiration for the strength and resilience of the American economy. Our recovery from the great recession is no accident. It is the direct result of the determination and persistence of the American people, and the policy choices we have made.

However, we have more work to do. We still face a number of economic challenges, and we also have tremendous opportunities. Our decisions in the coming years will determine our ability to meet the future economic needs of the American people, like my neighbors in California and families across the country. As the global economy becomes more complex and interconnected, the policy choices we make now will have an impact on our ability to advance our economic and strategic interests in the future. While a great deal of the work we do in International Affairs at the Treasury Department is mitigating risks, in a number of areas we have opportunities to advance our economic agenda. If confirmed as the Assistant Secretary for International Markets and Development, I plan to do just that, by working to level the international playing field for American workers and firms, protecting our national security, and advancing our development agenda.

It would be my privilege to work with this Committee to advance America's economic interests at home and abroad.

Thank you for taking the time to consider my nomination. I am happy to take your questions.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Adeyemo (Last) Adewale (First) O (Other)

Position to which nominated: Assistant Secretary of the Treasury (designated Assistant Secretary for International Markets and Development) (Vice Marisa Lago)

Date of nomination: January 16, 2015

Date of birth: 20 (Day) 05 (Month) 1981 (Year) **Place of birth:** Ibadan, Nigeria

Marital Status: Never Married **Full name of spouse:** N/A

Name and ages of children: N/A

Education:

Institution	Dates attended	Degrees received	Dates of degrees
UC Berkeley (UCB)	8/1999-08/2004	Bachelor of Arts	05/2004
UCB Ed Grad School	8/2004-08/2005	No Degree	N/A
Yale Law School	08/2005-1/2009	Juris Doctorate	05/2009

Honors **List below all scholarships, fellowships, honorary degrees, military medals, honorary and awards, society memberships, and any other special recognition for outstanding service or achievement.**

UC Berkeley, Alumni Scholarship
UC Berkeley, Robert Gordon Sproul and Ida W. Sproul Award
UC Berkeley, Graduate School Fellowship
UC Berkeley, Mark Bingham Award for Excellence in Achievement
Yale Law Financial Assistance Scholarship
Yale Law School, John Fletcher Caskey Prize for Best Trial Advocate

Memberships: **List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.**

Organization	Office held (if any)	Dates
N/A		

Employment record: **List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.**

U.S. Department of the Treasury (Washington, D.C.)
Deputy Chief of Staff
April 2012 to Present
Senior Advisor to the Chief of Staff
October 2011 to April 2012

Consumer Financial Protection Bureau (Washington, D.C.)
Chief of Staff
July 2010 to October 2011

U.S. Department of the Treasury (Washington, D.C.)
Deputy Executive Secretary
February 2009 to June 2010

Brookings Institution (Washington, D.C.)
Senor Research Assistant/Editor
September 2008 to February 2009

John Edwards for President (Chapel Hill, NC)
New Hampshire Deputy State Director
May 2007 to February 2008

Irell & Manella (Newport Beach, CA)
Legal Intern
July 2008 to August 2008 and May 2006 to June 2006

Skadden, Arps, Slate, Meagher & Flom (New York, NY)
Legal Intern
May 2008 to July 2008

California Association of Student Councils (Oakland, CA)
Consultant/Summer Camp Director
January 2002 to May 2007

Law Office of Rob McDuff (Jackson, MS)
Legal Intern
June 2006 to August 2006

UC Berkeley Labor Center (Berkeley, CA)
Graduate Student Research
January 2005 to May 2005

Government experience: **List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.**

See above.

Published Writings: **List the titles, publishers and dates of books, articles, reports or other published materials you have written.**

N/A

Political Affiliations and activities: **List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.**

New Hampshire Deputy State Director, John Edwards for President

Political Contributions: **Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.**

N/A

Qualifications: **State fully your qualifications to serve in the position to which you have been named.**

The Assistant Secretary for International Markets and Development is charged with helping to shape the rules of international financial engagement in service of our economic and national security interests. The range of responsibilities includes working to level the international playing field for American workers and firms, protecting our national security, and advancing our development agenda. Over the course of my career I have worked on a variety of international economic issues, including issues related to the Committee on Foreign Investment in the United States, helping to design our engagement with the multilateral development banks, and advancing our trade and investment policy. As the deputy chief of staff, I advise the Secretary of the Treasury on a wide range of economic and national security issues. In this capacity, I travel extensively with the Secretary, representing America's interest in multilateral and bilateral settings. My professional experience has given me an in-depth understanding of the importance of the international financial institutions and instilled a deep commitment to maintaining America's leadership role within the international economic system.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

N/A

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No

3. Has anybody made you a commitment to a job after you leave government?

No

4. Do you expect to serve the full term for which you have been appointed?

Yes

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

N/A

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

N/A

3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

N/A

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

N/A

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

N/A

Civil, criminal and investigatory actions:

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

N/A

2. **Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.**

   N/A

Additional questions:

1. **Have your tax returns been the subject of an audit in the past 10 years by Federal, State or local authorities, which resulted in a tax lien, levy or other collection enforcement action?**

   No.

2. **Are your tax returns currently the subject of any audit by a federal, state or local agency?**

   No.

3. **Have taxes always been paid on time, including Federal, State and local taxes, property taxes, business taxes and/or sale and use taxes, as well as taxes paid on behalf of any employees?**

   Yes.

4. **Currently, are there any liens on your real estate holdings and have there been any liens on these properties within the past 10 years?**

   No.

5. **Have you promptly filed all I-9 forms on behalf of any personal domestic or other employees?**

   N/A

PREPARED STATEMENT OF AMIAS MOORE GERETY

TO BE ASSISTANT SECRETARY FOR FINANCIAL INSTITUTIONS
DEPARTMENT OF THE TREASURY

SEPTEMBER 29, 2015

Chairman Shelby, Ranking Member Brown, distinguished Members of the Committee. Thank you for inviting me to testify today.

It is an incredible honor to be nominated to serve as Assistant Secretary for Financial Institutions and to be here today before this Committee.

I want to recognize the many people who have supported me—family, friends, and colleagues. I especially want to thank my wife Margaret and our three children Susie, Pierce, and Jenny. Also my parents, Adelia and Tom, and my three brothers. And recognize my brother Rowan and my sister-in-law Clara, who are here as well. My family's love and support has been critical at each step in my career and my 5 years as a father have taught me much about both patience and joy.

I also want to thank President Obama for nominating me and Secretary Lew for entrusting me with this opportunity. I have learned so much from my colleagues at the Treasury Department, and I am committed to continuing to earn the trust that they have put in me if I am fortunate enough to be confirmed.

I believe that public service can make a meaningful difference in the lives of our fellow Americans. I was raised in a family that held service as both a calling and a career. My paternal grandfather served as a senior official in the Eisenhower administration at the Civil Service Commission and at the State Department, assisting refugees fleeing Communist regimes in Eastern Europe. My maternal grandfather served as parish priest in Jersey City before becoming an Episcopal Bishop in Washington and New York. Their examples of public leadership have guided me from a young age.

During the six and a half years I have been at Treasury, I have had the tremendous opportunity to work with you and your staffs, with others in Congress, with the private sector, independent regulators, and other important stakeholders. We have been able to collaborate to pursue policies that support the economic and financial well-being of homeowners and small businesses, and support firms whose lending powers economic growth and the savers who invest in those firms. I have been inspired by entrepreneurs who need credit to expand and thrive, and by local leaders who are transforming communities in partnership with Federal lending programs.

Over the course of my private sector career, I have helped companies both large and small interact with the financial system, seeking support to grow and expand. These experiences range from helping a T-shirt company improve its efficiency in preparation for an initial public offering to helping an insurance company build and manage relationships with independent agents and brokers. Each has given me a perspective on how a stable and effective financial system supports economic growth and expands economic opportunity across the country.

In Government, I have also seen first-hand the challenges and limits of Federal response, when economic confidence is shaken, households have been ill-protected, and the financial system is not able to support economic growth. If confirmed, I will work to safeguard our financial system, and confront financial and economic threats, whether from malicious cyber activity or from panic in financial markets. I have learned the importance of coordination and open dialogue as we work to reform our financial system, and I am committed to continuing this critical collaboration.

As memories of the most searing financial crisis in generations begin to recede, I look forward to engaging with this Committee and Congress to move forward on pressing national priorities: working to make sure that our financial system is both stable and supportive of economic growth; expanding access to credit for small businesses and low-income communities; and building on our experience so that financial services act as a ladder of opportunity toward economic and financial security.

Thank you again for your time and I look forward to answering your questions.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Gerety (Last) Amias (First) (Other)

Position to which nominated: Assistant Secretary for Financial Institutions
U.S. Department of the Treasury

Date of nomination: February 25, 2015

Date of birth: 8 (Day) 7 (Month) 1980 (Year) **Place of birth:** Pittsburg, PA

Marital Status: Married **Full name of spouse:** Margaret Elias Gerety

Name and ages of children: Susan Welles Gerety (age 4), Pierce Cameron Gerety (age 2), Jenny McKean Gerety (5 months)

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Harvard College	1998-2002	A.B. (Magna Cum Laude)	June 2002

Honors **List below all scholarships, fellowships, honorary degrees, military medals, honorary and awards, society memberships, and any other special recognition for outstanding service or achievement.**

John Harvard Scholarship for Academic Achievement (Honorary), each year.

Memberships: **List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.**

Organization	Office held (if any)	Dates
Council on Foreign Relations	Member	2012 – Present

Employment record: **List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.**

U.S. Department of the Treasury (Washington, D.C.)
Senior Advisor: Jan 2009 – February 2011
Deputy Assistant Secretary for the Financial Stability Oversight Council: February 2011 – April 2014
Acting Assistant Secretary for Financial Institutions and Counselor: April 2014 – November 2014; March 2015 – Present
Counselor: November 2014 – February 2015

Obama-Biden Presidential Transition Team (Washington, D.C.)
Economic Personnel Team Member (on leave from Oliver Wyman, see below)
November 2008 – January 2009

Oliver Wyman (Boston, MA)

Associate, Health Care & Life Sciences practice
September 2005 – January 2009

Gene Sperling, *The Pro-growth Progressive* (2005), Center for American Progress (Washington, D.C.)
Researcher
November 2004 – June 2005

John Kerry for President (Washington, D.C.)
Policy Analyst
January 2004 – November 2004

Save the Children US (Ethiopia, Kenya, South Sudan)
Special Assistant to the Africa Director
November 2002 – December 2003

Concordia Japanese Language Village (Moorhead, MN)
Dean of Immersion Language Program
January 2002 – August 2002

Government experience:

List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.

None (other than experience listed above)

Published Writings:

List the titles, publishers and dates of books, articles, reports or other published materials you have written.

As discussed above, I was a researcher on Gene Sperling's book (not credited as author): The Pro-growth Progressive, Simon & Schuster, 2005.

I supported Josh Steiner in drafting a chapter for Change for America (not credited as author): Joshua L. Steiner, "Department of the Treasury: Credibility and Flexibility for Economic Growth" in Change for America, Mark Green and Michele Jolin, eds., Basic Books, 2008.

Amias Gerety and Sophie Raseman, "Three Data Trends Shaping the Future of Community Development: Open Data, My Data, and Smart Disclosure", What Counts: Harnessing Data for America's Communities, Federal Reserve Bank of San Francisco & Urban Institute, 2014 (forthcoming).

Political Affiliations and activities:

List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

I am a registered Democrat, but I have not served in any "office" for a political party. In 2004, I was employed by John Kerry for President as a policy analyst.

Political Contributions: **Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.**

None

Qualifications: **State fully your qualifications to serve in the position to which you have been named.**

Since January 2009, I have had the pleasure of serving in the U.S. Department of the Treasury, and I have been honored to help my country during some of the most difficult times in its financial and economic history. Joining Treasury in the midst of the financial crisis, I saw just how damaging instability in our financial system can be to our economy and how important sound oversight and clear rules are to creating confidence in our financial markets and supporting economic growth.

In my current role as acting Assistant Secretary for Financial Institutions, I serve as the staff lead for a diverse set of issues, including overseeing key Treasury programs such as the State Small Business Credit Initiative and the Community Development Financial Institutions Fund, and leading Treasury's engagement with the independent regulators on issues such as capital and supervision, and leading our efforts in technical policy areas such as financial system cybersecurity. I have been fortunate to benefit from significant engagement from diverse stakeholders, including through regular meetings with state banking associations or through outreach to state and local officials that help us understand how best to implement Treasury programs on small business. On cybersecurity, I have partnered with the Department of Homeland Security, National Security Staff, and senior industry leaders to launch a series of quarterly exercises dedicated to identifying key priorities for collaboration between the public and private sector. Together, we have made important strides in bolstering information sharing and identifying areas for further improvements in cybersecurity, though there is more work to be done.

In previous roles at Treasury, I worked with my colleagues, Members of Congress and their staff to help design, pass, and implement the Dodd-Frank Wall Street Reform and Consumer Protection Act.

After the passage of the Dodd-Frank Act, I led the staff-level work to stand up the Financial Stability Oversight Council (FSOC). As the first Deputy Assistant Secretary for the FSOC, I built the Council's staff out from zero to implement the statutory mandate. Our efforts included developing processes for looking at potential threats to the financial system, the writing and release of the first ever report to Congress on financial stability, and facilitating the Council's discussions on the financial stability implications of issues ranging from Hurricane Sandy to the structure of short-term wholesale funding markets.

In each of my roles, I have sought to establish constructive relationships with my counterparts in industry, the regulatory community, advocacy groups, and Congress so that policies can be informed by the insight and expertise of a broad group of stakeholders. If confirmed, I hope to continue these important efforts and look forward to engaging in an ongoing review and dialogue to make sure that our regulatory system is effective, and our financial institutions and markets can provide services to families and businesses in ways that support sustainable and healthy growth.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

N/A (currently employed by Treasury Department).

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

N/A (currently employed by Treasury Department)

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

None.

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

N/A.

Civil, criminal and investigatory actions:

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

None.

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

None.

Additional questions:

1. **Have your tax returns been the subject of an audit in the past 10 years by Federal, State or local authorities, which resulted in a tax lien, levy or other collection enforcement action?**

   No.

2. **Are your tax returns currently the subject of any audit by a federal, state or local agency?**

   No.

3. **Have taxes always been paid on time, including Federal, State and local taxes, property taxes, business taxes and/or sale and use taxes, as well as taxes paid on behalf of any employees?**

   Yes.

4. **Currently, are there any liens on your real estate holdings and have there been any liens on these properties within the past 10 years?**

   No.

5. **Have you promptly filed all I-9 forms on behalf of any personal domestic or other employees?**

   Yes.

SOURCES OF INCOME LAST 3YEARS

1. List sources and amounts of all income received during the last 3 years, including all salaries, fees, dividends, interest, gifts, rents, royalties, patents, honoraria, and other items exceeding $500 or more. (if you prefer to do so, copies of U.S. income tax returns for these years may be substituted here, but their submission is not required.)

   SEE ATTACHED SCHEDULE.

	Year: 2014	Year: 2013	Year: 2012
Salary (from USG)			
Fees, royalties			
Dividends			
Interest			
Gifts			
Rents			
Other-exceeding $500 **Total**			

(Add schedule itemizing each individual source of income which exceeds $500. If you are an attorney, accountant, or other professional, attach schedule listing all clients and customers whose billings exceeded three quarters of one percent of your gross billings during each of the last 3 years.)

2. **List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.**

   None

The undersigned certifies that the information contained herein is true and correct.

Signed: _____ Date: 5/7/15

PREPARED STATEMENT OF JAY N. LERNER

TO BE INSPECTOR GENERAL, FEDERAL DEPOSIT INSURANCE CORPORATION

SEPTEMBER 29, 2015

Thank you, Chairman Shelby, Ranking Member Brown, and Members of the Committee. It is truly an honor to appear before you today as the nominee to serve as the Inspector General (IG) of the Federal Deposit Insurance Corporation (FDIC).

At the outset, I would like to recognize and thank my kind and caring family, friends, and colleagues for their support. In particular, I would like to acknowledge the contributions of my parents, as I am blessed for the opportunities that they have afforded me, and the qualities they have instilled in me: honesty, integrity, perseverance, responsibility, and hard work. I am also grateful to my supportive girlfriend and three wonderful sisters and their families. My eight nieces and nephews have kept me grounded and act as reminders of the importance of what we do here today—public service.

The FDIC plays a critical role in maintaining the stability of our financial system and protects the savings of millions of hard-working Americans. It insures more than $6 trillion in deposits at approximately 6,300 financial institutions, and directly examines and supervises more than 4,000 of these institutions. In addition, the FDIC plays an important role in consumer financial protection, resolution and receivership of insolvent institutions, and management of significant assets in the deposit insurance fund.

The FDIC Inspector General conducts audits and evaluations which make recommendations for improving the FDIC's operations, as well as investigations which preserve the integrity of the system and protect the savings of bank customers, families, and businesses. In this time of pressing need to improve efficiency and effectiveness at government agencies and to eliminate waste, the position of the FDIC Inspector General is an extremely important one.

I believe that I am particularly well-suited to serve as the Inspector General at the FDIC. I have substantial leadership and management experience, and I have conducted oversight and handled complex banking and financial matters. I trained as an accountant and passed the Certified Public Accountant Examination, and I am an experienced lawyer and prosecutor. I am confident that this background has prepared me well to be successful as an Inspector General, if confirmed.

I have worked in public service for more than 23 years, and it has been a privilege to serve this country. Currently, I am the Chief of Staff and Senior Counsel at the Department of Justice (DOJ) Office of the Inspector General (OIG), and I have worked in the IG community since early 2011. I have seen first-hand the many challenges an Inspector General faces, and have learned how to run a strong IG office that can achieve results. I have also gained considerable leadership and management experience under the guidance of the current Inspector General Michael Horowitz, as well as other leaders in the Office and in the IG community. During my tenure, I have been the Congressional liaison and have worked with the Justice Department's leadership, so I can appreciate the importance of an IG's unique reporting responsibilities to keep both Congress and the agency head fully informed.

Importantly, I understand the critical role that independence plays in an Inspector General's mission. The core principles of integrity, objectivity, fairness, and accountability must guide an IG's judgment and decisionmaking. These are essential attributes to maintain the public's confidence in the work of the Office. If confirmed, I intend to oversee an Office that conducts audits and evaluations in a thorough and comprehensive manner; pursues investigations aggressively and follows the facts wherever they may lead; issues fair-minded and impartial reports; and makes recommendations to improve the agency's programs.

Prior to my current position with the Department of Justice OIG, I gained extensive experience working on banking and financial matters, and am therefore familiar with how banks operate and their relationships with regulators. I served as Assistant Chief in DOJ's Fraud Section, where I worked on enforcement initiatives against financial crimes. I prosecuted banking and money laundering cases while in the Money Laundering Section at DOJ, and I worked at two law firms on similar financial matters. Much of my professional career has focused on conducting effective oversight and ensuring accountability, and this background will form a strong foundation to be a successful Inspector General.

In closing, I understand the challenges ahead and look forward to the opportunity to serve the American people in this new role. I would like to thank the Committee for consideration of my nomination, and I look forward to continuing to work with you and your staffs, if I am confirmed. I would be pleased to respond to any questions that you might have.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name:

Lerner Jay N.

Position to which nominated: Inspector General, Federal Deposit Insurance Corporation

Date of nomination: November 12, 2014

Date of birth: 23 October 1963

Place of birth: Arlington Heights, Illinois

Marital Status: Single

Full name of spouse: Not applicable.

Name and ages of children: None.

Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Pennsylvania Law School	8/1985-5/1988	J.D., Law	May 1988
University of Illinois at Urbana-Champaign	8/1981-5/1985	B.S., Accountancy	May 1985

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships and any other special recognitions for outstanding service or chievement.

- Inspector General Distinguished Honors Award and bonus award.
- Two Department of Justice discretionary bonus awards.
- Department of Homeland Security discretionary bonus award.
- Four Department of Homeland Security performance achievement awards.
- Transportation Security Administration Special Act Award.
- Four Special Achievement Awards, Attorney General and Criminal Division, Department of Justice.
- College of Commerce Top Ten Senior Award.
- Accounting Scholarship for Excellence.
- Beta Alpha Psi, National Accounting Honor Organization.
- Certificate for passing the Certified Public Accountants Examination.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
D.C. Bar	Not applicable.	Approx. 1989 to Present
Illinois State Bar Association (inactive member)	Not applicable.	Approx. 1988 to Present
Edward Bennett Williams Inn of Court	Not applicable.	Approx. 1990-Approx. 1993

Employment record: List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.

U.S. Department of Justice, Office of the Inspector General, ***Chief of Staff and Senior Counsel***, Washington DC (January 2011 to Present).

U.S. Department of Justice, Criminal Division, ***Assistant Chief, Strategy and Policy, Fraud Section***, Washington DC (May 2008 to January 2011), including four-month detail to Financial Crisis Inquiry Commission.

U.S. Department of Homeland Security (March 2003 – May 2008).

- ***Associate General Counsel, Strategic Oversight and Review***, **Office of the General Counsel**, Washington DC (March 2006 – May 2008).
- ***Hurricane Katrina Legal Task Force, Chief***, **Office of the General Counsel**, Washington DC (September 2005-March 2006).
- ***Chief Counsel for Security***, **Office of the General Counsel**, Washington DC (June 2004 – May 2008).
- ***Attorney Advisor***, **Office of the General Counsel**, Washington DC (October 2003 – June 2004).
- ***Deputy Chief Counsel (Criminal Enforcement)***, **Transportation Security Administration**. Arlington VA (March 2003 - October 2003).

U.S. Department of Transportation (March 2002 – March 2003).

- ***Deputy Chief Counsel (Criminal Enforcement)***, **Transportation Security Administration**, Washington DC.

U.S. Department of Justice, Criminal Division (February 1992 – March 2002).

- ***Counsel, Multilateral Affairs, Office of International Affairs***, Washington DC (June 2001 - March 2002).
- ***Special Assistant to the Assistant Attorney General***, Washington DC (January 1997 – May 2001).
    - ***Legal Advisor, Office of Overseas Prosecutorial Development, Assistance and Training***, Jerusalem, Israel (June – December 2000).
- ***Trial Attorney, Narcotic and Dangerous Drug Section***, Washington DC (October 1994 – January 1997).
    - ***Special Assistant United States Attorney, Eastern District of Virginia***, Alexandria VA (January – June 1995).
- ***Trial Attorney, Money Laundering Section***, Washington DC (February 1992 - October 1994).

Cadwalader, Wickersham & Taft, Criminal Fraud Litigation Group, Associate, Washington DC (January 1991 – January 1992).

Arent, Fox, Kintner, Plotkin & Kahn, White-Collar Criminal Defense/Litigation, Associate, Washington DC (October 1988 – January 1991).

George Washington University, Sociology and Forensic Sciences Departments, Visiting Lecturer, Washington DC (Fall 1995 - Spring 2002).

Department of Justice, Criminal Division, Law School Consortium, *The Role of the Federal Prosecutor*, Washington DC (Fall 1999, Spring 2000).

Class of '23 Rink, Rink Guard, Philadelphia, Pennsylvania (Winters 1987-1988).

American Civil Liberties Union, Intern for school credit, Philadelphia, Pennsylvania (Spring 1988).

Strawberry Records, Sales Clerk, Philadelphia, Pennsylvania (February-March 1988).

Finley, Kumble, Wagner, Underberg, Manley, Myerson & Casey, Summer intern, Washington DC (Summer 1987).

Kovitz, Shifrin, Lev, Waitzman & Glink, Summer intern, Chicago, Illinois (Summer 1986).

Extern for District Judge Marvin E. Aspen (unpaid), Northern District of Illinois, Chicago, Illinois (Summer 1986).

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.

Grant Fraud Working Group, January 2011 to Present.

Retail Payments Advisory Group, Federal Reserve Bank of Atlanta, Approx. 2009 to Approx. 2010.

Criminal Division Liaison to CFTC, Approx. 2009 to Approx. 2010.

Several Federal Government inter-agency working groups, including Bank Fraud Working Group, Securities and Commodities Fraud Working Group, and Payments Fraud Working Group, Approx. 2008 to Approx. 2011.

Published Writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

"Fighting Terrorism at Our Nation's Transportation Facilities"	*United States Attorneys' Bulletin*	January 2004
"The Transportation Security Administration: Fighting Terrorism at Our Nation's Transportation Facilities"	*The Prosecutor* magazine for the National District Attorneys Association	November-December 2003
"Congress Considers New Money Laundering Legislation" and "Extraterritorial Jurisdiction in Sections 1956 and 1957 [Money Laundering Statutes] Cases"	*The Money Laundering Monitor*	October - December 1993
"The International Drive Against Money Laundering"	*The Money Laundering Report*	June – August 1991
"Expanding the Concept of Coproduction Beyond the Maquiladora: Toward a More Effective Partnership between the United States and Mexico, and the Caribbean Basin Countries"	*The International Lawyer*	Summer 1988

Political Affiliations and activities: List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None.

Political Contributions: Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.

None.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Please see attached sheet.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

If confirmed for this position, I will sever connections to my present employer.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

If confirmed for this position, I do not have plans to resume employment with my previous employer.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

I do not believe that there is a term for this Inspector General position.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None known.

3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

None.

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

I am not aware of a conflict of interest, but if one were to arise, I would work with the FDIC's Designated Agency Ethics Official to resolve it expeditiously.

Civil, criminal and investigatory actions:

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

None.

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

None.

JAY N. LERNER
STATEMENT OF QUALIFICATIONS
POSITION OF INSPECTOR GENERAL
FEDERAL DEPOSIT INSURANCE CORPORATION

I believe that I am well qualified to serve as the Inspector General of the Federal Deposit Insurance Corporation, because I have significant experience having worked in the Inspector General community for nearly the last four years, and I have an extensive background in investigations, prosecutions, and auditing. I have also demonstrated strong leadership and management skills and abilities.

I have worked for the Federal Government for nearly 23 years, including about 13 years as a Federal prosecutor, and 6 years as a lawyer at the Department of Homeland Security (DHS). During my tenure as a prosecutor, I have led money laundering investigations, advised and consulted with fellow prosecutors on a variety of criminal law and law enforcement issues, and guided financial fraud cases and policy initiatives.

Currently, I am the *Chief of Staff* and *Senior Counsel* with the Department of Justice Office of the Inspector General. In this role, I provide leadership in the strategic and policy direction for the Office, as well as input into the overall planning, operations, and management of the Office. I also provide leadership and guidance in the scoping, researching, reviewing, and issuing of audits, inspections, evaluations, investigations, and other reviews.

Prior to this position, I was *Assistant Chief* in the Fraud Section in the Criminal Division at the Department of Justice, where I provided policy guidance and counsel on financial fraud efforts relating to enforcement initiatives and outreach to international and other governmental partners. In addition, I have held other senior positions within the Federal Government, including: *Associate General Counsel for Strategic Oversight and Review* at the Department of Homeland Security Office of the General Counsel; *Chief Counsel for Security* at the Department of Homeland Security; and *Deputy Chief Counsel (Criminal Enforcement)* at the Transportation Security Administration.

Prior to these experiences, I was a prosecutor with the Criminal Division at the Department of Justice, during which time, I prosecuted money laundering cases against a financial institution and financiers. Also, I worked at two private law firms in Washington D.C.

Previously, I had passed the *Certified Public Accountants Examination*. I graduated from the University of Illinois with a degree in Accountancy (highest honors), and I was named as one of the top students in the College of Commerce and Business Administration.

Further, I was a *Visiting Professor* at the George Washington University for seven years, where I taught a number of courses on law enforcement and policing issues.

Based on my background and these successful experiences, I believe that I am well qualified to serve as the Inspector General of the Federal Deposit Insurance Corporation.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM ADEWALE O. ADEYEMO

Q.1. As Assistant Secretary for International Markets and Development at the U.S. Department of the Treasury, you will play an integral role in the Committee on Foreign Investment in the United States (CFIUS). As you know, CFIUS is tasked with reviewing the national security implications of foreign investment in U.S. companies. In a day and age in which U.S. infrastructure, information technology, and intellectual property and innovations are subject to almost constant threat of hacking and cyberterrorism, we must be particularly vigilant of the acquisition of certain systems and technology by foreign firms.

- How you will navigate the competing interests of facilitating essential foreign investment in the United States with the very real threats to our national security?
- Based on your knowledge of the CFIUS review process, under what conditions might a foreign acquisition of a U.S. company constitute a national security threat to the United States?
- From where do you see that threat most likely to emanate today?
  - Do you see Iran as a national security threat?
  - Do you see Cuba as a national security threat?

A.1. CFIUS is focused on protecting the national security. As Assistant Secretary, I would maintain this focus on national security, pursuant to which CFIUS clears transactions only when the committee has no unresolved national security concerns with the transaction. Within this national security mission, CFIUS can facilitate foreign investment by, among other things, focusing on national security; acting consistent with the timeframes provided in statute; using targeted mitigation to resolve identified concerns, where mitigation can fully resolve such concerns; and making the process accessible, by publishing regulations, guidance, annual reports, and having an open door for companies interested in learning about the process.

CFIUS determines whether a transaction poses a national security risk by evaluating the threat, vulnerability, and consequences posed by a transaction. Applying this analytical framework on a case-by-case basis, CFIUS assesses whether the transaction under review poses a national security risk. In conducting its analysis, CFIUS considers a variety of potential national security factors, including the factors listed in the CFIUS statute, as appropriate. For example, while investments from countries subject to sanctions, such as Iran and Cuba, are still limited by law, in reviewing investments from other countries, CFIUS considers, among other factors, the adherence of the subject country to nonproliferation control regimes, the relationship of the country with the United States, its record on cooperating in counter-terrorism efforts, and the potential for transshipment or diversion of technologies with military applications.

We can, and do, protect the national security while also promoting foreign investment. Foreign investment creates good jobs, spurs innovation, and results in lower prices and greater consumer

choice. Accordingly, the executive branch has engaged in extensive efforts to encourage foreign investment in the United States, such as the Department of Commerce-led SelectUSA initiative, and Treasury supports these initiatives, consistent with Treasury's mission.

Q.2. Last month, the Departments of Treasury and Commerce announced the broadest easing of restrictions to Cuba Sanction Regulations we have seen yet. And shortly after, the Department of Commerce announced that Secretary Penny Pritzker would travel there next month. Opening Cuba for business by easing restrictions and legitimizing a totalitarian regime is a lavish reward that is earning us nothing in return. I completely reject the notion that it is the United States that has created hardship on the Cuban people, not the regime itself.

With regard to the Department of Treasury's recent announcement, changes to the Cuban Assets Control Regulations were undertaken with little notice to Congress. There was no opportunity for the American people to comment on the proposed changes, and, I suspect little consideration for the second and third order effects of funneling new cash-flows into the Cuban regime's coffers. As I've said before, the U.S. policy in Cuba should be guided by one, single principle, and that is supporting the Cuban people's aspirations for a democratic future. This was the intent of the Libertad Act, which I helped author. Providing the regime the funds it needs to continue its repressive rule is not the way to support a democratic transition, and it's not consistent with the intent of the law.

Despite the Administration easing restrictions on everything from travel to telecommunications to banking and commercial transactions, the fact remains that the Cuban regime controls most of the country's economy, and it is highly unlikely that any financial benefits will make their way to the Cuban people.

- As Assistant Secretary of International Markets and Development, what role will you play in ensuring that the Administration's easing of these crucial sanctions will not be manipulated by the regime to further disadvantage the Cuban people?
- What do you expect the impact of sanctions relief to be on your work?
- If—in spite of this inappropriately generous easing of sanctions—Cuba continues to act as a ruthless, totalitarian regime without regard for the needs of its people, does the Department of the Treasury plan to reassert restrictions?
- Will the Castro regime face *any* consequences from the Department of the Treasury if it continues to jail dissidents, silence political opponents and harbor American fugitives?

A.2. Along with the Commerce Department's Bureau of Industry and Security, the Department of the Treasury's Office of Foreign Assets Control administers and enforces the Cuba sanctions program, in consultation with other relevant agencies of the U.S. Government, including the Department of State. I understand that colleagues at the State Department are engaged in multiple lines of negotiations with the Government of Cuba, including to address law enforcement cooperation and issues such as fugitives. I would

refer you to the State Department for further details regarding these negotiations.

Q.3. The position of Assistant Secretary of International Markets and Development was created by the Foreign Investment and National Security Act, the FINSA law, passed by this Committee and signed into law in 2007. While foreign investment and development is in our economic interests, the foremost consideration of the person who holds this position should be national security.

- Do you agree with that statement?

In this position, there may be pressures—pressure by those above you to consider political and economic interests about national security interests. And with these pressures, you will need to work through the CFIUS process, coordinating numerous agencies under the fairly strict timelines the law prescribes. This can be a difficult balance to strike and a significant moral and professional challenge.

- Can you give us an idea of a similar challenge you have had in your career, coordinating, under pressure, multiple agencies with different cultures and viewpoints—and how you responded?

A.3. By statute, the focus of CFIUS is national security. If confirmed, I would exercise my responsibilities with respect to CFIUS consistent with FINSA.

In July of 2015, Secretary Lew led the U.S. delegation to the United Nations (UN) Third International Conference on Financing for Development (FfD) in Addis Ababa, Ethiopia, signaling strong U.S. engagement and support for the global sustainable development agenda. Both in the lead up to the meeting and during the meeting itself, I coordinated intensively with multiple agencies as the point person from Treasury. This included working closely with colleagues from various agencies and the NSC to resolve issues and priorities as we prepared for FfD. Negotiations over the FfD outcome document required intensive interagency coordination within the United States Government as well as coordination with other U.N. member states. I responded to the challenges that arose by working to identify viable options, helping to develop a process for reaching a conclusion, and collaborating with colleagues in an attempt to reach consensus. Ultimately, our efforts resulted in approval of the Addis Ababa Action Agenda, the outcome document for the Financing for Development conference. The Action Agenda represented an expansion of the development agenda, moving away from an exclusive focus on official development assistance toward a more holistic approach that includes countries raising their own resources and leveraging private sector financing to address development challenges.

Q.4. In December 2014, the Administration announced major changes in U.S. policy toward Cuba, including the restoration of diplomatic relations, a review by the Department of State of Cuba's designation as a state sponsor of terrorism, and an increase in travel, trade, and the flow of information to Cuba. This third step required the Departments of Treasury and Commerce to amend sanctions regulations. Treasury implemented changes to the Cuban

Assets Control Regulations (CACR) on January 16, 2015, and again on September 21, 2015.

On September 21, 2015, the Office of Foreign Assets Control published the following in the Federal Register:

> The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the Cuban Assets Control Regulations to further implement elements of the policy announced by the President on December 17, 2014, to engage and empower the Cuban people. Among other things, these amendments further facilitate travel to Cuba for authorized purposes (including authorizing by general license the provision of carrier services by vessel), expand the telecommunications and Internet-based services general licenses, authorize certain persons subject to U.S. jurisdiction to establish a physical presence in Cuba, allow certain additional persons subject to U.S. jurisdiction to open and maintain bank accounts in Cuba to use for authorized purposes, allow certain additional financial transactions (including removing the limit on donative remittances to Cuba and unblocking certain previously blocked remittances and funds transfers), authorize all persons subject to U.S. jurisdiction to provide goods and services to Cuban national individuals located outside of Cuba, and allow a number of other activities related to, among other areas, legal services, imports of gifts sent to the United States, and educational activities. These amendments also implement certain technical and conforming changes.

- Did the Department of the Treasury conduct a legal review of the amendments to the Cuban Assets Control Regulations? What is the process for this legal review? What entity or individual makes the final legal determination that amendments to the Cuban Assets Control Regulations do not violate other legal provisions?
- Under what legal authority did the Department of the Treasury make the January 16, 2015 and September 21, 2015 changes to the Cuban Assets Control Regulations? Do these changes conflict with any portion of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Pub. L. 104–114, 22 U.S.C. § 6021 *et seq.*) or other Cuba sanctions laws, including the Cuban Democracy Act of 1992 (Pub. L. 102–484, 22 U.S.C. § 6001 *et seq.*), and the Trade Sanctions Reform and Export Enhancement Act of 2000 (Pub. L. 106–387, 22 U.S.C. § 7201 *et seq.*)?
- How does the Department of the Treasury interpret the legal limits for changes to Cuba sanctions under the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Pub. L. 104–114, 22 U.S.C. § 6021 *et seq.*) or other Cuba sanctions laws, including the Cuban Democracy Act of 1992 (Pub. L. 102–484, 22 U.S.C. § 6001 *et seq.*), and the Trade Sanctions Reform and Export Enhancement Act of 2000 (Pub. L. 106–387, 22 U.S.C. § 7201 *et seq.*)?
- What additional actions does the Department of the Treasury feel it can pursue without violating the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Pub. L. 104–114, 22 U.S.C. § 6021 *et seq.*)?

A.4. The Department of the Treasury's Office of Foreign Assets Control Office manages the department's policy with respect to Cuba sanctions. My understanding is that the Cuban Assets Control Regulations (CACR) were originally issued pursuant to the Trading With The Enemy Act (TWEA), which affords the President and his designees the authority to revise the regulations. The

President continues to exercise his authority to adjust the regulations consistent with and subject to limitations in certain statutes subsequently enacted by Congress with respect to Cuba, including the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA), the Cuban Democracy Act of 1992 (CDA), and the Libertad Act. My understanding is that attorneys in all relevant agencies have confirmed that the amendments to the CACR issued by the Department of the Treasury's Office of Foreign Assets Control are consistent with these existing statutes.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM AMIAS MOORE GERETY

Q.1. I am deeply concerned that the current economic crisis in Puerto Rico threatens to destabilize the island. Together with seven of my colleagues, I recently sent a letter to Secretary Lew urging the Department of the Treasury to move beyond simply providing technical assistance and take an active leadership role to immediately resolve this crisis.

To be clear, this crisis requires assistance from both Congress and the Administration. It is essential for Congress to approve the pending legislation I introduced with Senators Schumer, Blumenthal, and others, which would allow the government of Puerto Rico to authorize its public utilities to rework their debts under Chapter 9 of the U.S. Bankruptcy Code. But taken alone, this action is simply not enough.

The Department of the Treasury is best suited to take a leadership role to bring creditors and debtors to the table to resolve this crisis immediately.

- In addition to resolution of the island's public debts through Chapter 9 bankruptcy—an option not currently available to Puerto Rico—what other interventions are necessary to solve the economic crisis there?
- Will the Department commit to bringing creditors and debtors to the table to resolve the outstanding debt issues?
- What specific tools will the Department utilize to resolve this crisis? What steps will it take to intervene, beyond continuing to provide "technical assistance"?
- What is the timeline for implementing these actions?

A.1. The U.S. Treasury remains committed to finding solutions that support the people of Puerto Rico. While I do not work directly on those issues, Treasury has a dedicated team that is closely monitoring the situation and sharing its expertise with the Commonwealth officials who are working to manage through these difficult times. However, any meaningful response to assist the U.S. citizens living and working in Puerto Rico requires Congressional action.

To that end, the Department believes a central element for any Federal response to Puerto Rico's fiscal situation must include an orderly legal process built on the tested principles of Chapter 9 of the U.S. Bankruptcy Code. Without Congressional action, Treasury is deeply concerned that a protracted and disorderly restructuring process will cause long-term damage to the health, safety, and fi-

nancial well-being of the families living and working in Puerto Rico.

If you have further questions regarding the Department's work on this important and urgent issue, I would be happy to ask my colleagues to follow up with you directly.

Q.2. Over the last 6 years, you have worked extensively on addressing systemic risk to the financial system. As we saw in the financial crisis, sources of risk can build anywhere in the financial system, regardless of the types of entities involved or the jurisdictional boundaries between regulators. So it's crucial to have tools for identifying risks to the financial system and properly addressing them.

- What tools have been the most helpful in identifying potential risks and areas of weakness in the financial system?
- From your perspective, 8 years from the start of the financial crisis, what are the greatest unresolved systemic risks to our financial system, and how would you go about addressing these risks?

A.2. One of the critical lessons of the financial crisis is that no single entity had responsibility for monitoring the overall stability of the financial system. In response, Congress created the Financial Stability Oversight Council (FSOC), which brings the financial regulatory community together with the mission to identify and respond to potential threats to financial stability. The FSOC now provides an important forum for member agencies with supervisory, examination, data, surveillance, and policy expertise, to collectively gather and analyze information to assess risks that affect financial markets and institutions. The Dodd-Frank Act also gave regulators additional authority to impose more stringent prudential requirements on the largest, most complex financial institutions so that they employ sound risk management practices, are more resilient in the face of stress, and, if necessary, are able to be safely wound down in an orderly manner.

FSOC continuously monitors for threats to financial stability and issues annual reports that highlight emerging threats and make related recommendations. The 2015 annual report identified 11 key areas, including potential incentives for greater risk-taking in a low-yield environment; the need for continued progress to reform benchmark rates, such as LIBOR; and the continued reliance on short-term wholesale funding. I also believe that more work needs to be done to improve our financial system's ability to address emerging cybersecurity risks, and that we must continue working with our international peers to implement reforms necessary to facilitate effective cross-border resolutions. If confirmed, I will continue to make sure that Treasury is doing all it can to monitor these issues and to take action where appropriate.

Q.3. As part of your responsibilities at the Department of the Treasury, you will oversee the Community Development Financial Institutions (CDFI) Fund. By providing funding and technical assistance to local organizations that work to expand the availability of credit for families and for small businesses, the CDFI Fund plays a critical role in community development for some of our

most distressed neighborhoods. In my State of New Jersey, CDFIs have used funding to build multifamily affordable housing and community facilities, offer small business and commercial real estate loans, and to increase food access and create jobs in low-income communities, in addition to many other important community and economic development projects. Funding for CDFIs is particularly important, as communities throughout the country continue to struggle with the longstanding effects of the foreclosure crisis and high household debt.

- As Assistant Secretary for Financial Institutions, what will you do to ensure that the CDFI Fund has the tools and resources it requires to continuing providing funds and technical assistance to CDFIs throughout the Nation?

A.3. This past year Treasury celebrated the twentieth anniversary of the CDFI Fund, a celebration I was proud to take part of because of the critical role CDFIs play in supporting one of Treasury's core objectives of promoting economic growth that is inclusive of all communities and Americans. In the 20 years since it was created, the CDFI Fund has awarded more than $2 billion to CDFIs, allocated $44 billion in tax credit authority through the New Markets Tax Credit Program, and has guaranteed $857 million in bonds through the CDFI Bond Guarantee Program. In many cases CDFIs are the only sources of capital for borrowers in the communities they serve.If confirmed, I will advocate for keeping the CDFI Fund's programs fully and adequately funded, as reflected in the President's budget requests. I will stand ready to work with Congress to support legislative changes to deepen the impact of existing programs, such as changes to the CDFI Bond Guarantee Program to enable more CDFIs to participate in the program and more communities to benefit from low-cost, long-term community development capital. And I will work closely with the Director of the CDFI Fund to develop the 5-year strategic plan that identifies the key priorities for today and for the CDFI Fund's future.

Q.4. The Department of the Treasury plays a crucial role in coordinating the Federal financial regulators. As Assistant Secretary for Financial Institutions, you will oversee the coordination of policies that affect financial institutions of varying size, scope, and activity. Of utmost importance in the development of these policies is crafting rules and regulations that are responsive to the experiences of institutions of varying size.

- In your opinion, have the Federal financial regulators been successful in formulating policies in such a way?
- What are the challenges to formulating policies that are responsive to the experiences of institutions of varying size? What do you plan to do as Assistant Secretary to mitigate those challenges?

A.4. A key objective of financial regulatory policy should be to scale regulations appropriately so that our financial system is safe and resilient while remaining innovative and dynamic. The Dodd-Frank Act codifies this principle by providing for regulators to adopt a tailored regulatory framework that focuses the most stringent standards on the largest, most complex financial institutions, such as en-

hanced capital, liquidity, and risk management requirements. Our regulatory approach must properly account for the fact that smaller institutions, such as community banks and credit unions, present a different set of risks than larger firms. I spend a lot of time talking to representatives of financial institutions of all sizes to better understand the challenges they face, and, if confirmed, I will continue working with regulators so that rules and supervisory expectations are calibrated in a manner that enables firms to thrive while remaining safe and sound.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM JAY N. LERNER

Q.1.a. The Department of Justice's Office of Professional Responsibility and the FDIC's Office of the Inspector General recently completed reports regarding DOJ's "Operation Choke Point" and the FDIC's supervisory approach to institutions that conducted business with merchants associated with high-risk activities. OPR found no wrongdoing by the DOJ, and the FDIC OIG found the FDIC's role in Operation Choke Point to be inconsequential. The FDIC OIG determined that the FDIC's supervisory approach was within its authorities, and that there was no evidence that the FDIC used the high-risk list to target financial institutions. The FDIC OIG also determined that the five officials at the FDIC did not play a role in the development or implementation of Operation Choke Point. The FDIC OIG provided recommendations to the FDIC to review and clarify, as appropriate, existing policy and guidance pertaining to the provision and termination of banking services; assess the effectiveness of the FDIC's supervisory policy and approach after a reasonable period of time is allowed for implementation; and coordinate the FDIC's Legal Division to review and clarify, as appropriate supervisory policy and guidance.

Do you have any concerns about the completeness or conclusions of these reports?

A.1.a. I have reviewed the "Operation Choke Point" reports written by the Department of Justice's Office of Professional Responsibility and the Federal Deposit Insurance Corporation (FDIC) Office of the Inspector General (OIG) (as referenced in the question), and I do not have information at this time that would cause me concern about the completeness of or conclusions contained in the reports.

Q.1.b. If confirmed, you will be responsible for monitoring the FDIC's implementation of the OIG's recommendations. What will you do to carry out this responsibility?

A.1.b. If confirmed as FDIC Inspector General, I would follow up on the recommendations made in the FDIC–OIG report on "Operation Choke Point." I intend to learn more about what has been done by the FDIC with respect to the issues identified in the report and encourage the FDIC Chairman and other FDIC officials to implement remaining recommendations. If confirmed, my goal as Inspector General would be to make recommendations to improve the FDIC's programs and operations, and to ensure implementation in an effective and efficient manner.