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

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

JULY 27, 2017

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

Thursday, July 27, 2017

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

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

Members present: Representatives Hensarling, Royce, Lucas, Pearce, Posey, Luetkemeyer, Huizenga, Duffy, Hultgren, Ross, Pittenger, Wagner, Barr, Rothfus, Tipton, Williams, Poliquin, Love, Hill, Emmer, Zeldin, Trott, Loudermilk, Mooney, MacArthur, Davidson, Budd, Kustoff, Tenney, Waters, Maloney, Velazquez, Sherman, Meeks, Capuano, Clay, Lynch, Scott, Green, Cleaver, Moore, Ellison, Perlmutter, Himes, Foster, Kildee, Delaney, Sinema, Beatty, Heck, Vargas, Gottheimer, Gonzalez, and Kihuen.

Chairman HENSARLING. The committee will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any time, and members will have 5 legislative days within which to submit extraneous materials to the chair for inclusion in the record. The hearing is for the purpose of receiving the secretary of Treasury's annual report on the State of the international finance system.

But before proceeding to that report, I will give you a report on the Hollingsworth family of Indiana. I would like to share with you some very good news that Joseph Albert Hollingsworth, IV arrived this morning at 1:38 a.m., weighing in at 7 pounds, 15 ounces. Mother and baby are doing well. Husband and father is a total wreck, but congratulations to our colleague, Trey Hollingsworth.

We will give him an excused absence from this morning's hearing.

The chair now recognizes himself for 3 minutes for an opening statement. Again, this morning, the committee welcomes Treasury Secretary Steven Mnuchin for his testimony on the state of the international financial system. As we all know, it is a system that rests heavily upon our U.S. financial system, and that system clearly needs improvement.

Fortunately, President Trump has outlined a bold forward-looking plan to tackle the serious problems facing hard-working Amer-

ican families who have seen their paychecks stagnate, their savings shrink and their dreams diminish over the last decade. The fact is, this economy isn't close to reaching its potential. Nearly 8 years after the last recession ended, Americans remain stuck in the slowest recovery in generations.

Our economy grew at a measly 1.6 percent last year, when our historic norm is twice that. Over 300,000 manufacturing jobs have disappeared during the last 8 years. Clearly, 8 years of Obamanomics has clearly taken a toll.

One place it has taken a toll is the competitiveness of our capital markets. We simply cannot afford to lose our status as the global leader for capital markets. Yet the United States has dropped to 17th in a recent world ranking of economic freedom, a historic low for our Nation. This is based upon levels of business freedom, investment freedom, and financial freedom.

While U.S. economic freedom has declined, the economic freedom of a number of our international competitors has actually grown. I have faith in our U.S. capital markets and the spirit of American entrepreneurs and businesses to take necessary risk and grow.

But to do so, the unaccountable Washington bureaucracy must finally be held accountable. We must address the regulatory cost of doing business in the U.S. under Dodd-Frank. We must work to level the playing field for American companies to prosper, and as a result, our economy will grow healthier for all. For these reasons, the President's executive order establishing the core principles for regulating the U.S. financial system is vitally important to us all.

As the report notes, for too long, we have not empowered Americans to make independent financial decisions and informed choices in the marketplace, save for retirement, or build individual wealth. We have not enabled American companies to be competitive with foreign firms in domestic and foreign markets. I could not agree more.

Mr. Secretary, as you know, your first report, issued last month, closely mirrors key foundational principles and policies that are contained within the House-passed Financial CHOICE Act. From helping end bank bailouts, to making the destructive CFPB accountable, to tailoring regulations for our community banks and credit unions, your recommendations will clearly help craft a more sensible, less burdensome, healthier regulatory system.

Please know that the actions that you and this administration are taking to ensure the competitiveness of the U.S. financial system are a welcome change, and one that I fully support.

Thank you for being here and the committee looks forward to working with you.

I now yield 4 minutes to the ranking member for an opening statement.

Ms. WATERS. Thank you very much, Mr. Chairman, and welcome, Secretary Mnuchin.

Mr. Mnuchin, as secretary of the Treasury, you have a wide range of responsibilities that are of great importance to our economy and the well-being of the American people. These range from safeguarding our financial system to advancing U.S. values internationally.

One bureau within the Treasury responsible for safeguarding our financial system is the Financial Crimes Enforcement Network, or FinCEN, which as you know, collects, analyzes and disseminates financial intelligence, in addition to suspicious activity reports, foreign bank and financial account reports, and other reports. FinCEN has numerous information-sharing arrangements with foreign financial intelligence units, making the bureau well-positioned to identify and assist law enforcement in curtailing illicit activity.

It is critical for the American public to learn the extent to which President Trump, his immediate family, and his associates colluded with Russia to influence the outcome of last year's election.

Serious questions have been raised about their suspicious financial arrangements and involvement with Russian government officials, oligarchs, and organized crime leaders.

As the committee of jurisdiction over Treasury and FinCEN, we, too, have our own share of questions. Fortunately, you, as secretary of the Treasury, are well-positioned to assist this committee in fulfilling its oversight responsibilities in assessing President Trump's financial entanglements with Russia.

However, even though you have indicated, I think, on more than one occasion, that you do take requests from Members of Congress seriously, you did not respond to a May 23rd letter for me and my Democratic colleagues requesting copies of all pertinent financial records related to President Trump's financial transactions with and business ties to Russia, as well those of his family members and associates.

Now, I understand your staff finally did call yesterday afternoon, while we were preparing for this hearing. But I am looking forward to hearing directly from you about this matter today.

There are also other areas where I have serious concerns. Indeed, in June, the Treasury released a report with recommendations that largely mirrored Chairman Hensarling's "Wrong Choice" act. You recommended gutting the Consumer Financial Protection Bureau and rolling back important Dodd-Frank reforms, including rules in place to ensure the stability of our financial system, like stress tests and living wills.

These recommendations are deeply harmful and shortsighted, given the progress we have made since the financial crisis.

I also remain very concerned about the practices that took place at OneWest under your leadership. Even though OneWest foreclosed over 36,000 families in California and that—it has been the subject of numerous investigations, this President has selected numerous OneWest officials, including you, to fill government posts.

For example, Joseph Otting, a former OneWest executive, has been nominated by Trump to lead the Office of the Comptroller of the Currency, which regulates the largest banks.

Committee Democrats are very concerned about the potential for conflicts of interest with regard to a recent Department of Justice settlement with OneWest and any pending investigations into OneWest for wrongdoing that occurred during your tenure.

So I look forward to hearing from you and what you have to share with us today. And, I yield back the balance of my time.

Chairman HENSARLING. Gentlelady yields back. The chair now recognizes the gentleman from Kentucky, Mr. Barr, chairman of our Monetary Policy and Trade Subcommittee, for 2 minutes.

Mr. BARR. Secretary Mnuchin, thank you for your service and welcome to your first hearing on the state of the international financial system. As chairman of the Monetary Policy and Trade Subcommittee, which has jurisdiction over international financial institutions, sanctions and monetary policy, I think you are off to a great start.

Two days ago, this committee unanimously passed a bill that would empower Treasury to encourage much-needed reforms to the World Bank's International Development Association, and reduced the IDA18 level by $580 million.

I thank your staff for having worked with us so effectively on this legislation. We are also looking forward to the positive impact that you can have at the Financial Stability Oversight Council.

I would urge you, in your capacity as lead member of FSOC, to assess the extent to which unconventional monetary policy and the Fed's $4.5 trillion balance sheet continue to distort economic decisions and constrain American households and businesses from enjoying a faster and more complete recovery. As Dallas Fed President Robert Kaplan recently wrote, "There is a cost to excessive accommodation, in terms of limiting returns to savers, as well as creating distortions and imbalances in investing, hiring and other business decisions. Monetary policy accommodation is not costless."

Perhaps the greatest threat that we face are the threats from terrorism around the world, and I hope to continue to work with you on key proposals that would help thwart violent extremism and counteract rogue States like North Korea and Iran.

Finally, I want to applaud your work in the June treasury report and its call for much needed regulatory relief for community financial institutions. According to a recent estimate, these reforms that you have proposed would allow firms to lend up to an additional $2 trillion into the real economy, which would create much-needed opportunities for Americans in all walks of life.

Again, thank you, and I look forward to your testimony. I yield back.

Chairman HENSARLING. Gentleman yields back.

The chair now recognizes the gentlelady from Wisconsin, Ms. Moore, ranking member of the Monetary Policy and Trade Subcommittee, for 1 minute.

Ms. MOORE. Thank you very much. I know I would feel a lot better, Mr. Secretary, if you support a strong, independent Consumer Financial Protection Bureau, especially given your reputation as a foreclosure king.

I am so disappointed that you and the Trump Administration supported repeal of the extractive industry disclosures under Dodd-Frank, 1504, and ironically, Treasury has just fined the agency for a crooked deal it did with Russia while now-Secretary of State Tillerson was its CEO.

Finally, I have heard from State, USAID, and Treasury officials that section 1502 conflict minerals provisions are working just fine. So I am hoping that you will support 1502. I am a very nice, sweet

person. I hope to get to know you. But trust me, I am going to fight you to the end to keep that in place.

I look forward to your testimony.

Chairman HENSARLING. Gentlelady yields back.

Today, we will welcome the testimony of the Honorable Steven Mnuchin. Since this is a new administration and the first time that we have had a cabinet-level official testify before our committee, I thought it would be prudent to review the committee and House rules on decorum.

Members are required under the rules of the House to observe the principles of decorum and courtesy in debate set forth in Rule 17, and by related provisions in Jefferson's manual, including by speaking and acting respectfully and by refraining from the use of disorderly words or unparliamentary language, which includes impugning motives, charging falsehood, or implying a lack of intelligence.

I would also add that, over the last 2 years, my colleagues on the other side of the aisle have expanded upon these principles on the record to say that no administration witness should be, quote "badgered". No administration witness should be subject to, quote "I got you politics." The ranking member and other Democrats on the committee have also said that no administration witness should be, quote "talked to badly."

No administration witness should be interrupted. Every administration witness should be, quote "treated fairly." Every administration witness has, quote "the right to be able to respond." And finally, my Democratic colleagues have opined that every administration witness should be treated with, quote "acceptable standards of dignity, propriety, courtesy. and decorum."

So, Steven Terner Mnuchin—

Ms. WATERS. Mr. Chairman?

Chairman HENSARLING. For what purpose—

Ms. WATERS. I have a parliamentary inquiry.

Chairman HENSARLING. State your inquiry.

Ms. WATERS. First, I would like to know if this witness will be sworn in.

Chairman HENSARLING. It is not our custom to swear in administration witnesses, and we did not do so with the Obama Administration. It is not the chair's intent.

Ms. WATERS. Well, Mr. Chairman, since you took time to talk about how we should conduct ourselves today, I would like to remind you and your colleagues how you treated Mr. Cordray. And I never heard you take time out to talk about how members should conduct themselves. So while we have not done some things in the past, and you are doing it now, I would like to make sure I understand that you do not wish to swear in this witness.

Chairman HENSARLING. I believe, in my tenure, we have sworn in exactly one witness, and we have never required Obama Administration officials to be sworn in. It is not my intention to swear in this witness. It is simply my intent to profit from the minority's advice and counsel on decorum.

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

Chairman HENSARLING. Today we welcome, again, the testimony of the Honorable Steven Mnuchin. Again, this is the first time that

he has appeared before our committee. Steven Turner Mnuchin was sworn in as the 77th secretary of Treasury on February 13th, 2017. Secretary Mnuchin was born and raised in New York City and holds a bachelor's degree from Yale University. The secretary has several decades of both retail and investment banking experience, which he brings to the office and which he now holds. Without objection, the witness's written statement will be made part of the record.

Secretary Mnuchin, welcome for your first appearance before our committee, and you are now recognized for 5 minutes to give an oral presentation of your testimony.

STATEMENT OF HON. STEVEN MNUCHIN, SECRETARY, U.S. DEPARTMENT OF THE TREASURY

Secretary MNUCHIN. Thank you very much.

Chairman Hensarling, Ranking Member Waters, and members of the committee, I am pleased to be here today and I look forward to discussing the important issues to the American people.

I would like to begin by addressing Treasury's national advisory committee report. Treasury uses its leadership role in international financial institutions to help ensure that they are carrying out their core mandates effectively and efficiently.

As the Federal Government is streamlining, Treasury is focused on keeping the international financial institutions as cost-effective as possible. We have pressed the IMF to increase its focus on the need to address global economic imbalances. This will help to improve prospects for U.S. jobs and exports, while holding the IMF's administrative budget largely flat in real terms.

In addition, U.S.-supported reforms to how the multilateral development banks employ their balance sheets have made it possible for us to substantially increase the assistance that they can provide to the world's poorest countries, while reducing U.S. budgetary contributions.

Where it makes sense, we will preserve these investments and remain a top donor and shareholder, while also balancing priorities across other parts of the government. In doing so, we will continue to promote access to economic opportunities, to eliminate poverty and to build shared prosperity. When the world is prosperous and stable, America reaps the benefits.

I would like to now highlight our domestic reform agenda. Let me begin by congratulating the committee on its passage of the CHOICE act. The administration supported house passage of this legislation, and we will work with Congress to reform the financial regulatory system.

Years have passed since the financial crisis, and this has given us time to see what has worked and what has not. The administration is committed to robust financial system with the free flow of credit that fuels the engine of American growth. This means allowing community financial institutions to lend, and small businesses access to borrowing. It means giving Americans the opportunity to make independent financial decisions, such as buying a home and saving for retirement. This also means preventing taxpayer bailouts. In February, the President issued an executive order that di-

rected the Department of Treasury to report on whether financial regulations were in line with important core financial principles.

In June, Treasury released the first in a series of reports in response to this executive order. Our first report dealt with banks and credit unions. The treasury report provides a road map to better align the financial system to serve consumers and businesses and to drive economic growth.

While the report focused heavily on regulatory actions that can be taken by the executive branch, it also included a number of legislative recommendations to more appropriately align the laws governing depository institutions with the President's core financial principles.

One of these is properly tailoring capital requirements for small, mid-size, and regional banks that pose little or no risk to the financial system. It included that is the endorsement of a regulatory off-ramp for highly capitalized institutions.

Another recommendation is structural reform to provide a mechanism to identify a single lead regulator, to ensure that there is not unneeded regulatory overlap or duplicated efforts.

A third is a legislative remedy to the overly complex Volcker rule.

A fourth is statutory changes to make the Consumer Financial Protection Bureau more accountable. Working together, we can implement both regulatory reforms and legislative remedies, particularly for the benefit of community banks and mid-size institutions.

Housing finance reform is also a priority of the Treasury and the administration. The current system, in which GSEs remain in perpetual Federal Housing Finance Agency conservatorship is not sustainable, and leaves taxpayers at risk.

Our housing finance policy should be clear and should be designed to provide financing for homeowners and owners of multifamily units. Additionally, such policies should increase private-sector participation and protect taxpayers.

The other critical component is comprehensive tax reform. We have gone too long without addressing our tax system. Our business rate is one of the highest and most complicated in the world. It makes our businesses less competitive, and we are committed to changing that. Lowering the rate and bringing back trillions of dollars that are sitting overseas will allow business to invest in this country, spurring economic growth.

Another important component of strong and robust international financial system is stopping bad actors and those who finance them. I would like to acknowledge this committees effort to combat terrorism and illicit finance with the creation of its newest subcommittee. As our enemies change, so too must our weapons that combat them. Stopping the flow of funds is one more tool in our arsenal to disrupt their capabilities. Our Office of Terrorism and Financial Intelligence is ready to work with this committee, and I am personally looking forward to working with Chairman Pearce and Ranking Member Perlmutter on these critical issues.

We have a chance to create historic opportunities for American people, and I look forward to working with you. Thank you.

[The prepared statement of Secretary Mnuchin can be found on page 60 of the appendix]

Chairman HENSARLING. Chair now yields himself 5 minutes for questions.

Mr. Secretary, you are probably familiar with the Federal Reserve report of December 2016, dealing with the Volcker rule, that concluded, quote "The illiquidity of stress bonds has increased after the Volcker rule".

You may know that the director of the IMF's monetary and capital markets department provided another critique of the Volcker rule, saying that it can impact the ability of institutions to supply credit.

We have a recent study, conducted by the Bank of England, saying, in their stress simulation, material increase in spreads and the corporate bond market, and in the extreme, corporate bond market dislocation can threaten the stability of financial markets.

So, particularly as head of FSOC, what are your current concerns on the state of bond market liquidity in general? And what are your views on the Volcker rule in specific?

Secretary MNUCHIN. Chairman Hensarling, thank you very much for that question. And first, let me just acknowledge—I see you have the debt clock up here today. Hopefully, I will get out of here before it goes to $20 trillion.

In any event, as it relates to your question about the Volcker rule, this is something that—I do share your concerns. I think the biggest problem with the Volcker rule is its complexity and regulatory overlap. And even if it is our intent not to have proprietary trading within banks, we need to make sure that banks understand how the regulation works.

Recently, I was at a G20 meeting where we had some economists that came and talked to us, and they said that every trading desk needs a psychiatrist and a lawyer to determine how to apply the Volcker role.

In any event, as my role of chair of FSOC, this is one of the issues that I am working on. I am pleased to report that we have already done preliminary work on it. The regulators also share these concerns, and we have it on our agenda tomorrow for the meeting and will be addressing how we can deal with the regulatory overlap.

Also, Mr. Chairman, as you do know, in our report on the executive order to the President, we have also made certain suggestions for legislative changes to that. Thank you.

Chairman HENSARLING. Mr. Secretary, particularly those on this side of the aisle, we very much deplore what is happening to our community banks and credit unions. I know there are some on the other side of the aisle who have opined that there is no regulatory problem there. In your report and, frankly, in your testimony today, you mentioned the term "tailoring."

Can you expound upon your views and what are you considering that one can—that you can do in the administration to better tailor rules to our community banks and credit unions?

Secretary MNUCHIN. Mr. Chairman, thank you for that question. And let me first say, we are very focused in making sure that community and regional banks can properly grow.

Our financial system here, the top eight banks account for approximately 50 percent of the assets in the American financial mar-

kets. And that is quite problematic. What we want to do is make sure that there is robust lending, particularly in community banks.

I have met with many, many people—these are not Republicans or Democrats. These are hard-working businesspeople, particularly in agricultural communities, particularly in small manufacturing communities, that constantly complain that the community banks are not able to lend because they are overburdened by regulatory issues. And I firmly believe that community banks know how to make loans.

Let me just say they should be properly regulated, whether they are regulated by the State or the Federal Government. I do believe in proper regulation, but overly burdensome regulations, so that community banks cannot strive is not something that is good for any of us or the American economy.

So we are very focused on raising the regulatory burden, and we look forward to working with this committee on it.

Chairman HENSARLING. Speaking of the regulatory burden on—perhaps on our regional banks, the Treasury report recommended raising the asset threshold for the application of enhanced prudential standards to a bank holding company—raising it from its current $50 billion threshold to an unspecified amount.

It appears that changes can be accomplished without legislation. So what do you believe the threshold should be increased to? And do we have your commitment that you can—that you will implement these changes administratively?

Secretary MNUCHIN. Sure. Mr. Chairman, let me first say, my understanding is that there had been bipartisan discussions on raising this limit in the previous administration. So I would hope that those conversations continue, and that this is something that we could accomplish quickly.

I think that it should be raised substantially, at least to $250 billion or $300 billion. And I would go further, saying that simple, uncomplex banks, the regulators should be able to exempt above that.

And again, that doesn't mean that those banks shouldn't be regulated. Those banks will be regulated. They will be regulated by the primary regulator. And they will be regulated properly.

Chairman HENSARLING. My time has expired.

I now yield 5 minutes to the ranking member.

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

Secretary Mnuchin, I want to make sure that we all are operating here with the same understanding. Even though you are not sworn in, do you realize you are under oath?

Secretary MNUCHIN. I do, thank you.

Ms. WATERS. Thank you very much. Are you familiar with the May 23rd letter I sent to you, along with several of my Democratic colleagues on this committee?

Secretary MNUCHIN. Yes, I am.

Ms. WATERS. Do you understand that this committee not only has jurisdiction, but a responsibility to oversee the activities of the Financial Crimes Enforcement Network?

Secretary MNUCHIN. Yes.

Ms. WATERS. Given that the Treasury maintains these types of records, and given your department's statements that the agency

takes responsiveness to congressional requests very seriously and is committed to providing useful and appropriate responses to requests from congressional members, is there some reason why I did not get a response to the letter that I sent May 23rd?

Secretary MNUCHIN. So, Ranking Member Waters, first of all, let me thank you for your service to California. Being a resident of California, I appreciate everything that you have done—

Ms. WATERS. Thank you very much—

Secretary MNUCHIN —For the community there—

Ms. WATERS. I don't want to take my time up with how great I am.

Secretary MNUCHIN. I also have appreciated the opportunity—

Ms. WATERS. Reclaiming my time.

Secretary MNUCHIN —To meet with you several times—

Ms. WATERS. Reclaiming my time.

Secretary MNUCHIN —When we were doing our—

Ms. WATERS. Reclaiming my time.

Chairman HENSARLING. The time belongs to the gentlelady from California.

Ms. WATERS. Let me just say to you, thank you for your compliments about how great I am, but I don't want to waste my time on me.

I want to know about the May 23rd letter. You know about it, why did you not respond to me and my colleagues?

Secretary MNUCHIN. I was going to answer that—

Ms. WATERS. Just, please, go straight to the answer.

Secretary MNUCHIN. Mr. Chairman, I thought, when you read the rules, you acknowledged that I shouldn't be interrupted, and that I would have—

Ms. WATERS. Reclaiming my time.

Secretary MNUCHIN —The opportunity—

Ms. WATERS. What he failed to tell you was, when you are on my time, I can reclaim it. He left that out. So I am reclaiming my time.

Please, will you respond to the question of why I did not get a response—me and my colleagues—to the May 23rd letter?

Secretary MNUCHIN. Well, I was going to tell you my response.

Ms. WATERS. Just tell me.

Secretary MNUCHIN. So first of all—let me just say that the Department of Treasury has cooperated extensively with the Senate Intel Committee, with the House—

Ms. WATERS. Reclaiming my time.

Secretary MNUCHIN —Intel Committee—

Ms. WATERS. Reclaiming my time.

Secretary MNUCHIN —With the Senate Judiciary Committee—

Ms. WATERS. Reclaiming my time.

Secretary MNUCHIN. OMatter of fact—

Ms. WATERS. Reclaiming my time. Reclaiming my time.

Chairman HENSARLING. Mr. Secretary, the time belongs to the gentlelady from California.

Secretary MNUCHIN. Perhaps, Mr. Chairman, I don't understand the rules—

Ms. WATERS. Reclaiming my time.

Secretary MNUCHIN —Because I thought I was allowed to answer questions.

Ms. WATERS. Reclaiming my time. Would you please explain the rules, and do not take that away from my time.

Chairman HENSARLING. We will give the gentlelady adequate time.

So what I read, Mr. Secretary, were statements of the ranking member and Democratic colleagues on how administration witnesses should be treated, not necessarily the way they will be treated.

So the time belongs to the gentlelady from California, but, I assure you, majority members will allow you to answer the question when it is our time.

Secretary MNUCHIN. So what I was saying is that we have provided substantial information. We believe there is significant overlap, and, matter of fact, I would say that we spoke to your chief oversight counsel yesterday. We have been responsive, and we are trying to coordinate with you the response, and we have suggested that you get the information through the other committees.

But I would like to emphasize we believe we have been very responsive—

Ms. WATERS. Reclaiming my time.

Secretary MNUCHIN —And will continue to do so.

Ms. WATERS. Thank you very much. You left a message yesterday—or someone on staff left a message.

Secretary MNUCHIN. No, we didn't leave a message.

Ms. WATERS. Reclaiming my time.

Secretary MNUCHIN. We spoke to the chief oversight counsel.

Ms. WATERS. Reclaiming my own time. Reclaiming my time.

You did not respond. You left a message. Let us keep going.

If a bank identifies suspicious activity related to potential money laundering or sanctions violations by The Trump Organization involving Russian persons, would such a bank have a legal obligation to report it to FinCEN?

Secretary MNUCHIN. Can you repeat your question, please?

Ms. WATERS. If a bank identifies suspicious activity related to potential money laundering or sanctions violations by the Trump organization involving Russian persons, would such a bank have a legal obligation to report it to FinCEN?

Secretary MNUCHIN. Yes. If a U.S. institution had any suspicious activity they would be required to file a SAR, which would go to FinCEN.

Ms. WATERS. Thank you. If FinCEN received reports of suspicious activity involving potential violations of money laundering or sanctions involving President Trump, his immediate family and associates, would FinCEN immediately share it with the Justice Department, Special Counsel Mueller, or other interested law enforcement officials? Or would you generally wait until you received a request from law enforcement for this type of information?

Secretary MNUCHIN. Let me just comment that I can't comment on any specific actions of FinCEN, because they are confidential, but I can assure you that FinCEN would respond to any issues revolving the Trumps no different than they would respond to anybody else.

Ms. WATERS. And so the question is whether or not you would—FinCEN would immediately share it with the Justice Department,

Special Counsel Mueller, and other interested law enforcement officials, or, again, would you generally wait until you received a request from law enforcement for this type of information?

Secretary MNUCHIN. Again, what I would assure you is that FinCEN would respond to those situations no different than anybody else. And FinCEN and Treasury have cooperated extensively with, as I said before, the three other committees.

Ms. WATERS. If it was widely reported in the press that a close adviser of the President was being investigated for money laundering using anonymous shell companies and bank accounts located in Cyprus, would your department proactively seek to obtain relevant information from foreign financial intelligence units where such activity reportedly took place? Or would you wait until a specific law enforcement request came in?

Secretary MNUCHIN. Again, I am not going to comment on hypothetical situations. FinCEN would handle these situations no different than any other situation.

Ms. WATERS. Mr. Chairman, I respectfully request, pursuant to our memorandum, to ask for additional 5 minutes.

Chairman HENSARLING. Gentlelady is granted an additional 5 minutes.

Ms. WATERS. Thank you. And I am not asking for specificity. I am asking for, generally, the way you would handle these questions that I have presented to you.

Let me continue. Have any Treasury Department employees expressed concerns to you, or are you aware of concern among Treasury staff, about the relationship between President Trump and Russia?

Secretary MNUCHIN. No. Nobody has expressed those concerns to me.

Ms. WATERS. Given that you were finance chair of the Trump campaign, which is accused of soliciting illegal, in-kind contributions from a foreign country, have you recused yourself from any work related to Russia or other foreign countries?

Secretary MNUCHIN. I am not aware of those accusations that the campaign has taken those types of contributions, nor have I recused myself from anything at this moment, since I believe I have no conflicts.

Ms. WATERS. Thank you.

Trump's "red line" on investigations of his personal finances—in a recent review, President Trump made it clear that he considered any investigation by Robert Mueller into the President's personal finances a red line that shouldn't be crossed.

Secretary Mnuchin, have you had any conversations with the President or any official at the White House in which it was directly stated or implied that supporting any investigation into Trump's finances would in some way be crossing a line?

Secretary MNUCHIN. I am sorry, can you repeat the last part? I heard the first part. Just the last part of it.

Ms. WATERS. In a recent review, President Trump made it clear that he considered any investigation by Robert Mueller into the President's personal finances a red line that shouldn't be crossed.

Secretary Mnuchin, have you had any conversations with the President or any official at the White House in which it was di-

rectly stated or implied that supporting any investigation into Trump's finances would in some way be crossing a line?

Secretary MNUCHIN. No. I have had no conversations along those lines. Quite the contrary.

Ms. WATERS. As secretary of the Treasury, you chair the interagency Committee on Foreign Investment in the United States, known as CFIUS—

Secretary MNUCHIN. Yes, I do.

Ms. WATERS —Which evaluates the sale of U.S. businesses to foreign entities to determine whether such sales undermine our national security.

Given the significant pressure President Trump has exerted over government officials with key oversight responsibilities, from Sally Yates, to James Comey, to Robert Mueller, to Jeff Sessions, how can we be sure that you, in your own oversight role, will appropriately review the sale of assets or property to foreign entities by top administration officials?

This includes, for example, reviews involving the sale of assets by the White House communications director, Anthony Scaramucci, and the President's son-in-law and adviser, Jared Kushner.

Can you assure us that you would recommend blocking such a sale in the event it indicates the foreign entity may seek to unduly influence U.S. policy, even if doing so may jeopardize your position as secretary?

Secretary MNUCHIN. Well, let me assure you, I take my position at CFIUS very seriously. I have not had anybody in any way try to influence me in that position, nor would I let them. And I would use my judgment, as I have, to take the seriousness of the CFIUS responsibility.

Ms. WATERS. And, as I understand it, you have such a matter under consideration, relative to Mr. Scaramucci and the sale of a huge property to a Chinese interest. Is that correct?

Secretary MNUCHIN. Ranking Member Waters, I think, as you are aware, all actions at CFIUS are highly confidential, and it would be inappropriate for me to comment one way or another on any potential transaction and even acknowledge whether any transaction is being reviewed in this public format.

Ms. WATERS. Is it true that Mr. Scaramucci was considered for a position in the administration, but because of this questionable sale, that he could not go forward, for fear of not being confirmed, but yet he is now in the administration? And does this in any way influence your decision that you have to make about that sale?

Secretary MNUCHIN. Again, I want to acknowledge that I am not making any comment about any potential decision that I may make about a confidential item. But I will say I have not been aware that he was ever considered for a position that required confirmation within the administration.

Ms. WATERS. Thank you very much, and I yield back the balance of my time.

Chairman HENSARLING. Gentlelady yields back.

The chair now recognizes the gentleman from Kentucky, Mr. Barr, chairman of the Monetary Policy and Trade Subcommittee, for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman.

Again, Secretary Mnuchin, welcome to our committee.

Over 20 of my colleagues and I sent you a letter last week, prior to the—with the ongoing Comprehensive Economic Dialogue with China, to ask you to address market access issues for U.S. financial firms, particularly, lifting the equity caps that are currently in place.

And as you know, U.S. banks and insurance companies face significant barriers and restrictions in China, while Chinese banks and insurance companies have little, if any, barriers in the United States.

I want to thank you for your response to this letter and your commitment to, quote "continue to press for the removal of these and other restrictions that unfairly disadvantage American firms."

What are the next steps that you plan to take to help lift these foreign equity caps that harm American companies operating in China?

Secretary MNUCHIN. So, let me just first comment that I have had the opportunity to meet with President Trump and President Xi two times, once in Mar-a-Lago, and the other in Hamburg. I also had the opportunity—we just finished our Comprehensive Economic Dialogue.

So, first, I think as you are aware, President Trump is very focused on having a more balanced economic relationship with China, and has made it very clear that the current trade balance is unacceptable. And I think you may have seen in our press release from the comprehensive economic dialog last week that China acknowledged that it is a shared goal to fix the trade deficit.

I think, as you know, the United States has a significant competitive advantage in financial services, services in general. It is one of the areas where we actually have a trade surplus with China. And I assure you, I think it is extremely unfair that Chinese companies, subject to security reviews, can buy 100 percent of any company in the United States, yet, as you have said, our companies in China are limited to minority partners.

We have seen, most recently, Apple has been forced to share their iCloud business, one of the key parts of their business, with a Chinese joint venture partner. That is not fair, it doesn't make sense, and this administration is fully committed to making sure that American companies and American workers are on a level playing field.

Mr. BARR. Thank you, Mr. Secretary.

And for the second time—I will move onto my second question, but I appreciate your commitment and the administration's commitment to working with Congress to address that inequity in our relations with China.

With respect to Iran Air and the efforts that Treasury is engaged in in the implementation of the JCPOA, as you know, the Obama Treasury Department allowed U.S. banks to lend to Iran in order to finance aircraft sales, despite the fact that the associated services in the aircraft section of the JCPOA only spell out warranty, maintenance and repair services, and safety-related inspections.

So the Treasury Department, as we understand it, currently authorizes U.S. banks to finance the sale of aircraft to Iran Air. Well, in a committee hearing in April, in this committee, we learned that

this airline, Iran Air, flew 114 flights from Iran to Syria between the JCPOA's implementation day in January 2016 and March 30, 2017, likely as an airlift in support of the Syrian regime's atrocities.

Mr. Secretary, can you certify to us today that Iran Air has ceased all sanctionable activities? And if not, will the department re-designate this airline, an action that Treasury has admitted is allowed under the JCPOA?

Secretary MNUCHIN. So thank you very much for your question on that. First let me say, specifically on Iran Air, in this public format, I don't want to comment on them specifically. We do have intelligence information that I would be prepared to share with you in a private setting.

But what I would say is that OFAC is responsible for granting licenses for aircrafts, as you have mentioned. Both the Boeing sale, as well as the Airbus sales will require additional OFAC licenses. And that is an issue that is under review and is part of the national security review of the JCPOA.

Mr. BARR. Finally, Mr. Secretary, I asked your predecessor if he thought that regulations, particularly Volcker, risk retention, and the layers of capital liquidity requirements could contribute to illiquidity and actually undermine our financial system—destabilize our financial system. He always denied that. He said that it was a market structure issue.

Do you agree or disagree with your predecessor?

Secretary MNUCHIN. Well, nothing against my predecessor, who I have a lot of respect for. But as you know, I do have firsthand experience in the trading and investment markets, and I absolutely agree with you that the Volcker rule, in particular, has eliminated liquidity that, in the times of crisis, we need market makers to provide liquidity—not proprietary trading, but liquidity for market making. And that is something we are very focused on fixing.

Mr. BARR. Thank you, I yield back.

Chairman HENSARLING. Time of the gentleman has expired.

According to the earlier-referenced memorandum of understanding, the chair will recognize two Republicans in a row.

The chair now recognizes the gentleman from New Mexico, Mr. Pearce, chairman of our Terrorism and Illicit Finance Subcommittee.

Mr. PEARCE. Thank you, Mr. Chairman.

Mr. Secretary, thank you for being here today.

Before getting into my observations from you, I would point out that my friend from California, and I do consider her to be a friend, her questions were edging toward things that would be a violation of the BSA.

FinCEN works for national security. Everything that FinCEN has is available to any law enforcement agency, and to release that publicly not only reveals the process, which is extraordinarily sensitive, again, it looks to be very close to a violation of the actual law itself.

So I appreciate your willingness to hold a position there, because it is a very delicate balance.

Now, I—we all know that AML and CFT—those are real threats to the Nation. Mr. Secretary, what I really appreciate about your

report is that you don't—even with these major threats coming into the Nation, you don't lose sight of the mission, and that is on page 2, where you talk about the robust financial system, free flow of credit, that fuels the engine of America—businesses—small businesses getting access to credit.

At the end of the day, that is what you are here for and that is what we are here for. And so I appreciate the threats and that you are monitoring those, but you are not losing sight of what makes this country work. So thank you for that attention to detail as you approach your job.

Mr. PEARCE. Now, OFAC is—they work with Congress, the President. They work with the military to just see that the world's bad actors don't operate. Their major activity is shutting off funds to them, and we can see, in the estimates of North Korea and Iran, that we have very significantly affected that.

But also the Financial Activities Task Force—they have evaluated that, as soon as you find a way to stop one action, then another action steps up. So my question is how do we modernize, how we update our AML, CFT standards?

Myself, I see technology as having to be on a constant, robust movement. But tell me a little bit from your perspective, on that aspect of how we keep moving ahead of the threats.

Secretary MNUCHIN. So, first of all, I do acknowledge your concerns in this area. My number-one focus is on economic growth, and we are very focused on tax reform as part of that. But my number-two focus—probably spending 50 percent of my time on sanctions-related and terrorist-financing-related issues.

And, as you have mentioned, using technology to stay ahead of these things is very important. We will continue to use all the tools in the toolbox and new tools. That is why we want to set up a terrorist financing unit with Saudi Arabia in the Gulf, where we have people there firsthand, working with them and working with our Arab partners.

I firmly believe that cutting off the money works. It worked with Iran. It brought them to the table. It works in stopping terrorist activity. I constantly work with Secretary Tillerson, Secretary Mattis, Director Pompeo, General McMaster on a unified approach to stopping terrorism.

Mr. PEARCE. What can we do more here? In other words—be our subcommittee that contemplates your mission in that. Tell me what we need. If we need resources in a specific area, please share that with me, if you can.

Secretary MNUCHIN. Will do. We need more money for our Terrorist Financing Center in Saudi Arabia, but we will talk about that later.

Mr. PEARCE. The—Mr. Secretary, you had wanted to make responses earlier to some of the questions. I would yield the rest my time to you to make those answers right now, if you would like to go into depth where you weren't allowed to before.

Secretary MNUCHIN. Oh, I was really going to just thank the ranking member for her activity in support of regional banking in California, and that I had the opportunity to meet with her many times, and appreciated her work in California. That is really the extent of what I was saying in my opening remarks.

Mr. PEARCE. Well, again, I think, from my perspective, if you can get the tax reform that you have mentioned, if you can keep the focus on the small businesses, they are the engine of the economy of the U.S. Getting access to credit—those are the major things, and then we fight the—AML, fight the financing of terrorism.

I think that we have got a big job, and I believe you are up to it. Thank you for being here today.

Secretary MNUCHIN. Thank you. I appreciate that. Thank you very much.

Chairman HENSARLING. Time of the gentleman has expired.

The chair now recognizes the gentlelady from New York, Mrs. Maloney, Ranking Member of our Capital Markets Subcommittee.

Mrs. MALONEY. Thank you, Mr. Chairman.

And welcome, Mr. Secretary.

I am deeply concerned about terrorism financing, and during your confirmation hearing, you stated, and I quote "I agree that law enforcement's anti-money-laundering efforts face serious challenges if they are unable to determine the beneficial ownership of the various companies and entities that utilize the U.S. financial system.

"It can be a real vulnerability that various bad actors, including terrorists and criminals, can exploit," end quote. And then you later stated that, if confirmed, you would, and I quote "be willing to work with Congress and the various equities impacted by beneficial ownership due-diligence requirements to address this challenge."

We have, on this committee, introduced a bipartisan bill, called the Corporate Transparency Act, that would require companies to disclose their true beneficial owners at the time the company is formed. And this information would only be available to law enforcement and financial institutions that are required to know their customers, with those customers' consent.

Our bill says that States can collect this information, but if they do not, then it would be Treasury's responsibility to collect it as a backup. So my question is, do you support requiring companies to disclose their true beneficial owners at the time the company is formed, and Treasury's role in our suggested legislation?

Secretary MNUCHIN. Let me just first say thank you very much for that. And I now understand this issue much better than I did, and when I have—my initial confirmation. And I spent a lot of time looking at this internally. It is also a concern at the G7. I can tell you, this is not only a—just a U.S. issue, but our European partners are concerned as they make progress in this area and we don't. So let me first say, I am very much looking forward to working with you and the committee on a solution to this. I hopefully think this can be a bipartisan solution.

It is a complicated issue. We need not only the information when companies are set up, but we need to figure out a way of how that is maintained overall. Obviously, if we just capture the information on day 1 and it is literally the ownership is moved 1 hour later, then it is not very effective.

And I am somewhat concerned about Treasury, perhaps, being the ultimate depository, because I think the States aren't going to

want this responsibility. But we look forward to working with you on a solution.

Mrs. MALONEY. Well, I think it is critical. We have numerous LLCs that no one knows who owns them. This issue came to us from law enforcement, saying they keep hitting a wall in trying to know.

And we certainly—if we know who owns things in our country, it is a tremendous step toward combating terrorism financing, which is a huge concern to the city of New York and our entire country.

I would also like to ask about the debt ceiling, which will need to be raised soon, and I hope it can be done without the usual political drama. But the markets seem to be worried that the ceiling might not be raised in time, and it has already substantially raised the cost of short-term borrowing in Treasury.

And Treasury is also expected to have to reduce its issuance of short-term treasuries this fall, in order to stay below the debt limit, and at a time when the supply of short-term treasuries is already low because of the shifts toward government money market funds.

So my question is, do you agree that the uncertainty over when and whether the debt limit will be raised is causing distortions in the market and is impacting Treasury's ability to borrow at the lowest possible rate?

Secretary MNUCHIN. Well, let me say that I assure you I am very focused on the debt limit. As I have said before, I urged Congress to work on this before anybody leaves. I said yesterday in my testimony, and I will be alerting Congress, that my previous letter on special powers will be extended through September—

Mrs. MALONEY. Mr. Secretary, my time is almost up, and I want to know, if Treasury were to breach the debt limit and start prioritizing interest payments on the debt over the government obligations, like Social Security, do you think the markets would view this as a default?

Secretary MNUCHIN. I have no intent on prioritizing. I think that doesn't make sense. The government should honor all of its obligations, and the debt limit should be raised.

Chairman HENSARLING. Time of the gentlelady has expired. The chair now recognizes the gentleman from Missouri, Mr. Luetkemeyer, chairman of our Financial Institutions Subcommittee.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

And thank you, Mr. Secretary. I am over here. There we go.

Thank you for being here, and appreciate your comments to date here. I will also thank you for the Treasury report that you have done. I know it was a tremendous effort, and I think it yielded great results.

I want to followup on my initial question here on what the chairman started—or discussed a little bit with you, with regards to, basically, both banks and non-banks that are systemically important financial institutions.

Your report discusses the problem with the arbitrary nature of the process. I am still perplexed, as to somebody who deals both with banks and non-banks—as to how one can indicate an insur-

ance company as systemically important. But for now, all of my discussion will focus on the bank holding company side.

I recently introduced H.R. 3122, my Systemic Risk Designation Improvement Act. And the bill removes the $50 billion threshold, which the chairman discussed with you a moment ago, and goes to a well-established set of standards that more accurately reflects systemic importance—and goes to, basically, the Fed systemic risk indicator score, which—the Fed already does the analysis of this so that we can save time, money and effort on everybody's part and use that systemic score.

So I guess my initial question is, you made the comment a minute ago that you want to focus on community and regional banks. Some of these regional banks are nothing but big community banks—just big. You better know this than anybody. So, again, does it make sense to put an arbitrary figure in there? Or do you think we need to go to more risk-based analysis?

Secretary MNUCHIN. My own preference would be to have the higher of both, so that we have a floor where we know it is not subjective, and then above that, as you have mentioned, the Fed would have the ability, based upon, as you have suggested, the risk analysis.

Mr. LUETKEMEYER. There is a—we are going to put a chart up here in a minute with regards to cyber security. And—

Secretary MNUCHIN. I love this chart, I saw it ahead of time.

Mr. LUETKEMEYER. Well, I am glad you could see it, because it reminds of an old Spirograph toy that I had when—it was a long, long time ago—as a kid. And it kind of gives you a headache to look at.

But, Mr. Secretary, you addressed this subject, also, in your Treasury report, and there is a word that is used when discussing this with the different agencies and different banks, when they talk about this. It is "harmonization." We need to harmonize, stop the duplicity and stop the overlap of the regulators with regards to all of the things that they are having to work with here.

And so I would just like to give you—ask you to comment on whether, as chair of FSOC—that is a great position from which you can bring all of the different agencies together to stop some of this overlap and duplicity that is going on, and take some of the regulatory nonsense and provide relief for a lot of the banks.

Would you like to comment on it?

Secretary MNUCHIN. Yes, well, thank you. It would look like modern art if I hadn't seen it in more detail. And I share your concerns in both my role of chair of FSOC and—as well as FDIC. Cybersecurity is a major concern of mine, and we are already working with the regulators on how to consolidate their resources.

I am all for the different regulators making sure—but cyber security is one of our biggest, biggest risks, and we should make sure that they consolidate their resources, but they do it in a way that they don't have to do it four or five times, independently, with banks.

Mr. LUETKEMEYER. Well, I think, you know, some sort of standardization of guidelines and principles, I think, is a good place to start, and so when the regulators come in, they are not having one group say this, another group say that so the banks get a mixed

message and they have to comply with different sets of rules and regulations.

So I think your position as FSOC chair is key to getting that harmonization.

Secretary MNUCHIN. And I can assure you we are already working on it. Thank you.

Mr. LUETKEMEYER. Thank you very much.

One last question, before my time runs out here, deals with Operation Choke Point. This is something we have been dealing with for a long, long time. I am sure you are familiar with it.

Between the DOJ and the FDIC, they began to try and drive legally operating businesses out of the financial system because they, for political or own set of values that they believed didn't match up with their own.

And I am quite concerned, quite frankly, I will be honest with you—the FDIC has sort of backed off on this problem for a while, but it has continued with the OCC.

And we want—I would like your commitment to continue to work on something with us. And I realize that you are probably going to try and do your best to stop the nonsense, and that is great. But I am concerned that, should you leave, then there is another new administration down the road—4 years, 8 years, 10 years, whatever it is—that we have a set of guidelines in place to prohibit this activity from ever being able to be done again.

Would you help us along those lines, sir?

Secretary MNUCHIN. Absolutely. Look forward to working with you. Thank you.

Mr. LUETKEMEYER. I yield back the balance of my time.

Chairman HENSARLING. Time of the gentleman has expired. The chair now recognizes the gentlelady from New York, Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Mr. Secretary, former Secretary Lew was instrumental in passing legislation that provided Puerto Rico the necessary tools to comprehensively restructure its debt.

Prior to his departure, he personally indicated to you that it was important to continue monitoring the situation to ensure Puerto Rico's successful recovery. He recognized that, even though the law was critical to providing the breathing room necessary for the local government, a missing piece of the equation were policy initiatives that will jumpstart the economy.

In fact, in late May of this year, Senator Grassley restated that, and I quote "Extending bankruptcy authority alone could not fix the problem." However, since the Trump Administration has taken command, there has been little to no conversation stemming from the Treasury Department on Puerto Rico.

What policy tools are your staff considering to assess Puerto Rico?

Secretary MNUCHIN. So, thank you for the question. And first of all, I share your concern on the financial situation in Puerto Rico. I can assure you I personally spent a lot of time on it. Secretary Lew did give me his views on it, and his concerns, before he left. We do support the legislation.

Ms. VELAZQUEZ. I know—

Secretary MNUCHIN. And we are using that. And I can assure you I have a team that is working on it actively. It is a very complicated issue. I wish there was a simple solution. There is not.

Ms. VELAZQUEZ —I know—400,000 Puerto Ricans have left the island in the last 10 years. We have three doctors leaving the island every day. And so I am happy, in the sense that they are coming to Florida and Ohio.

Believe me, politically speaking, it is going to be good for Democrats. But I want to give the option to the people of Puerto Rico for them to stay in Puerto Rico, if they choose to.

So Puerto Rico is under the territorial clause. It means it is a colony. We, the U.S. Congress, have a responsibility. So I want for you to commit, yourself, that you will guide your staff to look at the viable options, including the use of the Exchange Stabilization Fund, to help reach Puerto Rico's immediate needs.

Secretary MNUCHIN. Well, I am not going to commit to use any specific tools, such as the exchange fund. But I can commit to you, easily, because I have already done this and will continue to do it—we are working very closely with lots of people on this. As I said, it is a very complicated issue. So we are trying to balance what a solution would be that is appropriate.

Ms. VELAZQUEZ. So I was a member of the task force on Puerto Rico, to promote economic growth in Puerto Rico. So would you assign a—or do you have a staff that have been assigned to monitor the situation in Puerto Rico?

Secretary MNUCHIN. I do, and we are happy to followup with, and have them come meet with, you and your staff and get your thoughts.

Ms. VELAZQUEZ. Wonderful, thank you.

Mr. Secretary, in May, Senator Shaheen and I wrote you a letter expressing our concern regarding the administration's decision to eliminate all new program funding for the Treasury Department's CDFI programs for Fiscal Year 2018, and encouraging you and President Trump to reconsider this position.

In June 2017, your own treasury report states that CDFIs are often the only source of credit and financial services in low-income urban and rural communities. So how do you reconcile the finding of your report and the shortsighted decision of eliminating funding for the program?

Secretary MNUCHIN. Well, thank you for asking that. And I had the opportunity to talk at the Senate yesterday about the same issue. So first let me say I do support the CDFI program. I think it has been effective.

Having said that, we had to make difficult decisions in the context of the President's budget. The overall agenda was to, one, get to a balanced budget and, two, fund military expansion, which is much-needed. And this was just a difficult prioritization decision that we have made within the department.

I would also comment that, as part of our financial report, we did specifically recommend a review of the Community Reinvestment Act and make sure that we meet with consumer advocates, community members, to make sure that that money is being used properly in communities, especially as we are forced to reduce other funding.

Ms. VELAZQUEZ. I yield back my time.

Chairman HENSARLING. Time of the gentlelady has expired.

The chair now recognizes the gentleman from Michigan, Mr. Huizenga, chairman of our Capital Markets Subcommittee.

Mr. HUIZENGA. Secretary Mnuchin, I really appreciate you coming here and being in front of this committee.

And, as tempting as it is—as you see some others on the other side of the aisle want to talk about anything other than the economy, our international standing—and it is tempting for me to talk about Samantha Power and Susan Rice illegally unmasking people, or Hillary Clinton's illegal use of her e-mail as Secretary of State, or Director Comey illegally releasing classified documents, or Ukrainian meddling in our elections, I think it is a waste of time in this particular committee.

So I would like to move on to a couple of other issues and try to divide those—that time equally. First and foremost, we just—celebrated would not be the right word in my mind—the seventh anniversary of Dodd-Frank. And we have seen this be a continual stumbling block to our recovery that we have been trying to get going here in the United States.

And I am wondering, what do you view as the most urgent priorities needed to address and restore confidence and create more opportunities in our economy with our capital market system, being chairman of the capital markets committee, very interested in that and the effects of Dodd-Frank. And then I would like to move on quickly to Volcker.

Secretary MNUCHIN. Sure, so, I mean, I would just say, as part of Dodd-Frank, our focus is first, as I mentioned, community and regional banks. I think another big focus is around housing and housing reform and the qualified mortgage and making sure that banks that make good mortgages and they want to keep them on their balance sheet—they can.

And I think you should mention the Volcker Rule as a big concern of ours in that—what it does to liquidity, and that we can have proper monitoring of eliminating proprietary trading with managing liquidity.

Mr. HUIZENGA. And I know, in your report, you had laid out various items. And I am curious, is there anything specifically in Dodd-Frank that you think we, as a committee, need to address?

Secretary MNUCHIN. The long list is as we have outlined. But if I gave you the number-one thing, it is probably to raise the limit, as we have talked about.

Mr. HUIZENGA. Great. That is helpful.

As has been expressed by a few others, you know, I believe that the Volcker rule is at least partially to blame for the diminished liquidity in our markets. And, you know, this is something that is 900—I believe it is 932 pages, with 29—or just under 300,000 words.

This is not an easily digestible, quote-unquote "rule." That is War and Peace, frankly, into this whole thing. It is five separate Federal agencies in there. And I know, in your report, and I think it was page 132 and 133, you kind of have a chart laying out a number of things—19 different things, specifically, that could be used for improving the Volcker rule.

And, as you had acknowledged earlier, our CHOICE act—we actually repeal Volcker in that. That is certainly my preference. You do lay out eight suggestions for Congress.

But there are 11 regulatory suggestions for providing immediate relief. And that is from the Federal Reserve, the FDIC, the OCC, the SEC, CFTC—the alphabet soup of all these regulators.

How quickly can we expect to see some relief coming, without the legislation, necessarily, maybe backing that up, but from the regulators themselves?

Secretary MNUCHIN. Well, I mean, I think, as you have mentioned in your legislation—you have repealing it, and we don't object to that, if that is what Congress wants to do. I don't think the Volcker rule is what created—or the lack of it—is what created the financial crisis.

We are very focused on how to fix it. And as I said, these—there are active discussions at FSOC and with the financial regulators about what we can get a consensus to fix.

Mr. HUIZENGA. Well, we would like to work with you on that and encourage you, because, again, as we know, legislative fixes are challenging to get to, but these are regulatory agencies that have the immediate and sometimes immediate ability to flip a switch. So we are hoping to do that.

I guess, in the last few moments, here, I do want to touch on one other thing that Chairman Barr had talked a little bit about: the Iranian situation with aircraft exports.

And I—the former chair of that committee in the last term, am curious, have there been any other financial institutions, be it U.S. or foreign institutions, that have been in contact with Treasury with respect to aircraft exports to Iran?

Secretary MNUCHIN. Again, I can't comment on the specifics that are confidential, but I can assure you we are on top of this.

Mr. HUIZENGA. Well my time has expired, but I look forward to continuing the conversation.

Secretary MNUCHIN. Thank you.

Mr. HUIZENGA. Thank you.

Chairman HENSARLING. Time of the gentleman has expired.

The chair now recognizes the gentleman from California, Mr. Sherman, for 5 minutes.

Mr. SHERMAN. Mr. Chairman, I want to get one thing clear for the record. Mr. Chairman, you began by quoting people saying that we should be nice to witnesses, and I think that it is important that the record reflect that no comment about being nice to either Democratic or Republican witnesses ever came from me.

Now, I want to go through a number of things for the witness to respond to for the record.

You talked about the importance of small banks and credit unions being able to make business loans to companies in our districts. That is not a reason for us to take the giant banks off the hook for prudential regulation. It is their near-collapse that nearly collapsed the economy.

It is the reason for you to deal with the OCC, which is under your jurisdiction, and have them, when they audit banks and those banks have a prime-plus-four or prime-plus-five loan to a company that is just a little shaky, that they have a reserve of just an extra

1 or 2 percent, rather than 30 to 50 percent. You, Mr. Secretary, could do more than any of us to get small business loans made by local banks.

The debt clock has been behind you. You commented on that. I would hope that any tax reform that came out of your department or that was supported by your department would not increase that debt according to the CBO.

And we just voted in the House yesterday not to cut the CBO, because they are the umpire here in Washington to determine what increases and decreases the deficit.

I would hope you would use your power on FSOC to break up the "too big to fail" banks. The debt limit is just over the horizon, and I hope that you would use your voice to remind us that it is not enough to deal with the debt limit in overtime, after you have used extraordinary measures to keep us from defaulting. The harm is to our economy now, because investors have to price in the risk that America will default on its debt.

You probably didn't think you would be dealing with Armenia today. We need a U.S.-Armenia tax treaty. Your department needs to allocate one tax lawyer for a few weeks. And in making the decision as to whether to allocate a tax lawyer for a few weeks to the project, you will be told that we should make the decision based upon the size of the business transactions with that country. I hope that you would direct your department to add two more criteria.

The first is whether the other country is willing to use the U.S. model treaty. Because if they are willing to sign on our bottom line, you don't have to commit much in the way of resources to negotiating the treaty and you build momentum internationally for other countries accepting the U.S. model.

And second, I hope you would listen to the State Department when they testified before my other committee, Foreign Affairs, just yesterday that it is important geopolitically that we have this treaty. So I will get you the letter from the government of Armenia saying they are willing, pretty much, to sign the bottom line that the United States has presented.

Now, I have got some questions. Is China a currency manipulator today?

Secretary MNUCHIN. First of all, on Armenia, we are happy to followup on your office. I do stay on top of a lot of issues, but I must admit that is not one I am on top of. But we will followup—

Mr. SHERMAN. That is one you should respond to for the record. I look forward to working with you.

Is China a currency manipulator?

Secretary MNUCHIN. I think, as you saw in our most recent currency report, we did not label China a currency manipulator at this time. However, they have been a currency manipulator in the past.

Mr. SHERMAN. Since they have been a currency manipulator, are you in favor of tariffs or other actions to recoup for America the jobs we lost when they were a currency manipulator? Or is it that they can—as long as what they did was in the past, we are not going to respond?

Secretary MNUCHIN. I can assure you that the—President Trump is very focused on the economic and trade issue with China, and nothing in the past is in the past. So—

Mr. SHERMAN. Let me squeeze in one more—

Secretary MNUCHIN —All tools will be on the table.

Mr. SHERMAN —One more question. And that is, your department fined ExxonMobil for violating our sanctions against Russia. Are you confident that your department made the right decision? And why aren't you holding any individuals responsible, since a corporation is an inanimate construct? Individual people undermined our sanctions.

Secretary MNUCHIN. Let me first comment that, obviously, I am highly aware of the situation and the decision. It is under litigation, so it would be inappropriate for me to make any specific comments.

And thank you for being nice on me since I am a California resident.

Mr. SHERMAN. I will get you next time.

Chairman HENSARLING. Time. Time of the gentleman has expired.

The chair now recognizes the gentleman from Wisconsin, Mr. Duffy, chairman of our Housing and Insurance Subcommittee.

Mr. DUFFY. Thank you, Mr. Chairman.

Thank you, Secretary Mnuchin, for being here.

I just would like to note that it was not Rex Tillerson who set the reset button with Russia. That was actually Hillary Clinton, with this stupid little button that she pushed. It was Romney who said that Russia was our greatest threat, but it was Barack Obama who said the 1980's want their foreign policy back.

Ms. MOORE. Mr. Chairman—

Mr. DUFFY. And it was Bill Clinton—

Ms. MOORE. Mr. Chairman.

Mr. DUFFY —Who received a half a million dollars for speaking—

Chairman HENSARLING. The gentleman will suspend.

For what purpose does the gentlelady from Wisconsin seek recognition?

Ms. MOORE. I was just reminding my good friend and colleague from Wisconsin about the—he was not here when you recited the rules about not—

Chairman HENSARLING. Does the gentlelady have a parliamentary inquiry?

Ms. MOORE. Yes, sir. I do have a—

Chairman HENSARLING. Would you state your inquiry?

Ms. MOORE. My inquiry is whether or not this particular discourse violates the rules that you articulated earlier when Mr. Duffy was unavailable.

Chairman HENSARLING. The gentlemen's questioning has violated no House rule or committee rule. The time belongs to the gentleman from Wisconsin.

He may proceed.

Mr. DUFFY. Thank you, Mr. Chairman.

I would also note that it wasn't Melania Trump who received a half a million dollars for a speech to an investment company that was tied to the Kremlin.

As you have noted, we have a lot of folks on the other side of the aisle who are part of the "Impeach Trump" movement. They

were trying to impeach Trump before he was even sworn into office.

So, as my friends—and I know this is a little off-topic, but, as my friends are talking about Russia across the aisle, do you have any idea what is being talked about in Wisconsin today?

Secretary MNUCHIN. Sorry—

Mr. DUFFY. You do.

Secretary MNUCHIN —Absolutely—13,000 new jobs and a $10 billion investment from Foxconn to build the most advanced manufacturing plant in the United States and, for the first time in I can't even remember how long, to build T.V. screens and other videos.

It is just extraordinary, and I was pleased to be at the White House yesterday for that announcement. And congratulations to Wisconsin. I know it was a very competitive situation with other States, and boy, that will be a big deal for that economy.

Mr. DUFFY. And we are happy it is not going to California, I am sorry to say.

That is right, but we are talking about jobs. We are talking about economic growth. We are talking about industries that my friends across the aisle—they had written off. They had said, "These jobs will never come back. They are gone forever."

And, under your boss and my Governor, to your point, a $10 billion investment and 3,000 to 13,000 jobs in the great State of Wisconsin. And that is what people care about.

Secretary MNUCHIN. That doesn't include the construction jobs, I might add, in the creation of what I think you are calling now Wisconn Valley.

Mr. DUFFY. Wisconn Valley. That is right, that is what we are talking about. And maybe that is why my friends across the aisle have lost 1,000 seats across government, because they don't understand that people care about jobs and economy and border security and a strong military. And the heart of all that is our financial service sector, which is what we are talking about today.

But I am going to go off topic again and ask you about our tax code, because I think, if we are going to have more Foxconns, we are going to need a revamp of our tax code. We have heard some rumor that some in the administration have said the top rates might not be going down, they might be going up.

Do you want to give us some clarification on your view of taxes and where they should go to make America competitive again?

Secretary MNUCHIN. So we have been working very closely with the leadership of the House and the Senate to create a unified plan. Our objectives are very simple. On the personal side, we want to cut down the number of brackets. We want to simplify taxes—95 percent of Americans will be able to do their taxes on a giant postcard. That will make my job overseeing the IRS much simpler.

And on the business side, as you pointed out, we want to transition from a worldwide system, where we allow companies to defer and not pay taxes and leave trillions of dollars offshore, to a territorial system that is competitive, with a competitive rate that will bring back trillions of jobs—trillions of dollars and huge amounts of jobs and capital to this country.

Mr. DUFFY. And I would just note that I don't think this is a partisan issue, making—or allowing companies to stay and compete in

America, but also bringing other companies, like Foxconn, to the United States of America for American jobs.

Not Republican, not Democrat—these are American issues, making us competitive again. And I would hope that both sides could come together and work on tax reform so we don't have to craft bills that have to get through budget reconciliation, which I don't think works very well.

One harder question for you, though, on point. I do have some concern about the U.S.-E.U. covered agreement. The President, who I have been supportive of, talked a lot about bad deals being negotiated by the prior administration—by stupid people, I think that is what he said.

This deal was announced the week before President Trump was sworn into office. I know that we have talked about this, and I appreciate your conversation. I spoke with your staff. We sent you a letter, 21 signers. We pointed out seven things that we have concerns about.

I know you are going to send a letter of your understanding of this agreement. You are not going to renegotiate it. I do have a concern that we don't have an exchange of letters that everyone is agreeing to, to clarify our understanding of what this agreement means.

My time is expired, but I want to make sure that we get the negotiation prowessness of yourself and Mr. Trump to make sure this deal works for American insurers and our State-based model, as opposed to an international system that doesn't work for—

Chairman HENSARLING. Time of the gentleman has, indeed, expired.

Mr. DUFFY. I yield back.

Chairman HENSARLING. The chair now recognizes the gentleman from New York, Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman.

Mr. Secretary, let me just ask first. When you became the secretary of the Treasury, you had to take an oath of office, correct?

Secretary MNUCHIN. That is correct.

Mr. MEEKS. Now I—just so that I am clear, that oath of office was to the United States of America and our Constitution? Or was the oath of office to the President of the United States?

Secretary MNUCHIN. It was to uphold the Constitution.

Mr. MEEKS. And you are aware, because I know we were talking about current events, recently—other current events, because I want to make sure that you are able to do your job. The current event recently is—for example, the President of the United States is telling the attorney general that he should be protecting the President as opposed to the Constitution.

Most folks, Democrats and Republicans, believe that maybe—that the attorney general did the right thing by recusing himself from any investigation that dealt with Russia.

So my question to you, given that the President is talking about that he wants loyalty and protection, because he says that the people—his administration is not protecting him, that in matters that are serious to the Department of Treasury, are you going to protect the President of the United States? Or are you going to uphold the Constitution of the United States?

Secretary MNUCHIN. I think, in many cases, in my job, it is one and the same.

Mr. MEEKS. No. You think it is one and the same?

Secretary MNUCHIN. I said, in many cases. I said it is—many cases.

Mr. MEEKS. So, then, that gives me serious concerns—

Secretary MNUCHIN. No, what I said is in many cases—

Mr. MEEKS. Reclaiming my time.

Secretary MNUCHIN. I will—

Mr. MEEKS. Reclaiming my time.

Secretary MNUCHIN —I assure you I will uphold the Constitution.

Mr. MEEKS. Reclaiming my time.

Chairman HENSARLING. The time belongs to the gentleman from New York.

Mr. MEEKS. That gives me serious concerns, because there are many allegations about conflicts of interest by the President of the United States, and there is an ongoing investigations against the President of the United States about his involvement in Russia.

And if there is someone that tells me that you believe that your obligations, even if the—because I thought that no person was above the law. So the—your oath of office, from what I heard, was to the Constitution of the United States of America, not to Donald Trump, the President of the United States. So—

Secretary MNUCHIN. Let me just be clear. My obligation is to uphold the law. We have cooperated with all investigations and we will absolutely do that.

Mr. MEEKS. Let me—let me reclaim some time, because, you know, that—the U.S. Congress has some huge responsibilities, also. So now I am concerned, because—U.S. Congress, what they have done, bipartisan—we have—we were about to implement a sanctions bill against Russia.

And in that sanctions bill, there is some authority that OFAC has to enforce certain protections. So maybe I should ask you this question first. Do you believe, Mr. Secretary, that there is corruption in Russia? Yes or no?

Secretary MNUCHIN. Yes, I am sure there is corruption in Russia.

Mr. MEEKS. Now, if you believe that there is corruption in Russia, and—have you read or understand the sanctions bill that we are doing in a bipartisan way in the U.S. Congress, both the House and the Senate? Have you familiarized yourself with that bill at all, sir?

Secretary MNUCHIN. Of course I have.

Mr. MEEKS. And so you know what your responsibilities are under OFAC?

Secretary MNUCHIN. Of course I do.

Mr. MEEKS. So let—then, have you also made some plans on how you will implement the sanctions bill, or how the Treasury Department will utilize the sanctions bill in regards to Russia, sir?

Secretary MNUCHIN. We have looked at it.

Mr. MEEKS. But have you thought about how you would do some planning to go against what you admit, the corruption that is taking place in Russia; how the Treasury Department would protect

the people of the United States, the Constitution, not the President?

Have you thought about how you would implement that? Or can you do that on your own? Or must you go back and get some clearance from someone else? Because—

Secretary MNUCHIN. I don't need to get clearance from anybody else, and I assure you, we will work with Congress.

I do have certain concerns that we may have—

Mr. MEEKS. Let me—reclaiming my time, because I am just concerned—I have got 45 seconds left—because I am concerned that, when I see others in the administration trying to do their jobs, the President then Tweets something and—there have been inconsistencies.

For example, just quickly about the debt ceiling, you have said, at one point, that the debt ceiling should be clean. Others in the administration have said the debt ceiling to be a—you should be able to include some increases, or change it.

So what is your position now? Should there be a clean debt ceiling when we pass it? Or should there be other things added to it?

Secretary MNUCHIN. The President has been very clear that I am responsible for the debt ceiling, and my position has been that I believe there should be a clean debt ceiling.

Mr. MEEKS. So, you are not for, as others in the department have talked about, in regards to that there should be additions to the debt ceiling, or add-ons to the debt ceiling?

Secretary MNUCHIN. Again, Director Mulvaney and I are on the same page that I am representing the administration on this.

Chairman HENSARLING. Time of the gentleman has expired.

The chair now recognizes the gentlelady from Missouri, Mrs. Wagner, chairman of our Oversight and Investigations Subcommittee.

Mrs. WAGNER. Thank you, Mr. Chairman.

Over here, Secretary. Welcome, and thank you for appearing before this committee today.

I dearly and sorely want to get back to the purpose of this hearing today, which is to talk about Treasury and the state of the international financial system.

I first want to commend you regarding the Treasury report you recently released, focusing on regulatory burdens for financial institutions. And I was honored to be present in the Oval Office with the President of the United States on February 3rd when he signed the Executive Order directing you to conduct said report.

Many of the proposals in the report will go a long way toward alleviating regulatory overburden, especially—especially for community financial institutions, so that lending and economic growth can continue.

Another thing that I am particularly concerned about, Mr. Secretary, particularly with my role on the—also on the Capital Markets Subcommittee, is that we now have about half as many public companies in the United States as we did 20 years ago.

Additionally, there has been a decline in IPOs, or initial public offerings, during the same time without a corresponding decline in the number of business startups. I understand that Treasury is expecting to issue a capital markets report later this year. Will that

report focus on the issue of the declining number of public companies and IPOs?

Secretary MNUCHIN. We are happy that will be one of the issues we will consider. Thank you.

Mrs. WAGNER. And why should we care about this trend?

Secretary MNUCHIN. I think, as you said, we care about creation of businesses. We want to make sure that there is not too much consolidation in certain industries, that there is proper competition and that there is job creation.

Mrs. WAGNER. And what are some of the regulatory and other impediments that are chilling the IPO market, or negatively affecting company decisions to access capital in the public market?

Secretary MNUCHIN. Well, I think, as you know, there are a lot of issues, and we will address those in the report and look forward to working with you.

Mrs. WAGNER. And why is reversing this trend important for both, I think, the broader economy and for individual investors?

Secretary MNUCHIN. Well, I am—I am more focused on broadening the economy than, necessarily, individual investors but it is important for individual investors, for their retirement, and be able to invest in things.

I would say, in broadening the economy—again, it all gets back to jobs. We are very focused on how we get to 3 percent GDP, which we think is critical. The difference between 2 percent and 3 percent is trillions of dollars—

Mrs. WAGNER. And we haven't been there, Mr. Secretary, for a long time.

Secretary MNUCHIN. We haven't, but we have, over a long period of time. Thank you.

Mrs. WAGNER. And does a healthy public market impact small company growth and what impacts does it have on job creation?

Secretary MNUCHIN. Limiting capital to industries limits job creation and investment.

Mrs. WAGNER. I thank you. And I will yield the remainder of my time to the chairman, if he so chooses.

Chairman HENSARLING. Well, I thank the gentlelady for yielding.

Another question, Mr. Secretary—so, in the Treasury report, it proposes a regulatory off-ramp, much like the off-ramp that we have in the CHOICE act, and I think you are familiar with. In the CHOICE Act, a banking organization that maintains a simple leverage ratio, non-risk-weighted, of 10 percent essentially has a Dodd-Frank off-ramp.

So can you talk to us about how this kind of a regulatory burden-capital tradeoff could help spur economic growth?

Secretary MNUCHIN. Well, Mr. Chairman, we do share your view that the off-ramp is one of multiple solutions. It is not the only solution. But, again, going back to what we said earlier, our number-one objective is to make sure that the top eight banks don't go from 50 to 70 percent market share or 100 percent market share, and that we have a robust banking system with community and regional banks that can grow the economy.

Chairman HENSARLING. Time of the gentlelady has expired.

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

Mr. SCOTT. Thank you, Mr. Chairman.

I am over here. I want to ask you two points, two questions. Let me get the first one out of the way first.

We have had some discussion about the debt limit, and I just want to remind you that your predecessors, Jack Lew especially, would send us estimates, would say and give us a running account of when that possible time would come.

But when—your responses to that have been—you said Congress should act. And then you said—and you keep providing us with a nebulous deadline of sometime after September.

Now, Mr. Mnuchin, you and I both know that the market's worst enemy is uncertainty, not to mention uncertainty around the debt limit, which also plays a role in what the Fed does. And keeping that sterling credit rating, AAA, all around the world is what sustains us. It is the backbone of what keeps our country the number-one financial system.

So let me just ask you can you commit to this committee today that, within a week, you could follow the example of your predecessor and send to us your best estimate as to when we will reach the debt limit? Can you do that?

Secretary MNUCHIN. Again, first of all, thank you for that question. And I am very familiar with financial markets, which I have been involved in for the last 35 years. So I do understand this issue very well. I have been very clear on it publicly. I can tell you today the answer to that question.

Mr. SCOTT. What is that?

Secretary MNUCHIN. That it is—I have said that I am comfortable that we can fund the government through the end of September, that based upon my information at this time—which is subject to change, given big moves—but my best judgment right now is through the end of September. I have said that—

Mr. SCOTT. OK—

Secretary MNUCHIN —Publicly. This is not the first time. And I will also—

Mr. SCOTT —Thank you. I have got your answer.

Secretary MNUCHIN. Thank you.

Mr. SCOTT. I only have a few minutes. And I got to get to this other question. Now, I want you to know that this effort and concern, on this committee, with President Trump and the Russian connection—there was a movie called the French Connection, also. But I want you to know that what Ms. Waters's bill and her efforts in this is not a Democratic-alone position.

I work with both Democrats and Republicans. I have friends on both sides of the aisle. And it is a growing consensus among Republican Members of Congress that we owe it to the American people to come clean on this. President Trump is not bigger than America. This isn't about him. It is about the American people.

And I love this country. I was born in the middle of a tobacco field in Aynor, South Carolina. But I made it all the way up to the Wharton school of finance. And not only that—to serve on the executive board of directors of the best school of business and finance, at the University of Pennsylvania, in the world. And I did it with just helping hands, because I come from a poor family.

So I want you to know, and I want this Nation to know, that we deserve to know what it is that President Trump is hiding, that he

is willing to turn the Federal Government, the Justice Department, upside down and inside out.

It ain't about him no more. It is about coming to a sense of confidence and truth that we can restore the respect, the power, and authority of our Nation, first to the American people, and to the world.

Chairman HENSARLING. Time of the gentleman has expired. The chair now recognizes the gentleman from California, Mr. Royce, chairman of the House Foreign Affairs Committee.

Mr. ROYCE. Well, thank you, Mr. Chairman.

Again, Mr. Secretary, good to see you.

And, just following up on the questioning of Mr. Barr, I would like to thank you for your commitment to leveling the trade and regulatory playing field for our job creators here in the United States.

And on this front, unlike at least one of my colleagues, I was very pleased to see that the U.S.-E.U. covered agreement on insurance and reinsurance moved across the finish line, because that is going to mean billions of dollars in savings for U.S. firms, which can be reinvested in our economy, and that is going to be passed on to the consumers.

And I also appreciate your commitment to raising the equity caps for U.S. financial services in China—raising that issue. And I was hoping you could update us on your most recent conversations and how the Chinese side reacts when we push them on that issue of caps.

Do you think we could get a win on this front?

Secretary MNUCHIN. Again, I am going to withhold how they react. But what I will say is—this is a yes-no answer. We expect them to be increased. We have told them to do that. I don't care how they react. What I care about is when they tell us that there is no cap. So I am not interested in them going from 49 to 52 percent. I want no cap.

Mr. ROYCE. I think that is absolutely—

Secretary MNUCHIN. I hope you don't mind—

Mr. ROYCE —The right attitude.

Secretary MNUCHIN —I hope you don't mind me using just 5 seconds of your time, because I do want to acknowledge Mr. Scott, and I too share this great love for this country, and it is extraordinary, your accomplishments, so thank you.

Mr. ROYCE. And let me also say, on the topic of housing finance reform, you have made it very clear that perpetual conservatorship is unsustainable, and you would prefer we deal with Fannie and Freddie through legislation. But as we work toward reform in this committee and in the Senate, we can't lose sight of the benefits afforded the GSEs by previous Congresses. This is one of the problems. There are benefits no other company has.

And they are benefits that help create the duopoly and broken system of private gains and public losses. And among those obvious benefits are tax-exempt status from State and local jurisdictions; the ability to issue special SEC-exempted TBA, or "to be announced," securities; the ability for the Fed to purchase GSE securities through their monetary policy operations; a perpetual line of credit directly to Treasury beyond the 2008 bailout authority; and

above all else, the implicit government guarantee that comes with the charter which gave them the ability to borrow at below-market rates and ignited the duopoly.

And, you know, as someone who was concerned about, basically, the moral hazard in this equation, in 2004 and 2005, I tried to have them regulate it for systemic risk.

I think, Secretary Mnuchin, you understand this. Can you eliminate any of these benefits without legislation? And would you agree that reconstituting Fannie and Freddie as private companies with these congressionally mandated benefits should be avoided at all costs?

Secretary MNUCHIN. I do. And, first, let me say I look forward to working with you on this.

As I have said, we need a solution that creates liquidity for the housing market and doesn't put taxpayers at risk. And if there are any guarantees from the government going forward, they should be explicit and paid for and done so in a way that doesn't put taxpayers at risk.

And we are determined to find a solution, because this is a huge part of the economy, and leaving them in conservatorship for the next 4 years makes no sense.

Mr. ROYCE. Well, let me make sure that I understand, as this issue is as important, probably, as anything that is going to come up today.

Given our past experience of what happened with the collapse of the GSEs, do you agree, or not, that Fannie Mae and Freddie Mac should not under any circumstances, be re-privatized as privately owned, implicitly government-backed institutions?

Secretary MNUCHIN. So, what was the last part of it? Implicitly?

Mr. ROYCE. Implicitly government-backed institutions. In other words—under any circumstances be re-privatized as privately owned, implicitly government-backed institutions.

Secretary MNUCHIN. I agree. There shouldn't be implicit. If there is something, it should be explicit and paid for. Otherwise—it should be very clear. There is no implicit government backing.

Mr. ROYCE. Thank you—thank you, Mr. Secretary.

Chairman HENSARLING. Time of the gentleman has expired.

The chair now recognizes the gentleman with the dashing pink suit from Missouri.

Mr. Cleaver, the ranking member of the Housing and Insurance Subcommittee.

Mr. CLEAVER. Thank you, Mr. Chairman.

Mr. Secretary, thank you for being here.

I do think that, in a democracy, once the commonly accepted rules of politeness are breached, it will be painfully difficult for them to be reversed. And maybe, we are there now, in that regard, the ranking member had talked to you about the letter that was sent.

I am simply hoping that, as we move along, that you would respond to letters, communication from her. I personally believe it is impractical for you to respond to every letter that we send you, as, you know, each member of the Democratic side would send you—or Republican side, for that matter.

So I am just hoping that, in the future, that the letters are responded—that you would respond to the letters in some kind of a timely fashion.

Now, let me, again, unless you want to respond to that, I will move to my question.

Secretary MNUCHIN. Yes, so, I mean, first of all, as you can see, we have over 50 letters that we have responded to. I can assure you, and I can assure the ranking member, that we will cooperate with you. We have fully cooperated with three committees.

To the extent you are asking for the same information that other people—I would merely ask for you to coordinate with information we have already received. But we fully intend to cooperate with the committee and be responsive, as we think we have done.

Mr. CLEAVER. I could argue with that, but I am more interested in something else at the present time. I was here during the whole Dodd-Frank debate, and the development of that legislation. And it was a turbulent time, as you well know.

And I will admit that there was a destabilizing component in that legislation, as it relates to small banks—community banks: 22 percent of them, 22 percent of the small banks—community banks—have declined, have evaporated over time, and 25 percent—this was very troublesome to me—25 percent of them say they are anticipating merging with another bank. So what we are going to end up having are the larger banks getting even—even larger.

I think they were helped a little bit because they were exempt from the Durbin amendment. However, I am asking you, what do you—what advice would you give us on how we can quickly remove the burden from small banks?

And understand this, in case you don't understand it, I don't know anybody on this side, or the other side, for that matter, who believes that we ought to continue to allow this burden to hit small and community banks. So, if everybody agrees on it, what do you think we can do and do quickly to remove that burden?

Secretary MNUCHIN. Well, again, thank you, and we look forward to working with you, and I would hope that we could do this on a bipartisan basis, as it relates to things that impact community banks and regional banks.

So I think we delivered a very balanced report, and many of the regulators have agreed with us. So we have a long list of recommendations, and we would be more than happy to followup with your office and go through the specific legislative ones for community banks.

Mr. CLEAVER. So you would sit down with the chair and the ranking member and work on and work out recommendations to provide that relief?

Secretary MNUCHIN. To the extent they both want to sit down with us, we would be more than happy to do that and support that, yes.

Mr. CLEAVER. Well, I am hoping that will happen. And, like every other member, I have community banks and small banks who are struggling. And it is a little frustrating to me that all we have to do is change it—is change the legislation, and we don't do it.

Secretary MNUCHIN. I share your frustration, and I think this is the biggest single issue, since community banks know how to lend and will drive the engine of growth.

Mr. CLEAVER. All right. And by the way, I am wearing this pink so my friends can find me quickly.

Secretary MNUCHIN. I was going to say, definitely, best male dressed in the room.

Chairman HENSARLING. Time of the gentleman has expired.

The chair now recognizes the gentleman from Oklahoma, Mr. Lucas.

Mr. LUCAS. Thank you, Mr. Chairman.

Secretary Mnuchin, thank you for being here today.

As you may know, I serve on the Ag Committee, in addition to this committee, and thus I care a lot about the use of derivatives and similar instruments that can help my constituents manage risk. As such, I would like to visit with you about margin requirements for a moment.

First, I was very pleased to see that your department's recent report suggested excluding margin from centrally cleared derivatives from the supplemental leverage ratio. And I thank you for coming to that conclusion, as the regulation reduces the number of clearing options available to customers. I really hope that gets reviewed and remedied soon—soon.

And second, I would want to ask you about margin for inter-affiliate swaps. While the CFTC's rules have distinguished internal transactions within the same company, when setting margin requirements, the banking regulators have not.

And this raises some concerns for me, not only because it creates a patchwork effect of regulations in the U.S., but the approach of the banking regulators is inconsistent with that of the Asian and European regulators.

So, having said that, do you have any comments about whether an approach more like the CFTC from banking regulators would level the playing field and unleash significant amounts of capital into the market, Mr. Secretary?

Secretary MNUCHIN. Well, we look forward to working with you, and yes. On the first issue, we think, where there is central clearing, that should be accounted for. And on the inter-affiliates, we look forward to working with you, and that will be one of the issues addressed in our subsequent reports.

Mr. LUCAS. And that is very important, because to tie up capital that should not be otherwise tied up, to reduce the options that my, for instance, ag and energy people have in being able to manage the risk in both selling their commodities and securing the resources to do their work, it just, I think—in the environment we are in right now, the approach taken by CFTC and the initial report from your people would tend to think that we will be in a position to address that, so to speak.

In the remaining time, I would like to commend your department for suggesting in its report that the recent leveraged lending guidance be reworked.

As I told Chair Yellen earlier this month, much of the energy industry is considered distressed, which means it is harder for them to obtain capital under the leveraged lending guidance.

Could you briefly tell the committee why your department suggested withdrawing the guidance, and what you think would happen if the guidance were done in a better fashion?

Secretary MNUCHIN. We think it would help lending significantly. And again, that doesn't mean that banks shouldn't properly underwrite loans, they should. But that we don't support a blanket across the board approach that cuts off leveraged lending.

Mr. LUCAS. Absolutely. Allowing bankers to be bankers. And in the case of the energy industry people, in my State, where they have proven barrels, they have proven MCF in the ground, they have the proven ability to deliver, the proven ability to continue in their business.

Creating a situation where, in effect, we push them over the edge, arbitrarily, just seems counterproductive and literally destructive. So, I appreciate that.

And with that, Mr. Chairman, I yield back the balance of my time.

Chairman HENSARLING. Gentlemen yields back.

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

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

I lost 5 seconds. OK. Thank you so much. And welcome again, Mr. Secretary. Mr. Secretary, I was really relieved to hear you say, on a number of occasions this morning, that you are going to be very vigilant on anti-money laundering and counterterrorist financing compliance.

And so, given that, I just want a few—put a few things on the record and find out whether or not you think that certain kinds of investment activity raise concern and warrant heightened scrutiny from regulators and law enforcement, and that, of course, our President and his family have engaged in. Investments with parties who have admitted to or have been accused of or convicted of crimes, do you think that is problematic? Yes or no?

Secretary MNUCHIN. It sounds that way—

Ms. MOORE. OK.

Secretary MNUCHIN. But it depends on the specifics.

Ms. MOORE. Oh. Well I can be specific. How about Felix Sater who helped build the SoHo projects? He is—

Secretary MNUCHIN. I am not aware of any of the specifics—

Ms. MOORE. Well, OK—

Secretary MNUCHIN —Nor would it be appropriate for me to comment, that is not part of my job.

Ms. MOORE. You are the treasury secretary. Investments where apparent enterprise lacks a significant or economic basis, do think that is problematic? In mirror trades?

Secretary MNUCHIN. What was the last part?

Ms. MOORE. Mirror. Like in a mirror trade.

Secretary MNUCHIN. I don't know what your—I don't—I am not connecting this to the terrorist financing issues.

Ms. MOORE —And investments with politically explicit parties. Well, I could consume all my time, but I would just bring to your attention that there have been—these are not secret things.

They are exposed, they are in the news for everybody to read about the partnerships that the Trump family has with people who

have been convicted of crimes, who have been associated with Russian mob activity. And I was just wondering, for the record, if you thought that that was problematic?

Secretary MNUCHIN. Again, it is really not part of my job to comment one way or another on that. My job is focused on terrorist—

Ms. MOORE. Well you are the secretary of the treasury. You are part—you know, you—the SEC, the Foreign Corrupt Practices Act. These are all things that you have jurisdiction over.

Secretary MNUCHIN. No, the SEC, I have no jurisdiction over.

Ms. MOORE. All right. Let me ask you some more questions. I mentioned in my opening statement, I talked about conflict minerals, and I talked about the disclosures for extractive industries, which you supported.

What were the judgments you relied upon to support eliminating disclosures for extractive industries? And for, in the Choice Act, eliminating conflict minerals? And so, since you seem to need examples, I will give you examples. ExxonMobil, as you know, the Treasury just fined them for corrupt dealings with Russia. And conflict minerals, you are familiar with the horrific civil war that has ravaged the Democratic Republic of Congo and how armed groups took control of the mines, used the proceeds to fund armed conflict, and those minerals ended up in the U.S. consumer market.

And thereby, we, as U.S. citizens, have inadvertently funded the killing, rape, and destruction in the DRC. So, upon what judgment did you rely to decide that we don't need these provisions?

Secretary MNUCHIN. First of all, I just want to comment on the Exxon. It was not on corrupt dealings, it was on an OFAC violation. In regards to the mineral issue—and again, we think there is a lot of problems as you pointed out, and I would be more than happy to followup with your office and talk more about this issue.

Ms. MOORE. I would like to yield the last minute to the ranking member.

Ms. WATERS. Thank you very much. I would like to thank you, Ms. Moore, for delving into some of the many issues that we are so very concerned about.

What Ms. Moore walked through was, relationships. The President of the United States has relationships with those who have been jailed, who have known to have mob contacts, who have been involved in criminal activity.

And, as the treasurer, she was asking you, you know, what do you think about that? And the real question and in all of this is whether or not you see your responsibility to make sure that you are protecting the people of this country, respecting the Constitution of the United States, or as it appears, that this President is demanding of those in his cabinet and others that they spend their time protecting him.

Basically, that is the question.

Chairman HENSARLING. Time—time of the gentlelady has expired.

The chair recognizes the gentleman from Florida, Mr. Posey.

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

Secretary Mnuchin, I appreciate you being here today. For more than 6 years, 6 long, torturous years, I have been fighting for a group of heroes that were once held captive. On February 13th,

2003, four Americans, who were Department of Defense contractors on a U.S. Government counter narcotics flight mission in Columbia, were shot down by the Revolutionary Armed Forces of Colombia, or FARC as they are commonly known, a designated terrorist organization that controls more than 95 percent of the world's cocaine business.

The pilot, Tom Janice, a retired member of the U.S. Army's Delta force, was executed on the spot and three Floridians, Keith Stansell, Marc Gonsalves, and Tom Howes, who happens to be my constituent, were captured, held hostage in the jungle, and severely tortured for more than 5–1/2 years until they were rescued by the Colombian army.

These Americans and the Janice family, obtained a Federal judgment, in 2010, under the Anti-Terrorism Act for damages against FARC to compensate them for FARC's acts of terrorism during their captivity, and the execution of one American.

However, there are no FARC assets in the United States except for drug moneys of FARC agents—the traffickers and money launderers—and these assets are frozen under the Foreign Narcotics Kingpin designation Act. Under current law, victims cannot access frozen assets under the Kingpin Act.

I believe the victims of the foreign terrorist organizations—which profit and fuel their activity with drug money—should be compensated from the drug money that we have secured. In the 114th congress, I introduced legislation, titled the "Clarifying Amendment to Provide Terrorism Victims Equity Act," or CAPTIVE Act, is the acronym, to change that law.

My bill passed the House by unanimous consent last year, but was stalled in the Senate, when the Office of Foreign Assets Control raised concerns about the bill that they never mentioned to us in the House. I introduced the legislation, this Congress, and I am hoping to bring the bill to the floor soon.

The situation, right now, is that the former hostages have been waiting 14 years for justice, and so far they have received absolutely zilch help, from the U.S. Government that they served so heroically because of the Office of Foreign Assets Control.

I would like to get a committment from you to work with me, to find a solution to make these brave Americans whole again. Do you think we can work together in that regard?

Secretary MNUCHIN. Absolutely. Let me first comment on, it sounds like it was a horrible situation, and I am not familiar with any of the details of what OFAC's concerns are, but I am more than happy to work with you in your office on the legislation and understand it.

Mr. POSEY. Yes, your predecessor gave us all kinds of song and dance, but he seemed relatively unconcerned, but I appreciate your concern and look forward working you—

Secretary MNUCHIN. We will followup with you.

Mr. POSEY. Thank you very much. I yield back.

Chairman HENSARLING. The gentleman yields back. Chair now recognizes the gentleman from Minnesota, Mr. Ellison.

Mr. ELLISON. We thank the chair and the ranking member.

Secretary Mnuchin, one of the worst moments I experienced in my service in Congress is the financial—foreclosure collapse that

occurred in 2008. I don't ever want to see it again. I am sure you agree with me about that. And so, I am concerned about your approach to supervising the mortgage market, and making sure that banks that are engaged in issuing mortgages are upholding high standards of ethics.

So, to that degree, could you explain to me how, OneWest, of which you were the CEO, was able to—engage in 5,600 violations of foreclosure sale auctions, including backdating, in nearly all of the 35,000 foreclosures of homes, that you all engaged in?

Secretary MNUCHIN. First of all, let me assure you, that I did not make one mortgage, during or prior, to the mortgage crisis. I took over three banks from the FDIC, one of which was the worst originator in the entire world. I am very proud of the fact that we started loan modifications at IndyMac under the FDIC's control, which we then did. So, I take great offense to anybody who calls me the foreclosure king. Whatever issues—

Mr. ELLISON. I am claiming my time, you know how that goes.

Secretary MNUCHIN. Whatever issues are—

Mr. ELLISON. Sir, I allowed you to answer and I am reclaiming my time.

Chairman HENSARLING. Mr. Secretary, the time belongs to the gentleman from Minnesota.

Mr. ELLISON. Look, I don't have a problem with you answering, but you did answer so, I am not going to let you filibuster. That is what I won't do.

Secretary MNUCHIN. I am not filibustering—I was just responding to your comment.

Mr. ELLISON. No—no—no—there is no question before the Secretary.

Secretary MNUCHIN. Wasn't there a rule—

Mr. ELLISON. There is no question before the Secretary, at this point. So, Vice President Erica Johnson-Seck robo-signed 6,000 foreclosure related paperwork documents per week. Was she under your supervision?

Secretary MNUCHIN. Not directly.

Mr. ELLISON. Was she under—when you were the CEO, was she employed under you?

Secretary MNUCHIN. She was employed at the bank.

Mr. ELLISON. She said in testimony that she robo-signed as many as 6,000 foreclosure related documents a week. She—do you—what is your position on robo-signing?

Secretary MNUCHIN. You know, I have answered this extensively—

Mr. ELLISON. You have to answer it now, sir.

Secretary MNUCHIN. I am going to, and you have to listen to me.

Mr. ELLISON. No, I don't, no, I don't have to listen you.

Secretary MNUCHIN. Well—

Mr. ELLISON. I asked you a direct question, I would like an answer, which would be—

Secretary MNUCHIN. If you are not going to listen to me—

Mr. ELLISON. Are you willing to answer the question, or not?

Secretary MNUCHIN. Repeat your question.

Mr. ELLISON. What is your position on robo-signing?

Secretary MNUCHIN. Again, I don't even think you know the definition of robo-signing is.

Mr. ELLISON. You don't know what I know.

Secretary MNUCHIN. There is not a legal definition of robo-signing.

Mr. ELLISON. How about this? Do you deny that under your supervision robo-signing occurred at the firm that you were the CEO of?

Ms. WATERS. Mr. Chairman—

Secretary MNUCHIN. I have reported before—

Mr. ELLISON. And are you—

Secretary MNUCHIN —There was not robo-signing, and I have said this on the record.

Mr. ELLISON. So, you deny it for the record, thank you.

Secretary MNUCHIN. For the record, I have denied it before.

Mr. ELLISON. Yes, right. And you are denying that—well, also for the record and under direct testimony a person under your supervision admitted to it.

And for people watching, I will just let you know, robo-signing is when you have a foreclosure—when you are signing documents to get a loan to purchase a home, and you have to review the documents, you have an obligation to review them. And to just sign them as you are going through, without reviewing them, is not proper, and is illegal, because you are swearing that you have reviewed those documents.

And, under the Secretary's supervision, which he claims I don't know anything about robo-signing, that happened to a very severe degree while he was the CEO of OneWest.

Here is another question for you, sir. OneWest was nine times as likely to foreclose on a homeowner living in a community of color, as originating a mortgage to a borrower living in other communities.

Are you concerned about the disproportionate number of people who found themselves in foreclosure, at the hands of your company, who were persons of color? Where are you at on making sure that there is an equal administration of justice for companies as they engage in foreclosure?

Secretary MNUCHIN. Let me assure you that we upheld, to the strictest amount, the rules and regulations, as was reviewed by the OCC, the Fed, and the Consumer Protection Bureau, and we did not and would not, discriminate in any way.

Mr. ELLISON. We will see.

Chairman HENSARLING. Time for the gentleman has expired. The chairman now—

Ms. WATERS. Parliamentary inquiry.

Chairman HENSARLING. For what purpose does the ranking—state your inquiry.

Ms. WATERS. Mr. Chairman, would you like—thank you—would you like to give the Secretary an opportunity to apologize to Mr. Ellison for—

Chairman HENSARLING. That is not a proper parliamentary inquire.

Ms. WATERS —Asserting that he is too stupid to know what robocalls are? Would you like to give him that opportunity?

Chairman HENSARLING. The time now belongs to the gentleman from Illinois.

Mr. Hultgren is recognized for 5 minutes.

Mr. HULTGREN. Thank you, Mr. Secretary.

Secretary MNUCHIN. But perhaps, could I borrow 10 seconds?

Mr. HULTGREN. Yes, absolutely, I was going to offer—you can do more than that. I would like you to have a chance—

Secretary MNUCHIN. I would like the record to state that OneWest Bank was the only bank that concluded the independent foreclosure review, and every single loan was reviewed and was properly compensated. We were also the only bank to have done all those loan modifications, and I take great offense in that anybody who calls me a foreclosure king or anything else.

And, ranking member, I have had the opportunity to talk about this with you, many times before, and this is nothing new, and I am very proud of OneWest's record, and I am not apologizing to anybody, because robo-signing is not a legal term, and I was being harassed.

Ms. WATERS. You are under oath.

Mr. HULTGREN. Thank you.

Chairman HENSARLING. The time does not belong to the ranking member, the time belongs to the gentleman from Illinois.

Mr. HULTGREN. Thank you.

Chairman HENSARLING. The time belongs to the gentleman from Illinois, he may proceed.

Mr. HULTGREN. Thanks, Mr. Chairman, thank you, Mr. Secretary, for being here. The Treasury Department's June 12th report makes a number of recommendations regarding the harmonization of our cybersecurity framework.

Specifically, the report recommends further coordination on two fronts; one, financial regulatory agencies should work together to harmonize regulations including a common lexicon; two, financial regulators should work to harmonize interpretations and implementation of specific rules and guidance around cyber security framework.

I believe both of these are very important goals.

I wondered if you could just talk briefly on how the Treasury Department plans to facilitate these efforts and is there anything we in Congress can do to help support this work.

Secretary MNUCHIN. Yes, we look forward to working with you. It is very critical. Cybersecurity is a very, very important issue and we are working closely with all the regulators on us.

Mr. HULTGREN. Please let us know, again, how we can provide assistance—

Secretary MNUCHIN. Thank you.

Mr. HULTGREN. We just know so much—the importance of confidence of consumers—

Secretary MNUCHIN. Thank you.

Mr. HULTGREN —And securities. So thank you.

I know you have touched on a little bit the Volcker rule, I want to go in a little bit more on that.

As you know, venture capital funds and startup companies in which they invest are the innovation and job creation engines of our Nation. Page 77 of the Treasury Department's June 12th report

recommends changes to the Volcker rule as covered funds provisions to assist in the formation of venture and other capital that is critical to fund economic growth opportunities.

I wondered, Mr. Secretary, have you discussed this specific provision of the Volcker rule with the agencies that have authority to make amendments? If so, what feedback have you received? And then, followup on that, how does the Treasury Department plan to pursue amendments to the Volcker rule that could conform to existing laws.

In other words, how would you encourage the regulators with rulemaking authority to undertake this important work?

Secretary MNUCHIN. Well, again, there is a two part process we are going through. One part is working with the regulators where we can clarify the regulatory issues, make clear definitions. So, again, people can follow the Volcker rule, but follow it appropriately and understand it.

And then, also, we would be more than happy to work with you and Congress on certain legislative changes to further help that.

Mr. HULTGREN. Good. Thank you. I believe it is important and we want to help.

The June 12th, again, report states significant adjustments that should be made to the calculation of the supplementary leverage ratio. And, particularly, deductions from the leverage exposure denominator should be made, including for cash or deposit with central banks.

I certainly agree with this recommendation and I have worked closely with members of this committee such as Keith Rothfus and Bill Foster to get some regulators to help understand our concerns.

I wondered, how do you plan to work with the Fed, FDIC, and OCC to amend the supplementary leverage ratio? If possible, could you share a timeline for when these concerns might be addressed?

Secretary MNUCHIN. Well, I don't have a specific timeline but we are working very closely with them and, again, we are hopeful that we can make progress on that. Thank you.

Mr. HULTGREN. I hope so as well, and we would love to be helpful there.

Last minute, maybe one more question, I understand the administration has been putting together some ideas on comprehensive tax reform. I absolutely agree that we need a more efficient tax code and it would greatly contribute to economic growth.

Outside the work on this committee I am also very focused on fighting for tax exempt financing for States and local government. Specifically for preserving the tax exempt status of municipal bonds. I believe this local decision, making process for investing in infrastructure is working. It is ensuring that we build the roads, schools, bridges, and police stations that our communities really need and some 160 members of the House of Representatives agreed with that by signing a letter that myself and Congressman Ruppersberger passed around.

I wondered, have you considered how this existing piece of the tax code fits in with the administration's plan for comprehensive tax reform? If not, I would love to followup with you a little bit more on the importance of municipal finance and, specifically, the current tax treatment of municipal bonds.

Secretary MNUCHIN. Yes, so, again, we very much appreciate the importance of municipal finance. We want to make sure that State and local entities can continue to access that market in an efficient way and we look forward to working with you.

Mr. HULTGREN. Thanks Mr. Secretary, thanks for your service, and I yield back.

Chairman HENSARLING. The time of the gentleman has expired. The chair now recognizes the gentleman from Colorado, Mr. Perlmutter.

Mr. PERLMUTTER. Hi, Mr. Secretary, thank you for being here today.

Secretary MNUCHIN. Thank you.

Mr. PERLMUTTER. Thanks for your testimony today. Let's start with you being a Californian and me being a Coloradan, OK? And I want to talk about marijuana and banking, just for a second. Because we now are 28 States plus the District of Columbia have some level of marijuana use and then if you add all of the States that allow for cannabis oil to try to deal with seizures, that is another 16 States.

And so, mostly it is a statement to you sir that I would like to make and California, Colorado having fully legalized marijuana, that it is important that the Treasury Department and the Justice Department really continue to focus on this because in Colorado—unless we have banking services, the amount of cash just becomes a huge magnet for crime. And it is very important that we allow businesses that are legal in their States to be able to have checking accounts and credit card accounts and payroll accounts.

And I would just impress on you, sir, we need to get this handled. And I don't know exactly where you are—I am not going to ask you on the record but I just want to make sure you understand this is now way more than half the States of the country, and I would suggest to you that you talk to Mr. Mulvaney and the administration to try to come up with some ideas so we can have baking for legitimate businesses in those States that have some level of marijuana use.

Secretary MNUCHIN. Yes, well, let me just comment. When I was a banker I was familiar with this issue and we were very concerned for the regulatory issues of banking, those types of clients, despite the fact that it was legal.

So I don't have a view but we are happy—I do understand the issue—we are happy to work with you, and we do think we need to figure out the regulatory solution.

Mr. PERLMUTTER. And I thank you for that and if you would work with me and Mr. Heck and—

Secretary MNUCHIN. Be more than happy to.

Mr. PERLMUTTER —I know we have Mr. Coffman from Colorado, Republican and a number of Republicans—we would really like to work with you and the department to get this ironed out.

Secretary MNUCHIN. Thank you.

Mr. PERLMUTTER. Thank you. Second question—or second statement I guess is, you used the words cutting off the money earlier on about sanctions and the way that that can work, and I think you were directing that toward Iran, but it also applies to North Korea and it applies to Russia, would you not agree?

Secretary MNUCHIN. Yes, and it applies to Venezuela where we just launched sanctions yesterday to 13 people and will continue to do more.

Mr. PERLMUTTER. And I appreciate that, and I thank you for that. So I guess where I am coming from is again with respect to sanctions, we have, because of aggressive actions taken by the Russians in Ukraine and elsewhere, that the department continue to apply those, where appropriate, where lawful, and where necessary.

So one of the things—I serve on the terrorism and illicit finance with Mr. Pearce, and we—it is a really good committee and we appreciate your department working with us. One of the places where it is very important is on cryptocurrencies, and it appears that the Russians are very adept at making opaque a lot of transactions and we would ask you and your department to continue to work with us to make sure we are able to pierce those cryptocurrencies so that they aren't using block chain or whatever other kinds of things. Would you agree to work with us?

Secretary MNUCHIN. I would and I would also tell you I share your concerns about bitcoin and others and them being used for illicit activity. And matter of fact, I believe this morning we just announced a major action against a bitcoin operator. So I share your concerns and this is going to be a big priority of ours.

Mr. PERLMUTTER. All right, last thing I would like to talk about and then I will yield some time to my friend Mr. Ellison is, on 23 of July, there is an article called The Future Of Banking by Piyush Gupta, which really talks about the technological changes that are occurring within the banking world. And just to give you—well I don't have much time. What do you see happening in—with respect to banks, given all the technological changes that are occurring?

Secretary MNUCHIN. It is no question banking has changed substantially. Most people don't go into banks anymore and we need to address that as we think of changes in technology and regulation.

Mr. PERLMUTTER. If I could, I like introduce this in the record.

Chairman HENSARLING. Without objection. Time of the gentleman has expired; the chair now recognizes the gentleman from Florida, Mr. Ross for 5 minutes.

Mr. ROSS. Thank you, Mr. Chairman. Mr. Secretary, thank you for being here. In reading and listening to your opening comments, I laud you on one of your priorities and when you say the other central component to our agenda for growth is a package—is a passage of comprehensive tax reform.

And we have talked about this before; you have expressed how important it is for us to have tax reform if we are going to grow our economy. Now we are the No. 1 in the OECD with the highest tax rate. I think, in fact, I believe that at 39.08 percent, we have the highest corporate tax rate of any developed nation. At the same time, our effective tax rate is—hovers around 20 percent and we are 21st in terms of tax revenue as a share of GDP.

Businesses make decisions to avoid suffering under the full burden of our tax system, and in my opinion I think that what we have to look at is what impact this has had on our economy. In other words, if we can lower the corporate tax rate just alone, we

can change the equation for how American businesses benefit the American economy.

And what I mean by that is, we need to look at how they shelter their income, are they paying 35 percent up here but the effective rate is 21 down here, what is happening is that 14 percent? Are they putting their money overseas in order to take advantage of shelters? Are they looking at choice of form of where they want to be able to locate their businesses so they don't have to have tax implications in the United States? Are they looking at what type of entity are they going to have? are they looking even at who they are going to hire because of our corporate tax structure?

So, I guess my question to you, is would you agree that—because we are having a little bit of issue here in Congress trying to do comprehensive stuff right now, whether it be health care or anything else.

And if we come back here in September and we talk tax reform, if we are only able to do corporate tax reduction, would you not agree that just lowering the tax revenue—and you take into consideration how businesses affect their tax planning by tax shelters by where they want to locate physically.

Whether in the United States or not, that that lowering of the taxes would more than make up for what any anticipated loss of revenues that the CDO may access from going from 35 percent to 15 percent.

Secretary MNUCHIN. Yes, I agree with you completely. This is not just about lowering the rate, this is about comprehensive tax reform, about changing from a worldwide system to a territorial system.

Mr. ROSS. And we are the only ones in a worldwide system.

Secretary MNUCHIN. We are broadening the base.

Mr. ROSS. Correct.

Secretary MNUCHIN. And as you have pointed out, although our stated rate is 35 percent, most international companies pay significantly less, because they can defer income and sometimes not even pay any tax on it.

Mr. ROSS. And as a matter of fact, as we lower the rate, we broaden the base?

Secretary MNUCHIN. We do indeed.

Mr. ROSS. And raise our revenues. Do you agree or disagree, with those who say that we will never be able to achieve real GDP growth above the anemic 1 to 2 percent we have seen since the years following the recession?

Secretary MNUCHIN. I disagree with that. I am very committed that we can get to 3 percent GDP and we will.

Mr. ROSS. Thank you.

And as an insurance person, I have to ask you in FIO, look I am a strong supporter of our State-based regulation systems in terms of insurance. McCarran-Ferguson has been, I think, a very good thing for consumers.

It is been a very good thing for insurance companies for solvency and protections for consumers. My concern with FIO is, while I understand its role to be a facilitator, especially in international negotiations, do you feel there is any need for it ever to be a regulator?

Secretary MNUCHIN. Again, what I would say is we fundamentally believe in the State-based system and we support that, so the intent is not for it to be a regulator. I don't know if at any, at some points, there may be certain issues that they need to deal with, but we are not looking for Federal regulation of insurance.

Mr. ROSS. Thank you, that is somewhat comforting.

I yield back the balance of my time.

Chairman HENSARLING. Gentleman yields back.

Chair now recognizes the gentleman from Connecticut, Mr. Himes.

Mr. HIMES. Thank you, Mr. Chairman.

And thank you, Mr. Secretary, for being here.

Like my colleague on the Republican side, I want to deviate a little bit from the jurisdictional area of this committee because I agree with him that we are presented with a really terrific opportunity for comprehensive tax reform. And I really want to make one point and then ask you a question.

Appearances to the contrary, there is actually strong bipartisan agreement on the need for comprehensive tax reform. There are elements of that that are very, very important to this side of the aisle.

Those elements amongst others include maintaining distributional equity in the code. It may surprise you to know that it includes for a lot of us a sense of revenue neutrality, both inside and outside the budget window.

Something that is not revenue neutral, of course, poses a threat to programs like Medicare and Social Security. But really, and I guess, point to my question here, what is really important to us is a process that is regular order and that starts in a bipartisan fashion. And I can draw sort of a dramatic contrast with the way healthcare was brought forward just in the last 6 months. It was a process using reconciliation, designed to exclude Democrats, particularly in the Senate. And in fact, the Senate majority leader noted that the failure would mean having to work with the Democrats.

So, I really do think process is important here. Hearings, inviting this side of the aisle in early rather than at the end.

So, my question to you is, is the White House and is the Treasury prepared to really push that this process be designed for bipartisanship and all of the possible durability associated with that? Or are we going to sadly see something more akin to what we have seen in the healthcare realm?

Secretary MNUCHIN. Well, again, I would like to hope that it is bipartisan, because you point out, many of these aspects, I think we have shared values, and objectives, and goals. And I personally sat down with many Democrats already to solicit views and get feedback. And I look forward to continuing to do that.

Mr. HIMES. I think a lot of the debate right now is on the Republican side of the aisle over big issues around revenue neutrality, around border adjustment tax, deductibility of interest. I think your and Mr. Coons voice will be very strong here on those issues. And I just—you know, I see the President in his tweets sort of occur—blaming the Democrats in the Senate for being obstruc-

tionist when the process at least on healthcare was designed to exclude them.

And I know your previous career. I know the President's previous career. You haven't been in town that long.

Really, our signals and processes that you can set up that will set the stage for bipartisanship in the way it wasn't done the healthcare issue. So, I just hope—again, I think we all recognize that durability relies to some extent on bipartisan cooperation. We have certainly seen that in the healthcare realm.

And I would note—you were probably following at the time. Sometimes, the Democrats, under Obama, were accused of having, you know, a process that excluded the Republicans in 2009. That was simply not true.

There were months and months of efforts, hearing after hearing after hearing, efforts to attract a number of Republican Senators that ultimately did not bear fruit. But I would just note that those attempts were made. And I think the country could really benefit if the White House would commit itself, particularly for something as important as the tax code, to a process that starts out in bipartisan fashion.

Secretary MNUCHIN. Thank you.

Mr. HIMES. Thank you. Mr. Chairman, I will yield back the balance of my time.

Chairman HENSARLING. Gentleman yields back. The chair now recognizes the gentleman from North Carolina, Mr. Pittenger, for 5 minutes.

Mr. PITTENGER. Thank you, Mr. Chairman. Good to see you, Mr. Secretary.

Secretary MNUCHIN. Nice to see you, too. Thank you.

Mr. PITTENGER. Great to have you here.

Mr. Secretary, I want to thank you for your understanding of the role and importance of community banks. I did serve on a community bank board from the time we chartered to the time we sold it, it was very successful. And yet, in North Carolina today, I can tell you that we have lost 50 percent of our banks since 2010.

I serve eight counties, several of which are rural. It has had a devastating impact on access to capital credit. So, appreciate your efforts there.

Mr. Secretary, as you know, I am currently working on a CFIUS reform bill with Senator Cornyn. We have hoped to introduce it sometime this fall.

One of our primary goals is recognizing the alarming transfer of our new and emerging military applicable technologies that have gone from the United States to the Chinese. And we want to see greater oversight with that. Chinese investments here in the United States have grown by 350 percent from 2015 to 2016, and we believe that CFIUS of course needs greater teeth and greater reforms.

The Defense Department has spoken out on this, that our military technological superiority is at risk due to this well-coordinated effort by the Chinese. And a number of officials have spoken out, including the secretary of Defense, the director of National Intelligence, director of the CIA, the director of the NSA, commander

of the U.S. Cyber Command, and the chairman of the Joint Chiefs of Staff.

I would like to have your clarity on this issue and understanding and really what you believe is necessary in reference to an update in reforms of CFIUS.

Secretary MNUCHIN. Well thank you, and as you know I take my role very seriously there and I look forward to working with you and others again. I hope this is something we can definitely do on a bipartisan basis. There are some obvious changes we need to make to CFIUS. One of which is CFIUS doesn't cover joint ventures. But as we have had the opportunity to talk about, and we look forward to working with you and others—there is a laundry list of changes that we look forward to making with you.

Mr. PITTENGER. Thank you, sir. Reference to terrorism finance—which I do serve on that committee—I have some real concerns today regarding Qatar—I have had several meetings with the Emir and with the Ambassador regarding concerns that I have. I have yet to receive any reports of anyone that they prosecuted for terrorism finance related issues.

They have certainly been involved in financiers, who reside there and work there. Hamas works there with impunity—they have been known to pay significant amounts of ransoms out on the market. And even the Emir said to be that in his efforts depose Assad, that he worked very closely and supportive with al Qaida. In that regard he said, I will take care of al Qaida later. I would really like to get your input regarding—the concerns relative to—Qatar. Have they been complicit, and what is the best way to work with them?

Secretary MNUCHIN. So—we have worked very closely with them. I can tell you that they are cooperating with us and that they take this very seriously. They most recently signed a memorandum of understanding and making certain commitments, and we are committed to working with them and making sure that there is not terrorist financing.

Mr. PITTENGER. Yes sir, I appreciate your diligence on that. This now I would like to ask you—one other matter that I am giving a significant amount of effort to and that is relative to the section 314 of the Patriot Act. I would like to know your assessment of the current process.

We have had a number of meetings with the major banks relative to the transfer of data, the sharing of data, between financial institutions, and with our government, and regarding the SAR's reports, and what can be done to enable the financial institutions to have closer access to data that allow from the government—that allow them to really hone in on those—concerns we really have—apart from looking at the broad spectrum of SAR's reports—this it seems to me would directly help our concerns regarding privacy and matters for American people and the data the financial institutions have on them. So, I would like to get your perspective on this particular bill and what can be done.

Secretary MNUCHIN. Well we look forward to working with you on the bill. I will tell you when I was a banker and we filed SARs we always thought they just went into a big black hole. And wondered if anything actually happened with them, and I can assure you the first thing I did when I got here, is I asked that question.

And we do use the SAR's very effectively, but we look forward to working with you.

Chairman HENSARLING. Time, the time of the gentlemen has expired. The chair recognizes now the gentlemen from Illinois, Mr. Foster.

Mr. FOSTER. Thank you, Secretary Mnuchin for coming here today. I would like to focus on one of the sparse areas of potential bipartisan agreement—namely the need for forceful and effective national response to any future currency manipulation by our trading partners.

As a manufacturing businessman and someone who has co-founded in our basement a company that now manufactures most of the theater lighting equipment in the U.S. and exports a good fraction of what it manufactures, I have been long concerned about the currency manipulation by foreign nations that creates an unlevel playing field favoring their domestic manufacturers.

As you are aware, Treasury has been charged by Congress with making periodic reports on currency manipulation. To that end, Treasury has developed an objective, quantitative three part test which I strongly support and believe was done very well. In your most recent report, I believe you correctly concluded that six countries, including China, should be put on the watch list for violating two out of the three criteria but that, at present, no country satisfies all three criteria.

The difficulty, of course, is that if in the future any country is designated a currency manipulator the only mandatory response could be charitably described as toothless jawboning.

There is an alternative, which is for the United States to unilaterally declare, as a matter of national policy, that whenever any country is designated a currency manipulator we would engage in countervailing currency manipulation.

Simply put, if one of our trading partners intervened in currency markets to depress the value of their currency for competitive advantage, the U.S. would engage in an equal and opposite currency intervention to cancel this effect.

Dr. Fred Bergsten of the Peterson Institute has long advocated for the countervailing currency intervention approach as a response to foreign manipulation.

He recently published a book on this with Dr. Joseph Gagnon with very specific proposals for this. And, while there is some authority under current law to respond in this manner against a designated currency manipulator it could obviously be strengthened with legislation.

So, my question is, what specific actions are you considering against possible future currency manipulation if it occurs and would you be open to considering countervailing currency intervention or other approaches in a response?

Secretary MNUCHIN. Well, thank you, and we look forward to working with you on this, and I can tell you we have recently studied this internally as it relates to NAFTA where we are going to be going through a renegotiation process, this is one of the issues we are going to look at adding into the agreement, and I think this sounds like—

Mr. FOSTER. Excuse me, but in the case of NAFTA I believe—you know, in North America currency intervention, manipulation has not been a major issue.

Secretary MNUCHIN. I understand that, I am just saying it has only come up because of the legislation and us looking at what we use going forward in trade agreements. So we are focused, I do agree with you. If someone is a currency manipulator and labeled and determined as such, there should be an impact of what that means and not just talk.

The idea that you have cited may be one of many. I surely wouldn't want to be required to have to do that because the countervailing size and scale may be quite large. But we do need to have an impact. If someone does manipulate their currency and impacts American companies and American workers, there needs to be an impact and a result.

Mr. FOSTER. Yes, well the advantage of an equal and opposite intervention, if they go intervene in the market and buy x dollars—we intervene and buy x dollars of their currency. And so, equal and opposite is a well defined and appropriate response to nullify this.

Second, I would like to ask you what your reaction is to the idea of a permanent—permanently repealing the debt limit? You know, there was a very interesting Wall Street Journal editorial by a very prominent—Jason Fuhrman and Rohit Kumar, very prominent members of both parties advocating for this.

Among other points they made was that Democrats are currently using the debt limit as leverage to increase spending, which is not normally something Republicans would be enthusiastic about. So I was wondering what your reaction would be and what the reaction of the administration would be to the idea of just saying, let's have an appropriate budget process instead of arguing about whether or not we should pay for our meal after we have eaten it?

Secretary MNUCHIN. Well, I think we have got to look at this and I agree that there should be a change going forward. We are obviously not going to address this now but we have a debt limit, we have a budget process and we have an appropriations process. I am all for—there should be very strict controls of spending money. But once we have agreed to spend the money, we should make sure that the government can pay for it.

Mr. FOSTER. Right, so the idea of the debt limit as a mechanism is not something you are enthusiastic about?

Secretary MNUCHIN. I am not.

Mr. FOSTER. All right. Thank you. Well I look forward to working with you on this.

Secretary MNUCHIN. Thank you.

Chairman HENSARLING. Time of the gentleman has expired. The chair wishes to advise all members that the chair currently anticipates clearing four more members before excusing the witness at the agreed upon departure time at one o'clock. I anticipate clearing Mr. Rothfus, Mr. Delaney, Mr. Tipton and Mr. Heck at this time.

The gentleman from Pennsylvania, Mr. Rothfus, is recognized for 5 minutes.

Mr. ROTHFUS. Thank you Mr. Chairman. Secretary Mnuchin what—over here—here you go.

One of my priorities is to make certain that the regulations that banking agencies implement are tailored to the risks that they address. An area of particular concern is the regulatory treatment of custody banks and I want to join my colleague from Illinois, Mr. Hultgren, in highlighting this issue.

I applaud the conclusion of the Treasury report that calls for exempting cash deposits at central banks from the denominator of the supplementary leveraged ratio or SLR. As you know, this is particularly important for custody banks, due to their role as a safe haven for cash in times of financial market stress. My concern is that the unique aspects of the custody banking sector have not been fully considered in previous rulemakings, particularly as it relates to the SLR.

In addition to the treasury report, Chair Yellen, Governor Powell, and Former Governor Tarullo have all recognized that the SLR disproportionately affects custody banks and should be revised but, so far, no action has been taken.

I have introduced a bill, H.R. 2121, the Pension Endowment and Mutual Fund Access to Banking Act which has 14 bipartisan cosponsors, many of whom who serve on this committee, to address the issue.

I say all this to emphasize the broad based chorus out there to address this issue, and I ask that you keep the committee informed of progress.

Can you say whether we can expect action prior to the upcoming January 1, 2018 effective date for the SLR?

Secretary MNUCHIN. I can't commit whether there will be action or not but I can tell you it is something we are very focused on, and I agree with you, particularly as it relates to custody banks but the thought that banks could turn away cash in a financial crisis doesn't seem to make sense.

Mr. ROTHFUS. Thank you. As you are aware, a number of us on this committee have expressed concerns about the U.S./E.U.-covered agreement which Chairman Duffy mentioned earlier in the process for negotiating future covered agreements.

Covered agreements can be a useful mechanism for achieving mutual equivalency with foreign jurisdictions but we need to make sure that we accommodate elements of the U.S. insurance system that help to foster a robust insurance marketplace, namely the State-based system of regulation.

What are some ways that covered agreement negotiations can be improved and made more transparent?

Secretary MNUCHIN. So, again, we spent a lot of time looking at the cover agreement. We did negotiate a side letter which we are comfortable with and is going to be adhered to and we look forward to working with you further on these issues.

Mr. ROTHFUS. We have heard, in a number of hearings and meeting with bankers—I want to touch on the SAR—the SARs that you mentioned—and we have heard that term black hole before. With respect to SAR filing requirements, that they are more often focused on checking boxes rather than providing useful targeted data to FinCEN and law enforcement. They also worry that they ultimately drown out the signal with too much noise. Should the SAR

process be reformed to make compliance easier and increase the value of information conveyed in reports?

Secretary MNUCHIN. Well, I think it should be looked at. I mean I don't know whether it should be reformed or it shouldn't be, but it should be looked at. And again, I can assure you as you know it is very useful getting these reports, but it is one of the things that we will continue to look at.

Mr. ROTHFUS. Thank you. My colleague Representative Moore of Wisconsin and I have introduced bipartisan legislation that would fix the unintended consequences of an SEC rule that went into effect last October that destroyed stable value money market funds as a source of low-cost variable-rate borrowing for businesses and State and local governments.

The effect has been to limit investment options, reduce short-term liquidity, and significantly increase the cost of business and infrastructure investment. Our bill, H.R. 2319, would restore stable funds—stable value funds, reversing many of these negative effects.

I think this is very much in keeping with the President's executive order on core principles for regulating the financial system. It would empower Americans to make independent financial decisions, prevent taxpayer-funded bailouts, promote American competitiveness both at home and abroad, and make regulation efficient, effective, and appropriately tailored.

I understand that the treasury department will be issuing additional reports on the executive order to the President and the Congress in the coming months; I would ask that you give appropriate consideration to our proposal as part of those efforts.

Secretary MNUCHIN. Will do.

Mr. ROTHFUS. Thank you. With that, I yield to the chairman if he has any—

Chairman HENSARLING. I thank the gentleman for yielding. Some ground that Mr. Secretary, I don't think we have plowed yet, the treasury report recommends the frequency of section 165, resolution plan submissions to 2-year cycles. I think that both Federal Reserve Governor Powell and FDIC Chair Gruenberg have testified they supported it, or are at least considering a 2-year cycle. I think this is again, something that can be accomplished administratively. Is that something that you anticipate?

Secretary MNUCHIN. It is something we are working on and something we think makes sense.

Chairman HENSARLING. Well I am glad to hear that, and it certainly makes sense to a lot of us on this committee, and I would encourage you to do that, Mr. Secretary.

Time of the gentleman has now expired; the chair now recognizes the gentleman from Maryland, Mr. Delaney.

Mr. DELANEY. Thank you, Mr. Secretary. I want to go back to tax reform for minute. Obviously you are working hard I am sure, on comprehensive tax reform which will involve adjusting rates, adjusting deductions, hopefully doing it in a way that is pro-growth, more simple, and doesn't affect negatively the long-term trajectory of the country.

Let's assume for the purposes of my question that you are ultimately not successful in getting that done, which I know you won't

want to acknowledge today, but for purposes of my assumption, let's assume you are not. Would you then consider an approach whereby you pursued international-only tax reform and paired that with the kind of long promised infrastructure program?

Because that approach, which I quite frankly think would in many ways be more beneficial to the U.S. economy than just tax reform by itself without any infrastructure, but that approach has had very significant bipartisan support in the Congress. At least 40 members on each side of the aisle have supported a specific proposal on—I won't ask you on the specific proposal—to do that, but it involves changing the international tax system, eliminating deferral, lowering the rates so that it is more competitive on a go forward basis; also lowering the rates on all the cash that is over there now and creating a way for that to repatriate back to the country.

And as most people know, and I am sure you do, that approach would generate revenues for the treasury, for your department and what we propose to do is allocate that to pay for large-scale infrastructure program. So assuming your comprehensive tax reform is ultimately not successful for any of the hundred reasons people think it may not be successful—and we all hope it is by the way. Because God knows we need to do something on a bipartisan basis. But if it is not would you consider that approach as kind of your plan B?

Secretary MNUCHIN. I wouldn't—I mean I think that infrastructure is very important and I think we are already working on infrastructure and the ideas to come out with an infrastructure plan shortly. I think as you know the President is very focused on a trillion dollars of infrastructure spending between the Federal Government and the States.

But my own opinion is putting things together only makes the issues more complicated, but in any event, we look forward to working with you on tax reform and infrastructure.

Mr. DELANEY. So how are you thinking about paying for infrastructure in the plan that you are working on?

Secretary MNUCHIN. Again, we have allocated infrastructure spending in the President's budget as it is. I mean, at the end of the day—all these things have to balance, you can move the money around but we have to look at the cost of it in its entirety.

Mr. DELANEY. But if you do it sequentially—which is what you are proposing—and tax reform—lets assume now—switching to a hypothetical—let's assume tax reform is completed. It is successful—

Secretary MNUCHIN. Thank you. I like that assumption.

Mr. DELANEY. Are you envisioning setting aside money, to pay for infrastructure spending as part of that tax reform?

Secretary MNUCHIN. Well it is—

Mr. DELANEY. But I guess my question is, how do you propose to pay for it, if you don't do it as part of tax reform?

Secretary MNUCHIN. Well again, if we can get the economy to 3 percent growth—there is an additional 2 trillion dollars of revenues. And that pays for a lot of things, so—

Mr. DELANEY. Right, but we won't know obviously—let's assume tax reform were to get done. Are you proposing to wait 5, 6, 7 years to see that 3 percent growth before you do infrastructure?

Secretary MNUCHIN. No, not at all. I don't think it will take 3—I don't think it will take 5 years, and I think—we should pass infrastructure spending, which will be spent over time.

Mr. DELANEY. So, when do you envision passing infrastructure spending?

Secretary MNUCHIN. I hope that is something that we consider later this year.

Mr. DELANEY. So, if your tax reform gets done and then you tee-up infrastructure spending, and you have a proposal in the Congress at the end of this year, how do you propose in that specific proposal for infrastructure to pay for it—assuming that Congress is not supportive of—approving unpaid for spending. How would you propose to do that?

Secretary MNUCHIN. I think it has to be paid for through growth that people buy into.

Mr. DELANEY. But growth doesn't work in the models we run here, right? We pay as we go.

Secretary MNUCHIN. Yes it does. The joint taxes uses growths in their assumptions.

Mr. DELANEY. Do they use growth for spending programs, or just tax reforming the way it is used—the current rule in the house is just tax reform—

Secretary MNUCHIN. Correct.

Mr. DELANEY. So then assuming you are operating under the current rules of the house which is what we operate—how would you pay for it, because you can't use growth.

Secretary MNUCHIN. Well, at the end of day you have to look at all these things in the context of the overall budget, I guess that is the answer.

Mr. DELANEY. So if tax reform failed and there was bipartisan support in the Congress to do international tax and infrastructure—you would not support that?

Secretary MNUCHIN. I—again I am not making hypothetical's, again, I am happy to work with Congress and everything else. Again, I am hopeful we get tax reform and infrastructure both done. They are both incredibly important to the economy.

Mr. DELANEY. It just feels like with your approach, you are not going to have any money left for infrastructure. But I yield back.

Secretary MNUCHIN. Thank you.

Chairman HENSARLING. The time with has gentlemen is expired, the chair now recognizes the gentlemen from Colorado, Mr. Tipton.

Mr. TIPTON. Thank you Mr. Chairman, thank you secretary for taking the time to be able to be here. I represent rural Colorado. And one of the issues that we are really seeing in our State is a tale of two economies.

Where our metropolitan areas are doing reasonably well—some of our resort areas—but as we move out into the rural areas, we are not seeing the recovery happening. And one of the challenges that we are hearing from our community banks, throughout the West slope of Colorado over to Pueblo, Colorado—is the ability to be able to make loans.

And one of the concerns that we have had expressed, and was actually addressed in the Treasury report when we were looking at the objectives, in terms of making sure that the interests of the United States are not undercut by outsourcing or regulatory requirements to the global community. Could you maybe speak a little bit in terms of what you are looking at for the community banks, when we were looking at some capital regimes for community banks, in regards to say, Basel III?

How to be able to address that so our local banks can make those loans?

Secretary MNUCHIN. Yes—I don't—I am not concerned that community banks are going to be limited by Basel III. I mean, obviously Basel III hasn't passed, and we are generally supportive of reaching resolutions. And a lot of Basel III is about bringing European capital standards closer to ours, so that, there is a level playing field between international banks and ours.

But, I am—I am not overly concerned about the impact of that on community banks. I am more focused on our own regulatory issues.

Mr. TIPTON. Great. And when we are talking about those regulatory issues, in our concerns, we just like that some of the outcomes, in rural Colorado, we are a good example of this. The lowest labor participation rate in decades. More small businesses that are shutting down than new business startups.

And we have had testimony that has come in regularly, in regards to where banks are not able to make loans that they would like to be able to make.

Secretary MNUCHIN. That is true.

Mr. TIPTON. What do you see as a solution to that?

Secretary MNUCHIN. Again, I firmly believe in proper regulation, but in many cases, particularly for community and regional banks, we have over-regulation, and we are addressing that.

Mr. TIPTON. And I think that is going to be important. We had the opportunity to have Chair Yellen in, as well. And I am glad to see the focus coming out of the FSOC for those community banks. Simply because we have heard about the trickle down effect, the best practices, and how that is impacting those local communities and their ability to actually be able to make those loans, and to be able to get the economy moving at the local level.

Would you maybe speak a little bit—we have had several questions in regards to BSA, AML, SARS reports that are going on. Do you see those needing to be tailored, as well, for small community banks?

Secretary MNUCHIN. You know, again, I think the BSA AML process should be reviewed. But whatever we ultimately do, I think it should be the same standards on small banks as big banks, because if people are money laundering, whether they are going through a small bank or a big bank, there should be the same standards.

Mr. TIPTON. Thank you, sir. And I would like to be able to yield a little bit of my time to my colleague, Mr. Williams, out of Texas.

Mr. WILLIAMS. Thank you, Congressman. And I will just be brief. I am a small business owner from Texas, been in business 45 years, family business for almost 80 years. Tax reform is a big deal

to me, we have got to get our tax rates down. And I just want to say this, when I came to Congress, I heard terms I have never heard of before.

One was revenue neutral, never heard that in the private sector. Pay fors, I never heard of in the private sector. I think that a lot of people are not believing in Main Street America enough. Main Street America is just ready to have a huge impact on this economy, if they can get regulations and burdens off of them.

And I would just reinforce a lot of what you said, is that the economic growth that will happen with true tax reform, some of the things we have all been talking about, I think, is going to be unbelievable, and that is going to be your pay for. And I just want to reiterate the fact that I appreciate the path that you are on, and not be confused with terms that are not ever used in the private sector, that nobody had ever heard of until they got to Washington.

So, I thank you for your service, and I appreciate you being here today, and I yield back.

Secretary MNUCHIN. Thank you back.

Mr. TIPTON. Thank you, Mr. Chairman. Unless you have an additional question, I yield back.

Chairman HENSARLING. Quickly—Mr. Secretary, in the Treasury report, you indicated that the CFPB is the source of—has an unaccountable structure, unduly broad regulatory powers that have led to predictable regulatory abuses. Are there any changes that you foresee in the bureau that could happen without congressional approval at this time?

Secretary MNUCHIN. I think that is mostly going to require congressional approval.

Chairman HENSARLING. Time of the gentleman has just expired. The chair now recognizes the gentleman from Washington, Mr. Heck, for 5 minutes.

Mr. HECK. Thank you, Mr. Chairman. Mr. Secretary, thanks for being here. My colleague from North Carolina, Mr. Pittenger, mentioned the Committee on Foreign Investment in the U.S., CFIUS as we call it. I have also read the Department of Defense report that he alluded to, which discusses how our strategic competitors are seeking to access critical resources in technology. And with the chair's permission, I would like to enter it into the record, if I may?

Chairman HENSARLING. Without objection.

Mr. HECK. As is common with government reports, Mr. Secretary, the authors evaluate a no-action alternative, or what happens if we do nothing, but they note the cost of doing nothing is extraordinarily high—citing estimates of $300 billion in intellectual property stolen every year and $300 billion in sales to U.S. companies lost as a result of IP theft, economic activity that could have supported approximately 2.1 million jobs every single year.

So, Mr. Secretary, here are my questions. Do you think we can afford to do nothing?

Secretary MNUCHIN. No.

Mr. HECK. Will you, and your staff, commit to work with Congressman Pittenger and myself, and other Members of Congress who share an interest in this issue, to act on the recommendations of the DOD report?

Secretary MNUCHIN. Yes.

Mr. HECK. Do you agree with us and our strongly held belief that this issue is pressing?

Secretary MNUCHIN. Yes.

Mr. HECK. I understand that there have already been some proposals shared between our staffs and yours. If we keep at this through the recess, do you believe that we can have a bill ready that you can support before Congress comes back in September?

Secretary MNUCHIN. That sounds aggressive by congressional time, so I want to be careful not to go out on a limb on that, but we will be fully available, we are not going away.

Mr. HECK. It is not a question of Congress being aggressive, it is a question of the Department of Treasury being aggressive—

Secretary MNUCHIN. We are happy to work with you and others, we have given our views on various proposals.

Mr. HECK. Thank you, sir. Last, I would like to associate myself with the remarks of my friend from Colorado, Mr. Perlmutter, with respect to the regulatory framework for access to banking services in States that have legally allowed marijuana consumption. My State is also one of those. And if there is anything that you take away from today's hearing, I hope you will write this down—this name, down thank you, sir.

Secretary MNUCHIN. Let me get a pen.

Mr. HECK. Travis Mason. Mr. Secretary, Travis Mason was a 23 year old Marine veteran, served his country honorably. He was a husband and a father of three small children, set of twins in there. He was studying to be a law enforcment officer and helping pay his way through that, by acting as a security guard at a marijuana retail establishment in Colorado.

Criminals entered the establishment, understandably concluding that it was all cash because of our broken regulatory framework, and Travis Mason lost his life that day and left his wife a widow, and his three children without a father. That is on us, there was no need for that.

The regulatory framework has failed. This is first and foremost a public safety issue and Travis Mason is exhibit A in that regard. We are not going to turn back the clock, despite what some people may be saying. Despite what trial balloons some people are floating with respect to the legalization of marijuana. First medical use, then adult recreational use, also the use of oils for other kinds of medical ailments. It has been an unrelenting march forward, from the standpoint of the liberalization of laws. We are not going back. What we need is your help, sir, to make sure that there isn't another Travis Mason.

The Cole memorandum, first from DOJ, and the FinCEN parallel memorandum, sets forth critical fundamental principles here, that we proceed, if and only if, we do not provide access to minors, and that we do not allow cash to get into the hands of gangs and cartels, and then several other conditions, but those first and foremost.

That is what we do in States—like mine, Washington State, where we have a well-regulated marijuana market. It is the safest thing to do, to enable those businesses where now hundreds of millions—hundreds of millions of dollars, in my State alone, have been invested in these businesses. We need your help, sir. We ask for

your help. Travis Mason. With that I yield back my time, Mr. Chair.

Chairman HENSARLING. Gentleman yields back. I wish to thank the Secretary for his testimony today. Without objection, all members will have 5 legislative days, within which to submit additional written questions for the witness to the chair, which will be forwarded to the witness for his response. I ask that our witness would please respond as promptly as you are able.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

This hearing stands adjourned.

[Whereupon, at 1:02 p.m., the committee was adjourned.]

A P P E N D I X

July 27, 2017

Embargoed Until Delivery

Statement of
Steven T. Mnuchin
Secretary
United States Department of the Treasury
before the
Financial Services Committee
United States House of Representatives
July 27, 2017

Chairman Hensarling, Ranking Member Waters, and members of the Committee, I am pleased to be here today and I look forward to discussing important issues to the American people.

I would like to begin by addressing Treasury's National Advisory Committee (NAC) report. Treasury uses its leadership role in international financial institutions to help ensure that they are carrying out their core mandates effectively and efficiently. As the federal government is streamlining, Treasury is focused on keeping the international financial institutions as cost-effective as possible. We have pressed the IMF to increase its focus on the need to address global economic imbalances. This will help to improve prospects for U.S. jobs and exports, while holding the IMF's administrative budget largely flat in real terms. In addition, U.S.-supported reforms to how the multilateral development banks employ their balance sheets have made it possible for us to substantially increase the assistance that they can provide to the world's poorest countries while reducing U.S. budgetary contributions.

Where it makes sense, we will preserve these investments and remain a top donor and shareholder, while also balancing priorities across other parts of the government. In doing so, we will continue to promote access to economic opportunities to eliminate poverty and build shared prosperity. When the world is prosperous and stable, Americans reap the benefits.

I would now like to highlight our domestic reform agenda.

Let me begin by congratulating this Committee on its passage of the CHOICE Act. The Administration supported House passage of this legislation and we will work with Congress to reform the financial regulatory system.

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Years have passed since the financial crisis and this has given us time to see what has worked and what has not. The Administration is committed to a robust financial system with a free flow of credit that fuels the engine of American growth. This means allowing community financial institutions to lend and small businesses access to borrowing. It means giving Americans the opportunity to make independent financial decisions, such as buying a home and saving for retirement. This also means preventing taxpayer bailouts.

In February, the President issued an Executive Order that directed the Department of the Treasury to report on whether financial regulations were in line with important Core Financial Principles.

In June, Treasury released the first in a series of reports in response to this Executive Order. Our first report dealt with Banks and Credit Unions. The Treasury report provides a roadmap to better align the financial system to serve consumers and businesses to drive economic growth. While the report focused heavily on regulatory actions that can be taken by the Executive Branch, it also included a number of legislative recommendations to more appropriately align the laws governing depository institutions with the President's Core Financial Principles.

One of these is properly tailoring capital requirements for small, mid-sized, and regional banks that pose little or no risk to the financial system. Included in this is the endorsement of a regulatory "off-ramp" for highly capitalized institutions. Another recommendation is structural reform to provide a mechanism to identify a single, lead regulator to ensure there is not unneeded regulatory overlap or duplicated efforts. A third is a legislative remedy to the overly complex Volcker Rule. A fourth is statutory changes to make the Consumer Financial Protection Bureau more accountable. Working together, we can implement both regulatory reforms and legislative remedies, particularly for the benefit of community banks and mid-sized institutions.

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Housing finance reform is also a priority of the Treasury and the Administration. The current system – in which the GSEs remain in perpetual Federal Housing Finance Agency (FHFA) conservatorship – is not sustainable and leaves taxpayers at risk. Our housing finance policy should be clear and should be designed to provide financing for homeowners and owners of multi-family units. Additionally, such policy should increase private sector participation and protect taxpayers. The Administration continues to study this issue and engage with stakeholders inside and outside the government in advance of providing recommendations.

The other central component to our agenda for growth is the passage of comprehensive tax reform. We have gone too long without addressing our tax system. Our business rate is one of the highest and most complicated in the world. It makes our businesses less competitive and we are committed to changing that. Lowering the rate and bringing back the trillions of dollars that are sitting overseas will allow businesses to invest in this country, spurring economic growth.

On the personal side, the Administration is focused on a significant middle income tax cut. This will put more money back in the hands of hardworking Americans. We will do this all while simplifying the Code and getting rid of loopholes and special interest deductions.

Another important component of a strong and robust international financial system is stopping bad actors and those who finance them. I would like to acknowledge this Committee's efforts to combat terrorism and illicit finance with the creation of its newest subcommittee. As our enemies change, so too must our weapons to combat them. Stopping the flow of funds is one more tool in our arsenal to disrupt the capabilities of those who would do this country harm. Our office of Terrorism and Financial Intelligence is ready to work with this committee's Terrorism and Illicit Finance subcommittee, and I am personally looking forward to working with Chairman Pearce and Ranking Member Perlmutter on these critical issues.

We have a chance to create historic opportunities for the American people. We at Treasury will continue to work hard to make economic growth and prosperity a reality for all Americans.

The Columbus Dispatch

Trump treasury pick Mnuchin misled Senate on foreclosures, Ohio cases show

Sunday
Posted Jan 29, 2017 at 5:33 AM
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By **Alan Johnson**
The Columbus Dispatch
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President Donald Trump's nominee for U.S. treasury secretary was untruthful with the Senate during the confirmation process, documents uncovered by The Dispatch show.

Steve Mnuchin, former chairman and chief executive officer of OneWest Bank, known for its aggressive foreclosure practices, flatly denied in testimony before the Senate Finance Committee that OneWest used "robo-signing" on mortgage documents.

But records show the bank utilized the questionable practice in Ohio.

"The guy is just lying. There's no other way to say it," said Bill Faith, executive director of the Coalition on Homelessness and Housing in Ohio.

The revelation comes with the committee's vote on whether to confirm Mnuchin's nomination, currently scheduled for Monday night.

Barney Keller of Jamestown Associates, who represents Mnuchin, was asked to comment for this story but did not respond before deadline. Jamestown Associates is a Washington political consulting and advertising firm that represented Trump in his campaign.

"Robo-signing" is the informal term for when a mortgage company employee signs hundreds of foreclosures, swearing they have scrutinized the documents as required by law when in fact they have not.

"OneWest Bank did not 'robo-sign' documents," Mnuchin wrote in response to questions from individual senators, "and as the only bank to successfully complete the Independent Foreclosure Review required by federal banking regulators to investigate allegations of 'robo-signing,' I am proud of our institution's extremely low error rate."

But a Dispatch analysis of nearly four dozen foreclosure cases filed by OneWest in Franklin County in 2010 alone shows that the company frequently used robo-signers. The vast majority of the Columbus-area cases were signed by 11 different people in Travis County, Texas. Those employees called themselves vice presidents, assistant vice presidents, managers and assistant secretaries. In three local cases, a judge dismissed OneWest foreclosure proceedings specifically based on inaccurate robo-signings.

The Dispatch found more than 1,900 OneWest foreclosures in the state's six largest counties from 2009 to 2015.

Carla Duncan, a social worker from Cleveland Heights, was snared by OneWest's robo-signing machinery.

On her way out of town for a short trip in 2010, Duncan stopped by her home to get her mail and found a note from a field inspector for her mortgage company saying that her house was vacant and was going to be boarded up.

"It wasn't vacant. I was living there," Duncan said. "There were curtains on the windows. The radio was playing and the dog was there."

What Duncan didn't know at the time was that OneWest had begun foreclosure proceedings on her three-bedroom home even though she was up-to-date on her payments. OneWest refused to accept a loan modification approved by a

previous lender that had been purchased by OneWest, and it wanted to substantially increase Duncan's interest rate and monthly payment and add late fees. The company also put a lock box on a separate rental property she owned in Cleveland.

After hiring former Ohio Attorney General Marc Dann, waging a five-year court battle and filing personal bankruptcy, Duncan was finally able to get the foreclosures dismissed and keep her home and rental property. She said the experience was devastating.

"It's almost like being raped, like being emotionally violated," Duncan said. "It got to the point that I was afraid to open my own door."

Court records show that Duncan's mortgage was robo-signed by Erica Johnson-Seck, vice president of OneWest's department of bankruptcy and foreclosures. From her office in Austin, Texas, Johnson-Seck robo-signed an average of 750 foreclosure documents a week, according to a sworn deposition she gave in a Florida case in July 2009.

Under oath, Johnson-Seck acknowledged that she did not read the documents she was signing, taking only about 30 seconds to sign her name. To speed up the process, Johnson-Seck said she shortened her first name on her signature to just an "E." She said in the deposition that OneWest's practice was to review just 10 percent of the foreclosure documents for accuracy.

Dann, who now specializes in representing clients who have problems with banks and other lenders after he was forced to resign as attorney general nearly 10 years ago, said Mnuchin's businesses were a "major offender" in problem mortgages. Dann said Mnuchin's firms were known for dual tracking (pursuing foreclosures simultaneously as they allegedly worked with homeowners), fabricating documents and other tactics "that caused unbelievable devastation in people's lives."

In 2010, federal laws were changed, enabling borrowers victimized by lenders to sue them. Dann said he worries that Mnuchin, as treasury secretary, would quietly work to repeal reforms, collectively known as the Dodd-Frank Wall Street Reform and Consumer Protection Act.

That appears to be the case.

"It has been over six years since the passage of Dodd-Frank and it seems like an appropriate time to review all of the regulations from Dodd-Frank to understand their impact on the market, investors, small businesses and economic growth," Mnuchin said in a written answer to the Senate.

U.S. Sen. Sherrod Brown, D-Ohio, grilled Mnuchin at his recent hearing and in follow-up written questions.

"Mnuchin profited off of kicking people out of their homes and then gave false testimony about his bank's abusive practices," Brown told The Dispatch. "He cannot be trusted to make decisions about policies as personal to working Ohioans as their taxes and retirement."

Faith, the homelessness coalition director, said foreclosure practices by Mnuchin's companies and others like them "created havoc."

"People were bamboozled into signing these mortgages," Faith said. "We watched this train wreck happen. It's been devastating, not only to the people who got caught in this kind of scheme, but also to people who happened to live in the neighborhood. ... It's scary that he's going to be treasury secretary."

The Dispatch analysis showed thousands of Ohio homeowners - including 245 in Franklin County - found themselves in OneWest's crosshairs when they defaulted on their loans, the majority of them with high interest rates. Many mortgages had terms that housing and financial experts view as predatory: prepayment penalties, interest-only loans and no-money-down loans.

In addition to OneWest, which was born in 2009 from the collapse of subprime mortgage giant IndyMac, Mnuchin's banking group also acquired Financial Freedom, a subsidiary of Lehman Brothers that went bankrupt because of its toxic mortgage portfolio. The firm specialized in loans to senior citizens cashing in on their homes' equity.

Mnuchin was labeled by critics at the time as the "Foreclosure King."

Of the nearly four dozen foreclosure cases filed by OneWest in Franklin County in 2010 that were analyzed by The Dispatch, a quarter were filed within three years of the homeowner taking out the loan, typically a red flag that there was a problem with the mortgage terms and/or vetting the borrowers.

Thirteen of the borrowers had double-digit interest rates, ranging from 10 percent to 17.31 percent, largely because of adjustable-rate mortgage terms.

In the cases in which the houses were sold at an auction, two-thirds ended up in the hands of the federal government, which had backed those loans. Collectively, more than $4 million was due on those loans.

Only seven borrowers were able to get a loan modification, even though former President Barack Obama's administration had been pushing since 2009 for lenders to help Americans keep their homes by lowering interest rates and, in some cases, the principal balance.

Mnuchin does have supporters, including the American Bankers Association, which sent a letter to the Senate committee saying Mnuchin's "public statements as well as his career in finance bring us optimism with regard to the outlook for public policies focused on growth and prosperity."

Grover Norquist, head of Americans for Tax Reform, released a statement supporting Mnuchin's nomination, in part because of his stated intention to roll back some of the Dodd-Frank legislation: "Mr. Mnuchin has made it clear that reforming the Dodd-Frank Act will be his 'number one priority on the regulatory side' once he becomes secretary of the treasury."

Here's Why Treasury Nominee Steve Mnuchin Has Been Called the 'Foreclosure King'

By Brad Tuttle, TIME Jan 19, 2017

Steve Mnuchin, Donald Trump's pick for Treasury Secretary, is testifying in a Senate confirmation hearing on Thursday. The banker, Hollywood producer, and former Goldman Sachs partner is expected to be grilled on a wide range of topics.

But one subject that's bound to come up is particularly likely to resonate with everyday Americans: How many people lost their homes unfairly due to Mnuchin's actions when he was CEO of a bank known as a "Foreclosure Machine"?

In late 2008, while the global economy was collapsing, Mnuchin and some partners purchased the failing bank IndyMac and turned it into OneWest, which grew into the largest bank in Southern California. OneWest developed a reputation as a "Foreclosure Machine," and Mnuchin himself has been dubbed the "Foreclosure King."

Earlier this month, a 2013 memo from the California attorney general's office was leaked indicating that OneWest allegedly engaged in "widespread misconduct" to boost foreclosures, including the backdating of mortgage documents. In light of the memo, the nonprofit watchdog Campaign for Accountability called on the Department of Justice to investigate OneWest for "using potentially illegal tactics to foreclose on as many as 80,000 California homes."

Millions of foreclosures took place in the aftermath of the Great Recession, but critics say that OneWest stood out compared to other lenders with aggressive tactics and a particularly high foreclosure rate. A ProPublica report released after Mnuchin was nominated to lead the Treasury said that OneWest "was responsible for 16,200 foreclosures on government-backed reverse mortgages, or 39 percent of all foreclosures nationwide, from 2009 through late 2014, even though it only serviced about 17 percent of the loans."

"Foreclosures happen in an economic crisis. But OneWest was different. It quickly gained a reputation as a foreclosure machine," Sen. Elizabeth Warren (D-Mass.) said during a recent Senate forum. "Even when compared to the other financial institutions that aggressively and illegally tossed families out of the houses, OneWest was notorious for its belligerence and for its cruelty."

The Wall Street Journal noted that OneWest Bank started foreclosure proceedings on some 137,000 homes nationwide between early 2009 and the middle of 2015, but pointed out that OneWest accounted for only 1.8% of all foreclosure starts during that period. What's more, data shows that foreclosures were spiking at subprime giant IndyMac even before Mnuchin and his partners bought the bank, and that a large percentage of the mortgages they acquired were hopeless.

Even so, there is evidence that OneWest preferred simple foreclosures rather than modifying loans to help people keep their homes, again per the Journal:

In a 2011 letter to the FDIC, other regulators and lawmakers, people who said they worked at OneWest claimed it "actually makes more money by foreclosing than they would if they allow loan modification." The letter said OneWest's loan-modification staff "routinely shreds loan modification applications" and lies to homeowners when they call OneWest.

Mnuchin's would-be boss, Donald Trump, also has a history of welcoming foreclosures and real estate market collapses. During the presidential campaign, a segment from a 2006 audiobook from Trump University came to light in which Trump said, "I sort of hope" there's a real estate crash because "if there is a bubble burst, as they call it, you know you can make a lot of money." (Trump University, a for-profit real estate education venture widely decried as a scam, went out of business and was sued by former students and the New York Attorney General. Soon after winning the election, Trump agreed to pay a $25 million settlement.)

In prepared remarks read at the Senate Finance hearing on Thursday, Mnuchin defended his role at OneWest, claiming that the bank modified loans to help 100,000 clients keep their homes. "I have been maligned as taking advantage of others' hardships in order to earn a buck," said Mnuchin, whose net worth has been estimated at about $400 million. "Nothing could be further from the truth."Mnuchin argued against the idea that he "ran a 'foreclosure machine,'" during the hearing. "This is not true. On the contrary, I was committed to loan modifications intended to stop foreclosures. I ran a 'loan modification machine.'"

http://time.com/money/4639480/steve-mnuchin-treasury-secretary-foreclosures-onewest/

In its Rush to Foreclose on Homeowners, Steven Mnuchin's Bank Allegedly Broke the Law

By Bryce Covert, Think Progress

January 4, 2017

President-elect Donald Trump's selection to lead the Treasury Department, Steven Mnuchin, allegedly oversaw illegal activity in his previous role as CEO of mortgage lender OneWest. During Mnuchin's term in leadership, the bank broke California law as it rushed to complete foreclosures and kick people out of their homes, according to a memo written by top prosecutors in the state attorney general's office. The Intercept first obtained the memo.

OneWest began operating on March 19, 2009 after Mnuchin and other investors bought the assets of failed mortgage lender IndyMac and turned them into the new bank. OneWest eventually owned tens of thousands of troubled mortgages in California, according to the memo.

Many of the loans were Option Adjustable Rate Mortgages, which allowed borrowers to make minimum payments that didn't cover the interest accrued each month. That extra interest would get added to the principal balance, eventually ballooning monthly payment amounts to a sum the borrower couldn't afford. That landed them in the foreclosure process.

Between 2009 and 2013, OneWest foreclosed on approximately 36,000 homes while initiating about 45,000 more foreclosures.

While the investigation by the California attorney general office's Consumer Law Section was limited—it can't subpoena national banks before filing a lawsuit and OneWest allegedly obstructed the investigation by telling third parties not to comply with subpoenas—it still uncovered evidence that OneWest broke California foreclosure law.

According to the law, if a homeowner falls behind on payments and can't work out a solution with the bank, the mortgage lender files a notice of default that gives the homeowner 90 days to either repay what he owes or lose his home in an auction. After that time period, the loan's trustee, a third party designated by a lender to handle a sale in the case of foreclosure, can record a notice of sale that sets an auction date at least 21 days later.

But the memo describes findings that the bank illegally backdated documents to speed up the foreclosure process, made false statements about the process of transferring trustees for its mortgages, and made credit bids at foreclosure auctions that it didn't have the authority to make but that froze out other bidders and allowed it to avoid taxes.

In a review of documents the department obtained from Quality Loan Service, a third party the bank worked with, nearly all of the documents—99.56 percent—were backdated. Of 300 files it obtained from Lender Processing Services, another third party, that covered counties throughout

the state, 7 percent had false dates, false statements made about the process of substituting the trustee, or both.

"[T]his backdating is important not only because it resulted in false instruments being recorded with county recorders, but also because it meant that the associated foreclosures moved more rapidly toward completion," the memo notes. That means both that OneWest may have lied to government representatives while rapidly and improperly pushing homeowners out of their homes.

The practice went so far as putting dates on documents that were before OneWest even began operating in March 2009, some of them as far back as a year earlier. The memo notes that "it would have been impossible for OneWest to sign the instruments before it became an operational bank."

Without the discovery process of an actual prosecution, investigators couldn't know for sure why documents were backdated. But the memo theorizes that the practice was implemented to cover up misrepresentations about following the proper timelines. Actually correcting these errors, on the other hand, would have required the bank to reissue a notice of default and restart the 90-day clock on the foreclosure process.

In publicly filed documents in two different counties, investigators also found "substantial numbers" of unlawful credit bids and unlawful substitutions of trustee. At a foreclosure auction, only the current owner of the mortgage can make a bid in credit instead of cash or check at the start of the auction. In the documents, OneWest made or told others to make these credit bids without being the owner of the loan, then went back afterward and assigned itself ownership. Investigators also found that OneWest listed trustees on documents before going through the formal process of transferring the trusteeship and then backdated documents to make it look like it had followed procedure.

The memo projected from what it found in those documents that 16 percent of completed foreclosures had these types of violations.

The documents had other basic violations. One was unsigned but was still recorded. Eight others weren't dated. And the memo notes that all of its findings were preliminary. "The review is resource intensive, and we still have 38 months worth of data to review," it says.

Given all of the evidence it uncovered, the Consumer Law Section requested the authority from the attorney general, at the time Sen. Kamala Harris (D-CA), to file a civil enforcement action against OneWest, hoping that it would get relief for homeowners and hold the bank accountable. While it gave such an action a moderate chance of success given that it would have been the first of its kind in the state and it "raises complex legal and factual issues," the memo still makes the case that it was worth it. "We believe that there is substantial public justice value in fully investigating OneWest's conduct through the use of civil discovery and holding it publicly accountable," it states, "even if sizable penalties and restitution are not awarded."

But two months later, without providing an explanation, Harris's office told the Consumer Law Section that it wouldn't move forward.

In response to a request for comment from ThinkProgress, a spokesman for CIT Bank, which now owns OneWest, said, "CIT complies with all applicable laws and regulations, including California's foreclosure process and all applicable servicing guidelines, and has implemented enhancements that strengthen the overall operations and controls at OneWest Bank." Representatives for Sen. Harris, California's attorney general office, and the Trump transition team did not respond to requests for comment.

The investigation was prompted by previous misconduct at the bank. In 2011, OneWest agreed to enter into a consent order with the Office of Thrift Supervision over findings that it didn't properly notarize documents, initiated foreclosures without proper documentation, didn't have proper oversight and administration resources in the foreclosure process, and didn't properly oversee third-party vendors handling foreclosures.

There have been other complaints against Mnuchin's bank as well. The California Reinvestment Coalition has called it a "foreclosure machine," particularly for the high number of foreclosures on reverse mortgages, usually made to elderly homeowners who borrow against their home's equity. It made up nearly 40 percent of foreclosures on reverse mortgages since 2009 despite serving just 17 percent of the market. That unit is under investigation by the Department of Housing and Urban Development's (HUD) Office of Inspector General.

The California Reinvestment Coalition also recently filed a complaint with HUD accusing the bank of redlining. It alleges that the bank gives very few mortgages to people of color—according to its data, none of OneWest's loans in Los Angeles in 2012 and 2013 went to black borrowers—fails to put branches in communities of color, and neglects foreclosed homes in neighborhoods of color more often than white ones.

https://thinkprogress.org/mnuchin-onewest-foreclosure-memo-f4c065409e4d

Treasury Nominee Steve Mnuchin's Bank Accused of "Widespread Misconduct" in Leaked Memo

By David Dayen, The Intercept

January 3 2017, 3:22 p.m.

ONEWEST BANK, WHICH Donald Trump's nominee for treasury secretary, Steven Mnuchin, ran from 2009 to 2015, repeatedly broke California's foreclosure laws during that period, according to a previously undisclosed 2013 memo from top prosecutors in the state attorney general's office.

The memo obtained by The Intercept alleges that OneWest rushed delinquent homeowners out of their homes by violating notice and waiting period statutes, illegally backdated key documents, and effectively gamed foreclosure auctions.

In the memo, the leaders of the state attorney general's Consumer Law Section said they had "uncovered evidence suggestive of widespread misconduct" in a yearlong investigation. In a detailed 22-page request, they identified over a thousand legal violations in the small subsection of OneWest loans they were able to examine, and they recommended that Attorney General Kamala Harris file a civil enforcement action against the Pasadena-based bank. They even wrote up a sample legal complaint, seeking injunctive relief and millions of dollars in penalties.

But Harris's office, without any explanation, declined to prosecute the case.

Mnuchin, the former CEO of OneWest, was already facing challenges in his upcoming Senate confirmation hearings on account of his bank's ruthless foreclosure practices, ranging from locking out one homeowner during a Minneapolis blizzard to foreclosing on another over a 27-cent payment shortfall.

"After years peddling the kind of dangerous mortgage-backed securities that eventually blew up the economy, Mnuchin swooped in after the crash to take a second bite out of families by aggressively — and sometimes illegally — foreclosing on their homes," Sen. Elizabeth Warren said in a statement last month. Sen. Ron Wyden, the top Democrat on the Senate Finance Committee, warned: "Given Mr. Mnuchin's history of profiting off the victims of predatory lending, I look forward to asking him how his Treasury Department would work for Americans who are still waiting for the economic recovery to show up in their communities."

The consistent violations of California foreclosure processes outlined in the memo would indicate that Mnuchin's bank didn't merely act callously, but did so with blatant disregard for the law.

According to the memo, OneWest also obstructed the investigation by ordering third parties to refuse to comply with state subpoenas.

Whether Mnuchin directed efforts to prevent scrutiny of his bank's practices could be a focus of the confirmation hearings.

The memo also raises questions about then-California Attorney General Kamala Harris, who was sworn in as a U.S. senator on Tuesday, and who will soon have to vote on Mnuchin's appointment.

Why did her office close the case, deciding not to "conduct a full investigation of a national bank's misconduct and provide a public accounting of what happened," as her own investigators had urged?

State and federal law enforcement have been severely criticized for failing to hold accountable those responsible for the financial crisis and its aftermath. The OneWest case provides another example, and this time, the failure to prosecute could help the nation's next treasury secretary get confirmed.

TO UNDERSTAND THE importance of these revelations, one needs to know a bit about California's nonjudicial foreclosure process. If a homeowner misses mortgage payments and no resolution can be worked out, the lender files a notice of default, starting a 90-day clock where the homeowner can either repay the debt or face a sale of their property.

In the original deed of trust that establishes the mortgage, the lender designates a third-party trustee to handle the sale process in case of foreclosure. Lenders can change trustees at any time, memorializing this with a "substitution of trustee" document (SOT).

After the 90 days expire, if the homeowner is still in default, the trustee can record a notice of sale, setting a date for the auction at least 21 days thereafter. The winner of the auction gets the home, and can proceed to evict the homeowner.

Because no judge oversees this process, adherence to the rules is paramount.

"Compliance with the law gives us confidence in the outcome," said Katherine Porter, a law professor at the University of California, Irvine, and an expert on foreclosures. "The whole scheme is a gift from the legislature to the mortgage industry. If the state is giving the industry benefits to take shortcuts, it's reasonable to expect the industry to comply strictly with that process."

And according to the state investigation, OneWest wasn't following the rules.

OneWest already had a history of using false documents in foreclosures. A July 2009 deposition of Vice President Erica Johnson-Seck revealed that she "robo-signed" 6,000 foreclosure-related papers per week, spending just 30 seconds on each sworn affidavit that attested to the veracity of all relevant information in the case. Johnson-Seck even admitted to not reading the documents

before signing them. OneWest entered into a consent order in April 2011 with the now-defunct federal Office of Thrift Supervision over related failures in the foreclosure process.

Knowing that OneWest foreclosed on thousands of California homeowners, the Consumer Law Section decided to investigate in 2012.

Because of federal pre-emption rules, state prosecutors cannot subpoena national banks for information about their core functions prior to filing a lawsuit. But the California attorney general's office was nevertheless able to review over 204,000 publicly available foreclosure documents filed with county recording offices throughout the state, along with other documents purchased from a website called ForeclosureRadar (now called PropertyRadar) that tracks foreclosure activity.

Working through the county records, the attorneys immediately uncovered a startling finding: 86 OneWest documents changing the designation of third-party trustees (SOTs) bore a date prior to March 19, 2009, the date OneWest opened for business. Some dated back to 2008.

"Because it would have been impossible for OneWest to sign the instruments before it became an operational bank," four deputy attorneys general from the Consumer Law Section wrote in the memo, "we deduced that the instruments were backdated."

Prosecutors also issued subpoenas to third parties with access to OneWest documents.

According to their memo, one subpoena went to Lender Processing Services, a company that assisted with foreclosure operations. LPS produced a random sample of 300 OneWest loan files and agreed to send more, but on February 13, 2012, Jennifer Gray, OneWest's head of litigation, told the attorney general's office that "the loan files belonged to OneWest and that LPS could not produce them."

The Consumer Law Section feared OneWest would sue them to stop the investigation, as they did in January 2010, when a lawsuit shut down an inquiry into OneWest's reverse mortgage subsidiary Financial Freedom. So prosecutors only got the 300 LPS files.

Mnuchin spokesperson Tara Bradshaw said that "state attorneys general have no jurisdiction to investigate federally chartered banks like OneWest. When OneWest pointed that out to the California attorney general's office, they withdrew their subpoena."

(Brian Brooks, the lead lawyer on that 2010 OneWest lawsuit, eventually became OneWest's Vice Chairman.)

The relatively few additional files prosecutors were able to obtain revealed more evidence of backdating. The Consumer Law Section reviewed 913 documents from Quality Loan Service Corp., a trustee that worked with OneWest; 909 of them were backdated. The LPS files included backdated documents as well. Investigators determined this because the document metadata

showing the dates of execution showed later dates than the ones stamped on the documents themselves.

Investigators surmised that OneWest listed trustees on notices of default before formally executing the SOTs, then backdated the SOTs to make it look like those trustees were already in place at the time the notice of default was issued.

Had OneWest put the correct date on the SOTs, they would have had to file new notices of default, restarting the 90-day clock and delaying the foreclosure.

"That's consistent with a pattern of creating whatever documents that appear necessary at the time that they're created to grease the wheels of the foreclosure machine," said Mark Zanides, a former federal prosecutor who has represented homeowners in California.

The memo also alleges that OneWest occasionally acted as the loan owner on these SOTs when it was merely the servicer — and therefore did not have the authority to execute the documents. Other SOTs were recorded in county offices without being signed or without being dated. Trustees acting on OneWest's behalf also did not honor the 90-day waiting period in dozens of instances, issuing the notice of sale prior to the deadline. In other cases, SOTs were never mailed to homeowners notifying them of the identity of the new trustees with the power to sell their homes.

Finally, investigators found irregularities with foreclosure sales. At auction, bidders must typically pay the full amount by cash or cashier's check. But the "present beneficiary" — the current owner of the mortgage — can make a "credit bid" at the beginning of the auction if they want to keep the property themselves.

These credit bids, usually for the amount due on the loan, typically stop other bidders, who would never be able to profit from a re-sale if they paid full price for a foreclosed home. "Credit bids generally have the effect of deterring or entirely chilling a competitive bidding process," said Katherine Porter.

The Consumer Law Section found that, as with the SOTs, the key documents assigning beneficial interest in the loan sometimes were created after the auctions. In other words, OneWest made or directed others to make credit bids despite not being the present beneficiary.

Not only did this mean the winner of the auction may have made an unlawful bid, but credit bidders were exempt from significant documentary transfer taxes imposed by cities and counties. Those taxes range from $1.10 to $16.10 for every $1,000 of purchase price. Submitting credit bids saved OneWest and its partners from paying the taxes.

In 2015, CIT Bank bought OneWest. In a statement, CIT spokesperson Matthew Klein said that "CIT complies with all applicable laws and regulations, including California's foreclosure process and all applicable servicing guidelines, and has implemented enhancements that strengthen the overall operations and controls at OneWest Bank."

THE JANUARY 18, 2013, document obtained by The Intercept, known as a "package memo," was a pitch from the deputy attorneys general in the Consumer Law Section to their superiors. It laid out the evidence obtained, ran through the resources required for the case and the likelihood of success, and gave pros and cons for filing. In conjunction with the package memo, investigators directly made their case to supervisors and members of Attorney General Harris's executive committee.

Though the state investigators could not subpoena OneWest and were obstructed from obtaining more documents, they extrapolated that a full and unencumbered inquiry would yield at least 5,600 violations of foreclosure sale auctions, and turn up instances of backdating in nearly all of the 35,000 foreclosures OneWest had completed in California from 2009 to 2012. They wrote that there would be "substantial public justice value" in such an investigation, which could only proceed through the discovery process of a civil lawsuit. That discovery could have turned up other examples of noncompliance which may have been even more harmful to homeowners.

The attorneys wrote that scrutinizing the scope of OneWest's misconduct would provide public accountability, and enhance the deterrent to violating state foreclosure laws. They hoped to get injunctive relief, forcing OneWest to verify the accuracy of every foreclosure document they issued.

That's on top of civil penalties, which could be up to $2,500 for each violation, and double for "protected classes" like senior citizens or the disabled. Additional restitution could proceed from any premature foreclosures executed as a result of the misconduct.

The case did not contemplate criminal indictments, even though many of the violations described were felonies; Consumer Law is a civil enforcement section.

The prosecutors made clear to their superiors that the case would be a tough one, with no guarantee of success. They said they expected litigation to chew up substantial resources and last three to five years (which would have been about now).

"We face a higher than average risk that the court may choose to award minimal amounts of restitution and/or penalties," they wrote, explaining that they expected OneWest to argue that homeowners defaulted on their mortgages and were therefore not harmed by process violations.

Indeed, California courts have been known to accept such arguments. In a recent case against OneWest, a trial court agreed that a homeowner alleging improper documents in his mortgage case "never claimed he was not in default or that the 'true lender' would have refrained from foreclosing under the circumstances." Similarly, in a 2015 case against OneWest for failing to execute an SOT before issuing the notice of default — precisely the violation at issue in the Consumer Law Section investigation — the First District Court of Appeal allowed the foreclosure to go forward.

But those were cases brought by individual homeowners, rather than by a state law enforcement apparatus charged with policing noncompliance with statutory laws.

Consumer Law planned to argue that "while it may be true that the homeowners were delinquent on their mortgage obligations, that did not change the fact that they were denied the procedural protections required by law."

Legal experts agree that ignoring clear violations would make a joke of California's foreclosure law. "The foreclosure statutes establish a proper way to do things that will ensure that all parties are treated fairly," said former federal prosecutor Mark Zanides. "If you ignore that, you've reduced yourself to a banana republic, where courts sworn to uphold the law are precluded from doing so by being given documents that are false."

Mnuchin spokesperson Tara Bradshaw, without commenting on the violations themselves, would only say by way of justification, "the attorney general's office made no finding of any violation and took no action against OneWest."

CONSUMER LAW SECTION ATTORNEYS recommended "that the attorney general authorize us to file a civil enforcement action against OneWest." Two months later, they were told that the office would not move forward with the complaint. OneWest representatives were not even brought in for a meeting to discuss the matter.

So why didn't Kamala Harris leap at the chance to take on a bank that her staff said was illegally rushing Californians out of their homes? Why did she reject a case that her office had already spent significant resources on during a year of line-level investigation?

Kristin Ford, communications director at the attorney general's office, did not respond to a detailed request for comment. Without an official explanation, we can only speculate why Harris passed up the opportunity. Perhaps she judged the case too difficult, or not a high enough priority, or not having enough of a human interest. Or maybe it was something else.

Harris has been criticized for a lack of vigor in prosecuting foreclosure fraud before. She set up a Mortgage Fraud Strike Force in 2011, dedicated to "protect innocent homeowners and bring justice to those who defraud them." But despite hundreds of complaints of loan modification

fraud — a primary target identified by the office — it only prosecuted 10 cases in the first three years.

County district attorneys and even attorneys general in other states filed many more California-based cases, despite more limited resources. And some of the cases Harris did file began under her predecessor Jerry Brown or were organized by other local and federal law enforcement teams; Harris just gave her strike-force credit for them.

In fact, many of the cases Harris's office is known for were part of multistate or prior investigations. The 2012 $25 billion National Mortgage Settlement with five large mortgage servicers (Bank of America, JPMorgan Chase, Wells Fargo, Citigroup, and Ally Bank) over allegations of illegal foreclosure practices, which Harris touted in campaign ads, was a 49-state and federal matter, where she was not deeply involved with negotiations and was criticized as a grandstander.

The Intercept asked Harris's office for a breakdown of cases initiated and prosecuted by the Consumer Law Section during her tenure. They have not yet provided them.

Rigid hierarchies within Harris's office were known to have made it difficult to get cases moving. Sign-offs to open investigations, issue subpoenas, and proceed with enforcement all traveled through a chain of command from senior assistant attorneys general running the various divisions, to a small inner circle of special assistants known as the executive committee, to Harris. And this created a bottleneck, especially if Harris was tending to other matters. She has been criticized for luxury travel spending and a relentless nationwide campaign schedule throughout her attorney general tenure.

Many special assistants came from Harris's district attorney staff in San Francisco, and several are joining her in Washington as she enters the U.S. Senate.

The investigators who actually did the ground work in the OneWest case were not present for executive committee decision-making.

One of the supervisors involved in the OneWest case, Supervising Deputy Attorney General Benjamin Diehl, left the office in November 2013 to join Stroock Stroock & Lavan, a corporate law firm that represents Bank of America, JPMorgan Chase, and Citigroup in cases against consumers, regulatory agencies and state attorneys general. Emails indicate that Diehl arranged private meetings with Stroock partners six months before his hiring, while he still worked for the attorney general. Stroock would not make Diehl available for comment.

Harris's prodigious fundraising also raises questions about how attentive she is to the needs of campaign contributors. Prior to signing on with Trump, Mnuchin donated to members of both parties. He gave $2,000 to Harris' Senate campaign in February 2016. Among the investors in

OneWest Bank was major Democratic donor George Soros, who maxed out to Harris' campaign in 2015.

"I DON'T KNOW why they didn't move forward," said Paulina Gonzalez of the California Reinvestment Coalition, a state housing advocacy group. "There's some really concerning information in this document that would say to us there needs to be further investigation. ... This is damning evidence of clear violations."

Gonzalez, whose organization has been tracking OneWest for several years, also received a copy of the package memo and sample complaint in the mail. Her copy came "with Wonder Woman stamps and the return address of Planned Parenthood," Gonzalez said. The copy sent to us had no return address.

With Mnuchin set to take over the Treasury Department, Gonzalez said the memo raises "real concerns about his ethics and potential for illegal behavior." She said her organization would take up the matter with OneWest's federal regulator, the Office of the Comptroller of the Currency (OCC), along with Harris' replacement as California attorney general, Xavier Becerra.

Bradshaw, the Mnuchin spokesperson, provided a report from the OCC showing relatively fewer error rates in OneWest foreclosures than other national banks. But those were reviewed under the context of harm to borrowers, not statutory noncompliance.

OneWest may also have violated a loss share agreement signed with the FDIC upon purchasing assets from the failed lender IndyMac. That agreement, which backstopped OneWest losses on foreclosures, committed OneWest to make good faith options to try to avoid them. Violations that sped up foreclosures could indicate that the bank didn't make such an effort.

Senate Democrats have already attacked Mnuchin over OneWest's foreclosure practices, even setting up a website inviting foreclosure victims to tell their stories. One of those victims, Teena Colebrook, voted for Donald Trump but lost her faith in that decision after the Mnuchin pick. In an interview, Colebrook alleged discrepancies on her substitution of trustee, similar to what was described in the package memo.

"It has to get out why this man should not be put in charge of Treasury," said Colebrook. "Nobody minds a billionaire, but not one feeding off people's misery."

Colebrook says she sent materials to Kamala Harris years earlier, asking her to help her save her home. Harris's response?

"She said 'We can't get involved in an individual case.'"

https://theintercept.com/2017/01/03/treasury-nominee-steve-mnuchins-bank-accused-of-widespread-misconduct-in-leaked-memo/

Treasury Secretary Steve Mnuchin Denies It, But Victims Describe His Bank as a Foreclosure Machine

By David Dayen, The Intercept January 19 2017, 10:49 a.m.

TREASURY SECRETARY NOMINEE Steve Mnuchin kicked off his confirmation hearing Thursday with a defiant opening statement, mostly defending his record as CEO of OneWest Bank. He cast himself as a tireless savior for homeowners after scooping up failed lender IndyMac. "It has been said that I ran a 'foreclosure machine,'" he said. "I ran a loan modification machine."

But in stark contrast to his fuzzy statistics about attempted loan modifications, the victims of OneWest's foreclosure practices have been real and ubiquitous.

A TV advertising campaign that's been running in Nevada, Arizona, and Iowa features Lisa Fraser, a widow who says OneWest "lied to us and took our home" of 25 years, right after her husband's funeral.

And on Wednesday, four women appeared at a congressional forum organized by Sen. Elizabeth Warren, relaying their stories of abuse at the hands of OneWest. Democrats had hoped to present the homeowners as witnesses at Mnuchin's confirmation hearing, but were denied by Senate Finance Committee Chair Orrin Hatch.

The women's stories share a remarkable symmetry to those of nearly a dozen OneWest homeowners reviewed by The Intercept over the past several days. They paint a picture of a bank that did more to trap customers than to help them through their mortgage troubles.

Mnuchin complained to senators that he has "been maligned as taking advantage of others' hardships in order to earn a buck. Nothing could be further than the truth."

But the evidence to support that conclusion is considerable.

Heather McCreary of Sparks, Nevada, one of the four individuals in Washington to testify on Wednesday, was laid off from her job as a home health care provider in 2009. She and her family sought a modification from OneWest as they recovered from the lost wages. OneWest did modify the loan, one of the "over 100,000" such modifications Mnuchin touted in his hearing. But after six months of making modified payments, the bank denied McCreary's personal check, claiming that the payment had to be made by cashier's check. "I looked at the paperwork, and couldn't find that on there," McCreary said. "The Legal Aid person working with us couldn't find it."

OneWest told McCreary to re-apply for the modification twice, then cut off all communications and refused to accept payments. "A few months later we had a foreclosure notice taped to the window, with two weeks to get out," she said. The bank was pursuing foreclosure while negotiating a modification — a practice known as dual tracking that is now illegal.

Tara Inden, an actress from Hollywood, California, couldn't get a loan modification from OneWest after multiple attempts. Even after finding a co-tenant willing to pay off her amount due, OneWest refused the money and pursued foreclosure. Inden has fended off four different foreclosure attempts, including one

instance when she returned home to find a locksmith breaking in to change the locks. "I took a picture of the work order, it said OneWest Bank on it," Inden said. "I called the police, they said what do you want us to do, that's the bank."

Inden remains in the home today. OneWest gave her $13,000 as part of the Independent Foreclosure Review, a process initiated by federal regulators forcing OneWest and other banks to double-check their foreclosure cases for errors. Inden received no explanation for why she received the money, but sees it as a tacit admission that OneWest violated the law in her case.

Tim Davis of Northern Virginia had a mysterious $14,479 charge added to his loan's escrow balance on multiple occasions, even after a U.S. Bankruptcy Court ordered it removed. "I don't think that Mr. Mnuchin should be put in a position of government power without further scrutiny," Davis said in an email.

Donald Hackett of Las Vegas claimed in legal filings that OneWest illegally foreclosed on them without being the true owner of his loan. He ended up losing the case, and the home. "They had to cheat to beat me," Hackett alleged. "They came in like union busters to try to bust everybody up and scare you, make you afraid."

While Hackett was unsuccessful, Mnuchin's bank has been accused by investigators at the California attorney general's office of "widespread misconduct" in foreclosure operations, with over a thousand violations of state statutes. The state attorney general, now-Sen. Kamala Harris, decided not to prosecute OneWest for the violations.

Teena Colebrook, an office manager from Hawthorne, California, came to prominence as a Trump supporter disgusted by the Mnuchin selection. She lost her home to OneWest in April 2015, after a yearslong battle that began with the loss of renters who shared the property. Colebrook was informed that the only way she could receive help from OneWest was if she fell 90 days behind on her mortgage payments. This was not true: qualifying for the government's Home Affordable Modification Program, or HAMP, did not require delinquency, only a risk of default.

"They won't tell you in writing and they'll claim they never said that," Colebrook said. She found robo-signed documents in her file, had insurance policies force-placed onto her loan unnecessarily, and kept getting conflicting statements about how much she actually owed. Late fees piled up, like outsized certified mailing costs of $2,000, all appended to her loan. She eventually ran out of appeals. "They wanted my property, wouldn't accept any tender offers," Colebrook said. "They stole my equity. That's why I'm so angry. If [Mnuchin] can't get one person's figures right, how can he be in charge of the Treasury?"

Colebrook put together a complaint group on the Internet to share stories with other sufferers of OneWest. She found multiple people who said they were told to miss payments and then shoved into foreclosure. Others said they were put through year-long trial modifications (under HAMP they were only supposed to be three months long) and then denied a permanent modification, with an immediate demand for the difference between the trial payment and original payment, which could stretch into thousands of dollars. Others lost homes held by their families for decades.

These stories are familiar to those who experienced the aftermath of the financial crisis. OneWest was neither special nor unique in its urgency to foreclose and unwillingness to extend help to the broad mass of struggling borrowers. But Mnuchin's nomination has put the spotlight back on a forgotten scandal of deception.

Wednesday's unofficial hearing was the first in Congress in several years featuring homeowners. In the hearing room, Heather McCreary sat next to Colleen Ison-Hodroff, an 84-year-old widow from Minneapolis asked by OneWest to pay off the full balance due on her residence a few days after her husband's funeral. Ison-Hodroff said OneWest could kick her out of her home of 54 years at any time. "Allowing an 84 year-old woman to be foreclosed on is not the American way," McCreary said.

When OneWest foreclosure victims heard that Mnuchin was chosen to lead the Treasury Department, they were shocked. "When he was nominated, it was like the floor crashed underneath me," said McCreary. "It brought back everything. His name was on my paperwork."

Other victims offered similar remarks. "For someone who will be tasked with making sure that the economy is doing all it can for people like me, even when it seems the system is rigged against them, Steve Mnuchin is not that person," said forum participant Cristina Clifford, who lost her condo in Whittier, California, after also being told by OneWest to fall behind on payments.

"I think the first thing is he belongs in a prison," said Tara Inden.

The Mnuchin nomination can only be derailed through Republican opposition, which is relatively unlikely. But it has set off a new wave of activism nationwide.

Activists have been camped out at Goldman Sachs's New York City headquarters since Tuesday, targeting Mnuchin's former employer of 17 years. In an echo of a protest to save her home in 2011, OneWest customer Rose Mary Gudiel of La Puente, California, led a march in the rain to Mnuchin's Bel-Air mansion on Wednesday night, placing furniture on his driveway before police dispersed roughly 60 activists. (Mnuchin famously scrubbed his address off the internet after the 2011 protest, saying his family was subjected to "public ire at the banking industry." But the same organizers found his house again.)

"I put it in the middle of a resurgence of housing justice activism," said Amy Schur of the Alliance of Californians for Community Empowerment. "Hard-hit communities are organizing across the country like they haven't in years. Sometimes we might have kept eyes on the powers that be locally, but with the likes of Trump and this cabinet, we have to take this fight nationally as well."

https://theintercept.com/2017/01/19/treasury-pick-steve-mnuchin-denies-it-but-victims-describe-his-bank-as-a-foreclosure-machine/

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of	)	Order No.: WN-11-011
ONEWEST BANK, FSB	)	Effective Date: April 13, 2011
Pasadena, California OTS Docket No. 18129	)	

CONSENT ORDER

The Office of Thrift Supervision (OTS), as part of an interagency horizontal review of major residential mortgage servicers, has conducted an examination of the residential real estate mortgage foreclosure processes of OneWest Bank, FSB, Pasadena, California (Association). The OTS has identified certain deficiencies and unsafe or unsound practices in the Association's residential mortgage servicing and in the Association's initiation and handling of foreclosure proceedings. The OTS has informed the Association of the findings resulting from the examination.

The Association, by and through its duly elected and acting Board of Directors (Board), has executed a "Stipulation And Consent To Issuance Of a Consent Order," dated April 13, 2011 (Stipulation and Consent), that is accepted by the OTS. By this Stipulation and Consent, which is incorporated by reference, the Association has consented to the issuance of this Consent Order (Order) by the OTS. The Association has committed to taking all necessary and appropriate steps to remedy the deficiencies and unsafe or unsound practices identified by the

OTS, and to enhance the Association's residential mortgage servicing and foreclosure processes. The Association has begun implementing procedures to remediate the practices addressed in this Order.

OTS's Findings.

The OTS finds, and the Association neither admits nor denies, the following:

1. The Association is a servicer of residential mortgages in the United States, and services a portfolio of approximately $141 billion dollars in residential mortgage loans. During the recent housing crisis, a large number of residential mortgage loans serviced by the Association became delinquent and resulted in foreclosure actions.

2. In connection with certain foreclosures of loans in its residential mortgage servicing portfolio, the Association engaged in the following unsafe or unsound practices:

(a) filed or caused to be filed in state and federal courts numerous affidavits executed by its employees or employees of third-party service providers making various assertions, such as ownership of the mortgage note and mortgage, the amount of the principal and interest due, and the fees and expenses chargeable to the borrower, in which the affiant represented that the assertions in the affidavit were made based on personal knowledge or based on a review by the affiant of the relevant books and records, when, in many cases, they were not based on such personal knowledge or review of the relevant books and records;

(b) filed or caused to be filed in state and federal courts, or in local land records offices, numerous affidavits or other mortgage-related documents that were not properly notarized, specifically that were not signed or affirmed in the presence of a notary;

(c) litigated foreclosure and bankruptcy proceedings and initiated non-judicial foreclosure proceedings without always ensuring that the promissory note and mortgage document were properly endorsed or assigned and, if necessary, in the possession of the appropriate party at the appropriate time;

(d) failed to devote sufficient financial, staffing and managerial resources to ensure proper administration of its foreclosure processes;

(e) failed to devote to its foreclosure processes adequate oversight, internal controls, policies, and procedures, compliance risk management, internal audit, third party management, and training; and

(f) failed sufficiently to oversee outside counsel and other third-party providers handling foreclosure-related services.

Board Oversight of Compliance with Order.

3. Within five (5) days, the Board shall designate a committee to monitor and coordinate the Association's compliance with the provisions of this Order (Oversight Committee). The Oversight Committee shall be comprised of three (3) or more directors, which at least two (2) may not be employees or officers of the Association or any of its subsidiaries or affiliates.

4. Within ninety (90) days, and within thirty (30) days after the end of each quarter thereafter, the Oversight Committee shall submit a written compliance progress report to the Board (Compliance Tracking Report). The Compliance Tracking Report shall, at a minimum:

(a) separately list each corrective action required by this Order;

(b) identify the required or anticipated completion date for each corrective action; and

(c) discuss the current status of each corrective action, including the action(s) taken or to be taken to comply with each corrective action.

5. Within ten (10) days of receipt of the Compliance Tracking Report, the Board shall review the Compliance Tracking Report and all reports required to be prepared by this Order. Following its review, the Board shall adopt a resolution: (a) certifying that each director has reviewed the Compliance Tracking Report and all required reports; and (b) documenting any corrective actions taken. A copy of the Compliance Tracking Report and the Board resolution shall be provided to the Regional Director within five (5) days after the Board meeting at which such resolution was adopted.

6. Nothing contained herein shall diminish the responsibility of the entire Board to ensure the Association's compliance with the provisions of this Order. The Board shall review and adopt all policies and procedures required by this Order prior to submission to the OTS.

Comprehensive Action Plan.

7. Within sixty (60) days of this Order, the Association shall submit to the Regional Director an acceptable plan containing a complete description of the actions that are necessary and appropriate to achieve full compliance with this Order (Action Plan). In the event the Regional Director asks the Association to revise the Action Plan, the Association shall make the requested revisions and resubmit the Action Plan to the Regional Director within ten (10) days of receiving any comments from the Regional Director. Following acceptance of the Action Plan by the Regional Director, the Association shall not take any action that would constitute a significant deviation from, or material change to the requirements of the Action Plan or of this Order, unless and until the Association has received a prior written determination of no supervisory objection from the Regional Director.

8. The Board shall ensure that the Association achieves and thereafter maintains compliance with this Order, including, without limitation, successful implementation of the Action Plan.

The Board shall further ensure that, upon implementation of the Action Plan, the Association achieves and maintains effective mortgage servicing, foreclosure and loss mitigation activities (as used herein, the phrase "loss mitigation" shall include, but not be limited to, activities related to special forbearances, modifications, short refinances, short sales, cash-for-keys, and deeds-in-lieu of foreclosure and be referred to as either Loss Mitigation or Loss Mitigation Activities), as well as associated risk management, compliance, quality control, audit, training, staffing, and related functions. In order to comply with these requirements, the Board shall:

(a) require the timely reporting by Association management of such actions directed by the Board to be taken under this Order;

(b) follow-up on any non-compliance with such actions in a timely and appropriate manner; and

(c) require corrective action be taken in a timely manner for any non-compliance with such actions.

9. The Action Plan shall address, at a minimum:

(a) financial resources to develop and implement an adequate infrastructure to support existing and/or future Loss Mitigation and foreclosure activities and ensure compliance with this Order;

(b) organizational structure, managerial resources and staffing to support existing and/or future Loss Mitigation and foreclosure activities and ensure compliance with this Order;

(c) metrics to measure and ensure the adequacy of staffing levels relative to existing and/or future Loss Mitigation and foreclosure activities, such as limits for the number of loans assigned to a Loss Mitigation employee, including the single point of contact as

hereinafter defined, and deadlines to review loan modification documentation, make loan modification decisions, and provide responses to borrowers; and

(d) governance and controls to ensure full compliance with all applicable federal and state laws (including, but not limited to, the U.S. Bankruptcy Code and the Servicemembers Civil Relief Act (SCRA)), rules, regulations, court orders and requirements, as well as the Membership Rules of MERSCORP, servicing guides of the Government Sponsored Enterprises (GSEs) or investors, including those with the Federal Housing Administration and those required by the Home Affordable Modification Program (HAMP), and loss share agreements with the Federal Deposit Insurance Corporation (collectively Legal Requirements), and the requirements of this Order.

10. The Action Plan shall specify timelines for completion of each of the requirements of this Order. The timeliness in the Action Plan shall be consistent with any deadlines set forth in this Order.

Compliance Program.

11. Within sixty (60) days of this Order, the Association shall submit to the Regional Director an acceptable compliance program to ensure that the mortgage servicing and foreclosure operations, including Loss Mitigation and loan modification, comply with all applicable Legal Requirements, supervisory guidance, and the requirements of this Order and are conducted in a safe and sound manner (Compliance Program). The Compliance Program shall be implemented within one hundred twenty (120) days of this Order. Any corrective action timeframe in the Compliance Plan that is in excess of one hundred twenty (120) days must be approved by the Regional Director. The Compliance Program shall include, at a minimum:

(a) appropriate written policies and procedures to conduct, oversee, and monitor mortgage servicing, Loss Mitigation, and foreclosure operations;

(b) processes to ensure that all factual assertions made in pleadings, declarations, affidavits, or other sworn statements filed by or on behalf of the Association are accurate, complete, and reliable, and that affidavits, declarations, or other sworn statements are based on personal knowledge or a review of the Association's books and records when the affidavit, declaration, or sworn statement so states;

(c) processes to ensure that affidavits filed in foreclosure proceedings are executed and notarized in accordance with state legal requirements and applicable guidelines, including jurat requirements;

(d) processes to review and approve standardized affidavits and declarations for each jurisdiction in which the Association files foreclosure actions to ensure compliance with applicable laws, rules, and court procedures;

(e) processes to ensure that the Association has properly documented ownership of the promissory note and mortgage (or deed of trust) under applicable state law, or is otherwise a proper party to the action (as a result of agency or other similar status) at all stages of foreclosure and bankruptcy litigation, including appropriate transfer and delivery of endorsed notes and assigned mortgages or deeds of trust at the formation of a residential mortgage-backed security, and lawful and verifiable endorsement and successive assignment of the note and mortgage or deed of trust to reflect all changes of ownership;

(f) processes to ensure that a clear and auditable trail exists for all factual information contained in each affidavit or declaration, in support of each of the charges that are listed,

including whether the amount is chargeable to the borrower and/or claimable to the investor;

(g) processes to ensure that foreclosure sales (including the calculation of the default period, the amounts due, and compliance with notice requirements) and post-sale confirmations are in accordance with the terms of the mortgage loan and applicable state and federal law requirements;

(h) processes to ensure that all fees, expenses, and other charges imposed on the borrower are assessed in accordance with the terms of the underlying mortgage note, mortgage, or other customer authorization with respect to the imposition of fees, charges, and expenses, and in compliance with all applicable Legal Requirements and supervisory guidance;

(i) processes to ensure that the Association has the ability to locate and secure all documents, including the original promissory notes if required, necessary to perform mortgage servicing, foreclosure and Loss Mitigation, or loan modification functions;

(j) ongoing testing for compliance with applicable Legal Requirements and supervisory guidance that is completed by qualified persons with requisite knowledge and ability (which may include internal audit) who are independent of the Association's business lines;

(k) measures to ensure that policies, procedures, and processes are updated on an ongoing basis as necessary to incorporate any changes in applicable Legal Requirements and supervisory guidance;

(l) processes to ensure the qualifications of current management and supervisory personnel responsible for mortgage servicing and foreclosure processes and operations,

including collections, Loss Mitigation and loan modification are appropriate, and a determination of whether any staffing changes or additions are needed;

(m) processes to ensure that staffing levels devoted to mortgage servicing and foreclosure processes and operations, including collections, Loss Mitigation and loan modification, are adequate to meet current and expected workload demands;

(n) processes to ensure that workloads of mortgage servicing, foreclosure and Loss Mitigation and loan modification personnel, including single point of contact personnel as hereinafter defined, are reviewed and managed. Such processes, at a minimum, shall assess whether the workload levels are appropriate to ensure compliance with the requirements of this Order, and necessary adjustments to workloads shall promptly follow the completion of the reviews. An initial review shall be completed within ninety (90) days of this Order, and subsequent reviews shall be conducted semi-annually;

(o) processes to ensure that the risk management, quality control, audit, and compliance programs have the requisite authority and status within the organization so that appropriate reviews of the Association's mortgage servicing, Loss Mitigation, and foreclosure activities and operations may occur and deficiencies are identified and promptly remedied;

(p) appropriate training programs for personnel involved in mortgage servicing and foreclosure processes and operations, including collections, Loss Mitigation, and loan modification, to ensure compliance with applicable Legal Requirements and supervisory guidance; and

(q) appropriate procedures for customers in bankruptcy, including a prohibition on the collection of fees in violation of bankruptcy's automatic stay (11 U.S.C. § 362), the discharge injunction (11 U.S.C. § 524), or any applicable court order.

Third Party Management.

12. Within sixty (60) days of this Order, the Association shall submit to the Regional Director acceptable policies and procedures for outsourcing foreclosure or related functions, including Loss Mitigation and loan modification, and property management functions for residential real estate acquired through or in lieu of foreclosure, to any agent, independent contractor, consulting firm, law firm (including local counsel in foreclosure or bankruptcy proceedings retained to represent the interests of the owners of mortgages), property management firm, or other third-party (including any subsidiary or affiliate of the Association not specifically named in this Order) (Third-Party Providers). Third-party management policies and procedures shall be implemented within one hundred twenty (120) days of this Order. Any corrective action timetable that is in excess of one hundred twenty (120) days must be approved by the Regional Director. The policies and procedures shall include, at a minimum:

(a) appropriate oversight to ensure that Third-Party Providers comply with all applicable Legal Requirements, supervisory guidance (including applicable portions of OTS Thrift Bulletin 82a), and the Association's policies and procedures;

(b) measures to ensure that all original records transferred from the Association to Third-Party Providers (including the originals of promissory notes and mortgage documents) remain within the custody and control of the Third-Party Provider (unless filed with the appropriate court or the loan is otherwise transferred to another party), and are returned to the Association or designated custodians at the conclusion of the

performed service, along with all other documents necessary for the Association's files, and that the Association retains imaged copies of significant documents sent to Third-Party Providers;

(c) measures to ensure the accuracy of all documents filed or otherwise utilized on behalf of the Association or the owners of mortgages in any judicial or non-judicial foreclosure proceeding, related bankruptcy proceeding, or in other foreclosure-related litigation, including, but not limited to, documentation sufficient to establish ownership of the promissory note and/or the right to foreclose at the time the foreclosure action is commenced;

(d) processes to perform appropriate due diligence on potential and current Third-Party Provider qualifications, expertise, capacity, reputation, complaints, information security, business continuity and financial viability, and to ensure adequacy of Third-Party Provider staffing levels, training, work quality, and workload balance;

(e) processes to ensure that contracts provide for adequate oversight, including requiring Third-Party Provider adherence to Association foreclosure processing standards, measures to enforce Third-Party Provider contractual obligations, and processes to ensure timely action with respect to Third-Party Provider performance failures;

(f) processes to ensure periodic reviews of Third-Party Provider work for timeliness, competence, completeness, and compliance with all applicable Legal Requirements and supervisory guidance, and to ensure that foreclosures are conducted in a safe and sound manner;

(g) processes to review customer complaints about Third-Party Provider services;

(h) processes to prepare contingency and business continuity plans that ensure the continuing availability of critical third-party services and business continuity of the Association, consistent with federal banking agency guidance, both to address short-term and long-term service disruptions and to ensure an orderly transition to new service providers should that become necessary;

(i) a review of fee structures for Third-Party Providers to ensure that the method of compensation considers the accuracy, completeness, and legal compliance of foreclosure filings and is not based solely on increased foreclosure volume and/or meeting processing timelines; and

(j) a certification process for law firms (and recertification of existing law firm providers) that provide residential mortgage foreclosure and bankruptcy services for the Association, on a periodic basis, as qualified to serve as Third-Party Providers to the Association including that attorneys are licensed to practice in the relevant jurisdiction and have the experience and competence necessary to perform the services requested.

Mortgage Electronic Registration System.

13. Within sixty (60) days of this Order, the Association shall submit to the Regional Director an acceptable plan to ensure appropriate controls and oversight of foreclosure activities within respect to the Mortgage Electronic Registration System (MERS) and compliance with MERSCORP's membership rules, terms, and conditions (MERS Requirements) (MERS Plan). The MERS Plan shall be implemented within one hundred twenty (120) days of this Order. Any corrective action timetable that is in excess of one hundred twenty (120) days must be approved by the Regional Director. The MERS Plan shall include, at a minimum:

(a) processes to ensure that all mortgage assignments and endorsements with respect to mortgage loans serviced or owned by the Association out of MERS' name are executed only by a certifying officer authorized by MERS and approved by the Association;

(b) processes to ensure that all other actions that may be taken by MERS certifying officers (with respect to mortgage loans serviced or owned by the Association) are executed by a certifying officer authorized by MERS and approved by the Association;

(c) processes to ensure that the Association maintains up-to-date corporate resolutions from MERS for all Association employees and third-parties who are certifying officers authorized by MERS, and up-to-date lists of MERS certifying officers;

(d) processes to ensure compliance with all MERS Requirements and with the requirements of the MERS Corporate Resolution Management System (CRMS);

(e) processes to ensure the accuracy and reliability of data reported to MERSCORP, including monthly system-to-system reconciliations for all MERS mandatory reporting fields, and daily capture of all rejects/warnings reports associated with registrations, transfers, and status updates on open-item aging reports. Unresolved items must be maintained on open-item aging reports and tracked until resolution. The Association shall determine and report whether the foreclosures serviced by the Association that are currently pending in MERS' name are accurate and how many are listed in error, and describe how and by when the data on the MERSCORP system will be corrected;

(f) an appropriate MERS quality assurance workplan, which clearly describes all tests, test frequency, sampling methods, responsible parties, and the expected process for open-item follow-up, and includes an annual independent test of the control structure of

the system-to-system reconciliation process, the reject/warning error correction process, and adherence to the Association's MERS Plan; and

(g) inclusion of MERS into the Association's third-party vendor management process, which shall include a detailed analysis of potential vulnerabilities, including information security, business continuity, and vendor viability assessments.

Foreclosure Review.

14. Within forty-five (45) days of this Order, the Association shall retain an independent consultant acceptable to the Regional Director to conduct an independent review of certain residential foreclosure actions regarding individual borrowers with respect to the Association's mortgage servicing portfolio. The review shall include residential foreclosure actions or proceedings (including foreclosures that were in process or completed) for loans serviced by the Association, whether brought in the name of the Association, the investor, the mortgage note holder, or any agent for the mortgage note holder (including MERS), that have been pending at any time from January 1, 2009 to December 31, 2010, as well as residential foreclosure sales that occurred during this time period (Foreclosure Review).

15. Within fifteen (15) days of the engagement of the independent consultant described in Paragraph 14, but prior to the commencement of the Foreclosure Review, the Association shall submit to the Regional Director for approval an engagement letter that sets forth:

(a) the methodology for conducting the Foreclosure Review, including: (i) a description of the information systems and documents to be reviewed, including the selection of criteria for files or aspects of files to be reviewed; (ii) the criteria for

evaluating the reasonableness of fees and penalties; (iii) other procedures necessary to make the required determinations (such as through interviews of employees and third parties and a process for the submission and review of borrower claims and complaints); and (iv) any proposed sampling techniques. In setting the scope and review methodology under clause (i) of this sub-paragraph, the independent consultant may consider any work already done by the Association or other third-parties on behalf of the Association. The engagement letter shall contain a full description of the statistical basis for the sampling methods chosen, as well as procedures to increase the size of the sample depending on results of the initial sampling;

(b) expertise and resources to be dedicated to the Foreclosure Review;

(c) completion of the Foreclosure Review and the Foreclosure Report within one hundred twenty (120) days from approval of the engagement letter; and

(d) a written commitment that any workpapers associated with the Foreclosure Review shall be made available to the OTS immediately upon request.

16. The purpose of the Foreclosure Review shall be to determine, at a minimum:

(a) whether at the time the foreclosure action was initiated or the pleading or affidavit or declaration filed (including in bankruptcy proceedings and in defending suits brought by borrowers), the foreclosing party or agent of the party had properly documented ownership of the promissory note and mortgage (or deed of trust) under relevant state law, or was otherwise a proper party to the action as a result of agency or similar status;

(b) whether the foreclosure was in accordance with applicable federal and state laws, including, but not limited to, the U.S. Bankruptcy Code and the SCRA;

(c) whether a foreclosure sale occurred when an application for a loan modification or other Loss Mitigation was under consideration when the loan was performing in accordance with a trial or permanent loan modification, or when the loan had not been in default for a sufficient period of time to authorize foreclosure pursuant to the terms of the mortgage loan documents and related agreements;

(d) whether, with respect to non-judicial foreclosures, the procedures followed with respect to the foreclosure sale (including the calculation of the default period, the amounts due, and compliance with notice periods) and post-sale confirmations were in accordance with the terms of the mortgage loan and state law requirements;

(e) whether a delinquent borrower's account was only charged fees and/or penalties that were permissible under the terms of the borrower's loan documents, applicable Legal Requirements, and were otherwise reasonable and customary;

(f) whether the frequency that fees were assessed to any delinquent borrower's account (including broker price opinions) was excessive under the terms of the borrower's loan documents, applicable Legal Requirement, or were otherwise unreasonable;

(g) whether Loss Mitigation Activities with respect to foreclosed loans were handled in accordance with the requirements of the HAMP, and consistent with the policies and procedures applicable to the Association's proprietary loan modifications or other Loss Mitigation programs, such that each borrower had an adequate opportunity to apply for a Loss Mitigation option or program, any such application was handled properly, a final decision was made on a reasonable basis, and was communicated to the borrower before the foreclosure sale; and

(h) whether any errors, misrepresentations, or other deficiencies identified in the Foreclosure Review resulted in financial injury to the borrower or the mortgagee.

17. The independent consultant shall prepare a written report detailing the findings of the Foreclosure Review (Foreclosure Report), which shall be completed within thirty (30) days of completion of the Foreclosure Review. Immediately upon completion, the Foreclosure Report shall be submitted to the Regional Director and the Board.

18. Within forty-five (45) days of submission of the Foreclosure Report to the Board, the Association shall submit to the Regional Director an acceptable plan to remediate all financial injury to borrowers caused by any errors, misrepresentations, or other deficiencies identified in the Foreclosure Report by:

(a) reimbursing or otherwise appropriately remediating borrowers for impermissible or excessive penalties, fees or expenses, or for other financial injury identified in accordance with this Order; and

(b) taking appropriate steps to remediate any foreclosure sale identified in the Foreclosure Report where the foreclosure was not authorized as described in this Order.

19. Within sixty (60) days after the Regional Director provides supervisory non-objection to the plan set forth in paragraph (18) above, the Association shall make all reimbursement and remediation payments and provide all credits required by such plan, and provide the Regional Director with a report detailing such payments and credits.

Management Information Systems.

20. Within sixty (60) days of this Order, the Association shall submit to the Regional Director an acceptable plan for operation of its management information systems (MIS) for foreclosure and Loss Mitigation or loan modification activities to ensure the timely delivery of

complete and accurate information to permit effective decision-making. The MIS plan shall be implemented within one hundred twenty (120) days of this Order. Any corrective action timeframe that is in excess of one hundred twenty (120) days must be approved by the Regional Director. The plan shall include, at a minimum:

(a) a description of the various components of MIS used by the Association for foreclosure and Loss Mitigation or loan modification activities;

(b) a description of and timetable for any needed changes or upgrades to:

(i) monitor compliance with all applicable Legal Requirements, supervisory guidance, and the requirements of this Order;

(ii) ensure the ongoing accuracy of records for all serviced mortgages, including, but not limited to, records necessary to establish ownership and/or the right to foreclose by the appropriate party for all serviced mortgages, outstanding balances, and fees assessed to the borrower; and

(iii) measures to ensure that Loss Mitigation, loan foreclosure, and modification staffs have sufficient and timely access to information provided by the borrower regarding loan foreclosure and modification activities; and

(c) the testing of the integrity and accuracy of the new or enhanced MIS to ensure that reports generated by the system provide necessary information for adequate monitoring and quality controls.

Mortgage Servicing.

21. Within sixty (60) days of the Order, the Association shall submit to the Regional Director an acceptable plan, along with a timeline, for ensuring effective coordination of communications with borrowers, both oral and written, related to Loss Mitigation or loan modification and

foreclosure activities: (i) to ensure that communications are timely and effective and are designed to avoid confusion to borrowers; (ii) to ensure continuity in the handling of borrowers' loan files during the Loss Mitigation, loan modification and foreclosure process by personnel knowledgeable about a specific borrower's situation; (iii) to ensure that reasonable and good faith efforts, consistent with applicable Legal Requirements, are engaged in Loss Mitigation and foreclosure prevention for delinquent loans, where appropriate; and (iv) to ensure that decisions concerning Loss Mitigation or loan modifications continue to be made and communicated in a timely fashion. Prior to submitting the plan, the Association shall conduct a review to determine whether processes involving past due mortgage loans or foreclosures overlap in such a way that they may impair or impede a borrower's efforts to effectively pursue a loan modification and whether Association employee compensation practices discourage Loss Mitigation or loan modifications. The plan shall be implemented within one hundred twenty (120) days of this Order. Any corrective action timeframe that is in excess of one hundred twenty (120) days must be approved by the Regional Director. The plan shall include, at a minimum:

(a) measures to ensure that staff handling Loss Mitigation and loan modification requests routinely communicates and coordinates with staff processing the foreclosure on the borrower's property;

(b) appropriate deadlines for responses to borrower communications and requests for consideration of Loss Mitigation, including deadlines for decision-making on Loss Mitigation activities, with the metrics established not being less responsive than the timelines in the HAMP;

(c) establishment of an easily accessible and reliable single point of contact for each borrower so that the borrower has access to an employee of the bank to obtain

information throughout the Loss Mitigation, loan modification, and foreclosure processes;

(d) a requirement that written communications with the borrower identify such single point of contact along with one or more direct means of communication with the contact;

(e) measures to ensure that the single point of contact has access to current information and personnel (in-house or third-party) sufficient to timely, accurately, and adequately inform the borrower of the current status of the Loss Mitigation, loan modification, and foreclosure activities;

(f) measures to ensure that staff are trained specifically in handling mortgage delinquencies, Loss Mitigation and loan modifications;

(g) procedures and controls to ensure that a final decision regarding a borrower's loan modification request (whether on a trial or permanent basis) is made and communicated to the borrower in writing, including the reason(s) why the borrower did not qualify for the trial or permanent modification (including the net present value calculations utilized by the Association, if applicable), by the single point of contact within a reasonable time before any foreclosure sale occurs;

(h) procedures and controls to ensure that when the borrower's loan has been approved for modification on a trial or permanent basis that: (i) no foreclosure or legal action predicate to foreclosure occurs, unless the borrower is deemed in default on the terms of the trial or permanent modification; and (ii) the single point of contact remains available to the borrower and continues to be referenced on all written communications with the borrower;

(i) policies and procedures to enable borrowers to make complaints regarding the Loss Mitigation or loan modification process, denial of modification requests, the foreclosure process, or foreclosure activities which prevent a borrower from pursuing Loss Mitigation or loan modification options, and a process for making borrowers aware of the complaint procedures;

(j) procedures for the prompt review, escalation, and resolution of borrower complaints, including a process to communicate the results of the review to the borrower on a timely basis;

(k) policies and procedures to ensure that payments are credited in a prompt and timely manner, that payments, including partial payments, to the extent permissible under the terms of applicable legal instruments, are applied to scheduled principal, interest, and/or escrow before fees, and that any misapplication of borrower funds is corrected in a prompt and timely manner;

(l) policies and procedures to ensure that timely information about Loss Mitigation options is sent to the borrower in the event of a delinquency or default, including plain language notices about Loss Mitigation, loan modification, and the pendency of foreclosure proceedings; and

(m) policies and procedures to ensure that foreclosure, Loss Mitigation, and loan modification documents provided to borrowers and third-parties are appropriately maintained and tracked, that borrowers generally will not be required to resubmit the same documented information that has already been provided, and that borrowers are notified promptly of the need for additional information; and

(n) policies and procedures to consider loan modifications or other Loss Mitigation Activities with respect to junior lien loans owned by the Association, and to factor the risks associated with such junior lien loans into loan loss reserving practices, where the Association services the associated first lien mortgage and becomes aware that such first lien mortgage is delinquent or has been modified. Such policies and procedures shall require the ongoing maintenance of appropriate loss reserves for junior lien mortgages owned by the Association and the charge-off of such junior lien loans in accordance with Federal Financial Institutions Examination Council (FFIEC) retail credit classification guidelines.

Effective Date, Incorporation of Stipulation.

22. This Order is effective on the Effective Date as shown on the first page. The Stipulation is made a part hereof and is incorporated herein by this reference.

Duration.

23. This Order shall remain in effect until terminated, modified, or suspended by written notice of such action by the OTS, acting by and through its authorized representatives.

Time Calculations.

24. Calculation of time limitations for compliance with the terms of this Order run from the Effective Date and shall be based on calendar days, unless otherwise noted.

25. The Regional Director, or an OTS authorized representative, may extend any of the deadlines set forth in the provisions of this Order upon written request by the Association that includes reasons in support for any such extension. Any OTS extension shall be made in writing.

Submissions and Notices.

26. All submissions, including any reports, to the OTS that are required by or contemplated by this Order shall be submitted within the specified timeframes.

27. Except as otherwise provided herein, all submissions, requests, communications, consents or other documents relating to this Order shall be in writing and sent by first class U.S. mail (or by reputable overnight carrier, electronic facsimile transmission or hand delivery by messenger) addressed as follows:

(a) To the OTS[1]:

Regional Director Philip A. Gerbick
OTS Western Regional Office
225 East John Carpenter Freeway, Suite 500
Irving, Texas 75062-2326

(b) To the Association:

Mr. Joseph M. Otting
President and Chief Executive Officer
OneWest Bank, FSB
888 E. Walnut Street
Pasadena, California 91101-7211

[1] Following the Transfer Date, *see* Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. Law No. 111-203, § 311, 124 Stat. 1520-21 (2010), all submissions, requests, communications, consents or other documents relating to this Order shall be directed to the Comptroller of the Currency, or to the individual, division, or office designated by the Comptroller of the Currency.

Scope of Board Responsibility.

28. In each instance in this Order in which the Board is required to ensure adherence to, and undertake to perform certain obligations of the Association, it is intended to mean that the Board shall:

(a) authorize and adopt such actions on behalf of the Association as may be necessary for the Association to perform its obligations and undertakings under the terms of this Order;

(b) require the timely reporting by Association management of such actions directed by the Board to be taken under the terms of this Order;

(c) follow-up on any material non-compliance with such actions in a timely and appropriate manner; and

(d) require corrective action be taken in a timely manner of any material non-compliance with such actions.

No Violations Authorized.

29. Nothing in this Order or the Stipulation shall be construed as allowing the Association, its Board, officers, or employees to violate any law, rule, or regulation.

IT IS SO ORDERED.

OFFICE OF THRIFT SUPERVISION

By: /s/
Philip A. Gerbick
Regional Director, Western Region

Date: See Effective Date on page 1

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of	)	Order No.: WN-11-011
ONEWEST BANK, FSB	)	Effective Date: April 13, 2011
Pasadena, California OTS Docket No. 18129	)	

STIPULATION AND CONSENT TO ISSUANCE OF A CONSENT ORDER

The Office of Thrift Supervision (OTS) intends to impose a consent order on OneWest Bank, FSB (Association), pursuant to 12 U.S.C. § 1818(b), for unsafe or unsound banking practices relating to mortgage servicing and the initiation and handling of foreclosure proceedings;

The Association, in the interest of compliance and cooperation, enters into this Stipulation and Consent to Issuance of a Consent Order (Stipulation) and consents to the issuance of a Consent Order (Order);

In consideration of the above premises, the OTS, through its authorized representative, and the Association, through its duly elected and acting Board of Directors, stipulate and agree to the following:

Jurisdiction.

1. The Association is a "savings association" within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, the Association is "an insured depository institution" as

that term is defined in 12 U.S.C. § 1813(c).

2. Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal banking agency" with jurisdiction to maintain an administrative enforcement proceeding against a savings association. Therefore, the Association is subject to the authority of the OTS to initiate and maintain an administrative cease and desist proceeding against it pursuant to 12 U.S.C. § 1818(b).

Consent.

3. The Association, without admitting or denying any wrongdoing, consents to the issuance by the OTS of the accompanying Order. The Association further agrees to comply with the terms of the Order upon the Effective Date of the Order and stipulates that the Order complies with all requirements of law.

Finality.

4. The Order is issued by the OTS under 12 U.S.C. § 1818(b). Upon the Effective Date, the Order shall be a final order, effective, and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

Waivers.

5. The Association waives the following:

(a) the right to be served with a written notice of the OTS's charges against it as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;

(b) the right to an administrative hearing of the OTS's charges as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;

(c) the right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order; and

(d) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, federal statutes, or otherwise.

OTS Authority Not Affected.

6. Nothing in this Stipulation or accompanying Order shall inhibit, estop, bar, or otherwise prevent the OTS from taking any other action affecting the Association if at any time the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

Other Governmental Actions Not Affected.

7. The Association acknowledges and agrees that its consent to the issuance of the Order is solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 6 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Association that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

Miscellaneous.

8. The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Order.

9. If any provision of this Stipulation and/or the Order is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.

10. All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns.

11. The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the interpretation of this Stipulation or the Order.

12. The terms of this Stipulation and of the Order represent the final agreement of the parties with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters. Nothing in this Stipulation or the Order, express or implied, shall give to any person or entity, other than the parties hereto, and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Stipulation or the Order.

13. The Stipulation and Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Regional Director or other authorized representative.

14. For purposes of, and within the meaning of 12 C.F.R. §§ 563.555, 563.560, and 565.4, this Consent Order shall not be construed to be a "cease-and-desist order", "consent order", or "order", unless the OTS informs the Association otherwise.

Signature of Directors/Board Resolution.

15. Each Director signing this Stipulation attests that he or she voted in favor of a Board Resolution authorizing the consent of the Association to the issuance of the Order and the execution of the Stipulation.

WHEREFORE, the Association, by its directors, executes this Stipulation.

ONEWEST BANK, FSB
Pasadena, California

By: /s/
Steven T. Mnuchin, Chairman

/s/
S. Kenneth Leech, Director

/s/
Jay J. Miller, Director

/s/
John J. Oros, Director

/s/
Allen C. Puwalski, Director

/s/
Eric J. Rosen, Director

/s/
David J. Wermuth, Director

/s/
Ravi P. Yadav, Director

/s/
Joseph Otting, Director

OFFICE OF THRIFT SUPERVISION

By: /s/
Philip A. Gerbick
Regional Director, Western Region

Date: See Effective Date on page 1

Trump's Treasury Pick Has a $230 Million Blemish on His Record

By Zachary Mider and Saleha Mohsin
December 13, 2016, 5:00 AM EST

- OneWest unit being probed by HUD for foreclosure practices
- CIT discovered $230 million shortfall after buying bank

Treasury Pick Steven Mnuchin's Reverse-Mortgage Woes

When Donald Trump announced his choice for Treasury secretary last month, he called Steven Mnuchin a "world-class financier," citing business successes like his profitable turnaround of a California bank.

But soon after Mnuchin sold OneWest Bank last year, problems emerged that may tarnish his record there. The U.S. Department of Housing and Urban Development opened an investigation into foreclosure practices in a division that handles loans to senior citizens. Accountants determined the unit's books were a mess. Eventually, the bank's new owner, CIT Group Inc., discovered a shortfall of more than $230 million.

"I want to express our disappointment," CIT Chief Executive Officer Ellen Alemany told investors in July. "We have a new management team in place, and they're making good progress in implementing practices to strengthen the controls and procedures."

The old management team had included Mnuchin. He stepped down as CIT's vice chairman in March. When he left, less than a year into a three-year employment contract, he received about $10.9 million in severance, according to public filings -- an amount consistent with what he would have been entitled to if he had been fired. He remained on the board until this month.

Mnuchin's Take

Three people with knowledge of the departure say it wasn't related to the troubled unit, Financial Freedom. Rather, they say, Mnuchin was part of a group of more than a dozen executives who left as Alemany prepared to take over and install her own team.

Mnuchin, who declined to comment through a spokesman, may have personally received about $380 million in sale proceeds and dividends from OneWest, according to Bloomberg calculations.

CIT said last month that the accounting issue probably won't be cleaned up by the end of the year and that it has begun talks to resolve the HUD investigation. Meanwhile, it has been trying to sell the unit. Matt Klein, a spokesman for the New York-based company, said CIT "will

continue to implement enhancements to strengthen controls and practices of the legacy Financial Freedom business." A HUD spokesman declined to comment.

While Mnuchin can count on the support of the Republican majority in the Senate for confirmation, Democrats have signaled a tough fight. Ron Wyden of Oregon, the top Democrat on the Senate Finance Committee in charge of vetting and confirming Treasury Department appointments, described Mnuchin's leadership at OneWest as "profiting off the victims of predatory lending."

Celebrity Pitchman

During the go-go years of the mortgage boom, Financial Freedom was one of the country's biggest providers of reverse mortgages. These government-backed loans allow Americans over 62 to borrow against the value of their homes. Borrowers don't have to pay interest and can stay in the homes until they die. Then a sale of the property can be used to repay the debt.

The loans were often marketed aggressively, especially before the housing collapse. Financial Freedom commercials featured celebrity pitchman James Garner. Sometimes, lenders encouraged a borrower to remove a spouse under the age of 62 from the home's title, setting the stage for a potential foreclosure on an elderly widow or widower when the borrower died, according to 2012 report by the Consumer Financial Protection Bureau.

"The reverse mortgage is an icky business," said Christopher Whalen, head of research at Kroll Bond Rating Agency in New York, noting that big banks like Wells Fargo & Co. stopped selling the product in recent years.

Financial Freedom was part of Pasadena, California-based IndyMac Bancorp, one of the most reckless lenders in the housing bubble a decade ago. IndyMac collapsed and was seized by the Federal Deposit Insurance Corp. in 2008.

Buying IndyMac

Enter Mnuchin, 53, a former Goldman Sachs Group Inc. executive who later ran a hedge fund and financed Hollywood blockbusters. He led a team of investors, including George Soros and John Paulson, that bought the remains of IndyMac in 2009 with the help of billions of dollars' worth of government incentives.

Read more: A Businessweek profile of Steven Mnuchin

Mnuchin renamed the bank OneWest. He slowed reverse-mortgage lending and completely stopped making new loans in 2011. From then on, Financial Freedom operated as a servicer, working on behalf of investors like Fannie Mae that owned the loans.

Financial Freedom would collect on loans when they came due, often in the event of a death, and foreclose if necessary. It has carried out 16,220 foreclosures since 2009, or about 39 percent of

the country's reverse-mortgage foreclosures, according to HUD data obtained by the California Reinvestment Coalition, a nonprofit group that monitors banks.

An early alarm about Financial Freedom's practices sounded in 2013, when Matthew A. McDonald, an executive at another servicer, Walter Investment Management Corp., filed a whistle-blower complaint claiming his Tampa, Florida-based employer was bilking the government of tens of millions of dollars.

Curtailed Interest

Here's how the scheme worked, according to McDonald: The loans are backed by insurance from the Federal Housing Administration, an arm of HUD. If a loan comes due, servicers must meet deadlines to complete tasks like getting an appraisal and starting the foreclosure process. If they miss the deadlines, they aren't entitled to earn interest from the FHA while waiting for the agency to pay its claim, a process that can take years. In industry parlance, the interest payments are "curtailed."

McDonald said Walter routinely missed deadlines and then falsely claimed it met them in order to maximize FHA compensation. The government eventually took up his case and settled with Walter for $29.6 million. Walter didn't admit or deny wrongdoing.

McDonald said in his complaint that Financial Freedom was doing the same thing, though he didn't have any first-hand evidence. Given the size of Financial Freedom's loan portfolio, which was much greater than Walter's, he estimated that the overbilling could have amounted to more than $200 million.

Around the time it settled with Walter last year, HUD issued the first of several subpoenas relating to curtailment of interest at Financial Freedom. Then, in February, CIT disclosed that its auditors found a "material weakness in internal controls" at the unit.

That led to the discovery of the $230 million shortfall. As CIT Chief Financial Officer Carol Hayles explained on a conference call, Financial Freedom hadn't been accurately tracking how much interest it was entitled to from FHA insurance claims and had overestimated how much it would get.

Aggressive Timeline

In a roundabout way, the possibility that Financial Freedom might have been foreclosing too slowly to meet federal deadlines bolsters the case OneWest executives have made in defending their record. At a hearing in California last year, Joseph Otting, OneWest Bank's CEO at the time, portrayed the lender as merely carrying out the government insurance program's aggressive timeline.

"The vast majority of criticism of our servicing practices are really criticisms of the regulations," he said at the hearing. "We share the frustrations of those who criticize the outcomes that are the direct result of HUD requirements."

That argument doesn't satisfy critics like Sandy Jolley, who battled Financial Freedom over her parents' reverse mortgage and later became a consultant to other borrowers.

Financial Freedom seems bent on foreclosing on borrowers as fast as possible, sometimes without justification, Jolley said in an interview. After she tried unsuccessfully in court to void the loan on her mother's Thousand Oaks, California, home, Financial Freedom in 2010 tried to foreclose by falsely claiming that the mother no longer lived there, Jolley said. At the time, her mother was widowed, in her 80s and suffering from Alzheimer's disease.

Financial Freedom completed the foreclosure in 2013, Jolley said, after her mother died. CIT declined to comment about the case.

"When you have nowhere to turn, and you are being wrongfully threatened with foreclosure and displacement from your home, that stress can be overwhelming," Jolley said. "You don't know what is going to happen to you tomorrow. What are they going to do to you?"

https://www.bloomberg.com/news/articles/2016-12-13/mnuchin-s-reverse-mortgage-woes-blemish-record-of-treasury-pick

Steve Mnuchin's Old Company Just Settled for $89 Million for Ripping Off the Government on Dodgy Loans

David Dayen, The Intercept, May 16, 2017

For four years during Treasury Secretary Steven Mnuchin's tenure as chair of OneWest Bank, its reverse-mortgage subsidiary Financial Freedom ripped off the government by receiving unlawful federal insurance payments on reverse mortgages, according to an $89 million Justice Department settlement made public today.

Financial Freedom serviced thousands of government-insured reverse mortgages from 2011 to 2016. According to the settlement, the company repeatedly filed insurance claims with the Federal Housing Administration (FHA), and received interest payments, without following program guidelines. This gave Financial Freedom a critical backstop for reverse mortgages that often harmed borrowers.

"This lender failed to comply with FHA servicing requirements and sought to receive financial gains that it was not legally entitled to," said Inspector General for the Department of Housing and Urban Development David Montoya, in a statement accompanying the settlement.

Misconduct stemming from Mnuchin's OneWest tenure has dogged the treasury secretary since President Trump nominated him last November. Prosecutors in the California attorney general's office recommended suing OneWest over widespread violations of state foreclosure practices. And numerous foreclosure victims have accused OneWest of treating them unfairly and wrongfully foreclosing on their homes.

The Financial Freedom unit appears to have been a particular trouble spot. Reverse mortgages, where seniors borrow against the value of their homes, are intended to give the elderly a source of income at end of their lives to make ends meet. But they can turn harmful amid unscrupulous lenders.

Seniors remain responsible for property taxes and homeowner's insurance, and when they fail to pay, Financial Freedom often moved quickly to foreclose, without granting repayment options to the borrower. Financial Freedom also reportedly engaged in "widow foreclosures," evicting a spouse from the home after the borrower on the title died. Data obtained by the California Reinvestment Coalition showed that Financial Freedom was responsible for 39 percent of all reverse mortgage foreclosures since April 2009, yet only 17 percent of all reverse mortgages.

Some of the worst horror stories about OneWest's foreclosure practices involve Financial Freedom reverse mortgages. A 103-year-old, Myrtle Lewis, slipped into foreclosure after a one-month lapse in homeowner's insurance coverage. A 92-year-old widow from Florida was evicted over a 27-cent underpayment.

In this settlement, which resolves a Department of Housing and Urban Development investigation into Financial Freedom's accounting practices, the victim was the FHA.

Reverse mortgage loans come due when the home becomes vacant or the owners die; at that point, the family of the borrowers repay the debt, or lenders sell the property to recoup costs. The FHA guarantees repayment to the lenders, including legacy costs of servicing and maintenance. They even collect interest while the claim is being processed, which often takes years. All lenders have to do is follow the guidelines of the program and they cannot lose.

Financial Freedom, according to the settlement, did not meet those regulatory requirements. Specifically, they did not hit deadlines for appraising the property, submitting claim forms, and initiating sales of the homes. And then they falsely claimed to the FHA they met the deadlines, to collect interest payments.

In other words, Financial Freedom didn't spend the money required by the reverse mortgage insurance program, but still recouped interest payments from the FHA. Stealing from the program reduces its solvency and the viability of the reverse mortgage program. "We are pleased that Financial Freedom agreed to accept financial responsibility for these failures," said Acting U.S. Attorney Stephen Muldrow of the Middle District of Florida, who prosecuted the case.

The period of Financial Freedom's misconduct covers a period that began shortly after Mnuchin became chair of OneWest and ended shortly after he and his fellow investors sold the company. He was either unaware of the breakdown in controls at Financial Freedom, or aware of the misconduct and allowed it to continue.

Other OneWest officials have claimed that criticism of their reverse mortgage practices "are really criticisms of the regulations." But victims and their families contend that Financial Freedom had wide latitude over reverse mortgage foreclosures, not FHA. And the settlement suggests that OneWest, under Mnuchin and afterwards, gamed the regulations to collect unlawful government payments. This suggests Financial Freedom was both ruthless toward borrowers and deceitful toward the FHA.

The treasury secretary who presided over this behavior is now in charge of regulating substantial parts of the U.S. financial system.

Sandra Jolley, a whistleblower who fought Financial Freedom over a reverse mortgage taken out by her parents and then became a consultant for other families, first notified the Justice Department of the violations. Under the terms of the $89 million settlement, Jolley will receive $1.6 million for her service. An initial assessment of Financial Freedom's liability put the cost of the violations at over $200 million, so the lender likely got off easy.

Financial Freedom did not have to admit nor deny wrongdoing. In a statement to The Intercept, CIT, the current owners of OneWest, said they were "pleased to have resolved" the situation. They stressed that Financial Freedom has discontinued the troubled lender from originating new mortgages. "CIT continues to evaluate strategic options for the Financial Freedom business," said spokesperson Gina Proia.

CIT may not be out of the woods. New York Attorney General Eric Schneiderman subpoenaed documents about Financial Freedom's loan business within the past couple months, according to the company's financial disclosures.

https://theintercept.com/2017/05/16/steve-mnuchins-old-company-just-settled-for-89-million-for-ripping-off-the-government-on-dodgy-loans/

After 2-year foreclosure battle, she owns Minneapolis home

By Abby Simons Minneapolis Star Tribune

August 23, 2011 — 10:40am

Fine print filled the inch-thick stack of papers in front of Leslie Parks at a Maple Grove mortgage office Friday. But signing and dating each document was a task she was happy to take on.

The papers meant that, after nearly two years of desperately clinging to a south Minneapolis duplex that had slipped into foreclosure when her mother was duped into an adjustable-rate mortgage, Parks finally owned 3749 Park Av. S.

"Can you believe we're here?" asked a beaming Liz Peter, senior planner for Waterstone Mortgage.

"I can, actually," Parks replied.

The closing marked a happy ending to a painful saga that drew the attention of U.S. Sens. Amy Klobuchar and Al Franken, who pushed measures last year to protect consumers from the kind of predatory lending practices that had jeopardized Parks' house.

It began in December 2009, when Parks arrived home from work during a blizzard to find that the locks had been changed on her mother's former duplex.

Parks was in the midst of negotiating with lender OneWest Bank of Pasadena, Calif., to stay in the home after it had slipped into foreclosure the summer before.

Her mother, Tecora Parks, had refinanced her fixed-rate mortgage with a subprime adjustable-rate loan to pay for city-ordered window upgrades for the rental property.

OneWest Bank, recognizing it had made a mistake in changing the locks too early, contacted Peter to help Leslie Parks buy the duplex back from the bank.

Peter's first step was to get Parks, 48, a logistics coordinator for a roof shingling manufacturer, in touch with Edina credit and debt consulting firm Christopher & Associates. The firm spent five months pulling Parks' credit score out of the gutter -- a score that had been shot when Parks racked up credit card bills trying to save her mother's duplex.

Christopher & Associates CEO Michael Stroozas said they negotiated with creditors and arrived at a sum, about $3,100, that Parks could pay off with a low-interest loan.

He surprised her Friday with the news that the company had decided to convert the loan into a grant that she didn't have to repay.

"God bless you," Parks said, wiping away tears.

"You're welcome," Stroozas said.

While companies worked on Parks' credit, Peter directed her to home buyer classes that qualified her for down payment assistance from Minnesota Housing and Central Neighborhood program funds. A local title company contributed a job loss protection policy, while volunteers helped fix up the house.

Parks has been living there throughout the negotiations. On Friday, she signed the papers.

"It's a story about hope, and it's a story about teamwork where we all came together to make this work," Peter said.

Financial stigma

Mortgage products are considerably safer now than they were when the Parkses got in a bind.

Still, Stroozas said, at a time when a quarter of the nation's residents have credit scores below 600 because of job loss, there shouldn't be a stigma attached to financial strife.

"There's still a large taboo about credit and debt problems in our country and it needs to go away," he said. "We're addressing it in the private sectors with companies like us being their advocates, but I don't think we're addressing it on the grander stage of things."

Parks credited the Minnesota Coalition for People's Bailout and other local organizations in helping her not only help herself, but also to speak for thousands of others who risk losing their homes under similar circumstances.

"I was willing to talk about what needed to be done and I needed a vehicle to do that," she said. "It was going on everywhere, but people needed to talk about it."

Parks said that she looked forward to entering her new home Friday night. She knew the same old duplex was going to feel different.

In the meantime, she had to search for a new tenant for the other half of the duplex. She had become not only a homeowner, but a landlord, too.

http://www.startribune.com/after-2-year-foreclosure-battle-she-owns-minneapolis-home/128110078/

EMBARGOED // Wednesday, January 18th at 2:15pm

Statement by Colleen Ison-Hodroff

Dear Assembled Senators:

My name is Colleen Ison-Hodroff. I am 84 years old. I am a resident of Minneapolis, Minnesota. My husband Monroe Hodroff and I purchased our home located at 2753 Ewing Avenue in 1963 as a home for our family of six children. They called us the Brady Bunch of Ewing Avenue. Our house was the heart and soul of our family. Monroe and I were married for 55 years, and we successfully ran four small grocery stores.

I would like to thank you all very much for allowing me to share my story.

I am here today because Financial Freedom, my reverse mortgage servicer, is trying to foreclose on my home. This is despite the fact that when my husband Monroe and I took out this loan, they told us that I could remain in the home if Monroe should die before me.

In July of 2006, my husband and I decided to take out a reverse mortgage loan with Financial Freedom. It was a very complicated process. Someone came to our house and I was asked to sign a number of papers. Usually, Monroe handled the financial matters for our household. We were told that I could live in the house if Monroe passed away. It was never Monroe's or my intention that the survivor of the two of us would have to sell the house or leave if one of us died. We would not have signed for the loan if we thought that was the case.

My husband Monroe passed on September 12, 2014. A mere 10 days later, despite what we had been told, Financial Freedom contacted me and told me that I needed to pay off the loan immediately. This was news to me. I was in no financial position to do so. Since, then Financial Freedom has been trying to foreclose on me.

I think this is an injustice in that an elderly woman was deceived, and now Financial Freedom is trying to take my home.

Why would Financial Freedom do this to me? I relied on what I was told, and now they are trying to kick me out of our family home. How was I supposed to know if what I was told wasn't true? What I am supposed to do now?

My understanding is that in such circumstances, Financial Freedom blames HUD for it kicking out Non-Borrowing Spouses. Experts who have reviewed my paperwork have told me that this isn't even a HUD-backed loan, so Financial Freedom has no one to blame but themselves. It seems Financial Freedom should be working to keep people like me in their homes, and not fighting to kick us out.

I hear that Steve Mnuchin was a leader of the bank that is doing this to me and other seniors. I do not think a man like that should be the Treasury Secretary and in charge of our economy. We can't let that happen.

Thank you again for allowing me to tell my story on behalf of those who have had bad dealings with Financial Freedom and OneWest.

Fact Sheet: CFPB Complaint Data Reveals OneWest's Track Record Against Seniors

Background: In October 2010, Joseph Otting was hired as CEO at OneWest Bank and served as CEO until December 2015, when he was fired.

Foreclosures: OneWest Bank is best known for foreclosing on tens of thousands of homeowners, including seniors with reverse mortgages from a OneWest subsidiary, named Financial Freedom.

Critics have suggested that OneWest's incompetent mortgage servicing practices resulted in unnecessary foreclosures.

- According to government data, OneWest denied 3 out of 4 HAMP applications it received;
- OneWest was ranked as the 4th worst mortgage server in 2012 by JD Power & Associates;
- California housing counselors consistently gave the bank low marks for helping homeowners;
- When Otting was the Chair of the CA Chamber of Commerce, a state bill to stop "widow foreclosures" was placed on the Chamber's infamous "Jobs Killer" list; and
- The bank entered into a consent order with bank regulators in 2011.[1]

CFPB Complaints: One resource that has not been tapped into to understand OneWest's record is the complaints and accompanying narratives that consumers have filed with the Consumer Financial Protection Bureau against OneWest, and Financial Freedom.

Dr. Garrett Andrew Schneider researched and analyzed CFPB complaint data from 2011 (when the CFPB began accepting complaints) through 2015.

Using the publicly available CFPB complaint data, 1,318 complaints were identified that had been filed with the CFPB against OneWest Bank (and its subsidiary, Financial Freedom) during the time that Otting was CEO.

FOIA Requests: In comparison, when the California Reinvestment Coalition asked HUD for the number of complaints filed against Financial Freedom HUD responded that it would take over 193,000 hours (22 years) to compile that information.[2] HUD still hasn't provided FOIA data requested in January about OneWest.[3]

The OCC has yet to respond to an expedited FOIA request about the number of complaints it received about OneWest, pre-emption issues with the bank, and public comment process safeguards the OCC uses.[4]

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[1] A) Of the 388,147 HAMP requests that CIT Bank (formerly OneWest) had received, it denied 73% of the requests (284,306 denials). HAMP data as of Oct 2016: https://www.treasury.gov/initiatives/financial-stability/reports/Documents/HAMP%20Application%20Activity%20by%20Servicer%20October%202016.pdf
B) Onewest Bank was ranked 4th worst mortgage servicer in 2012.
C) See CRC's 2011 survey of counselors.
D) OneWest Consent Order. Note: The Fed has NOT lifted its order yet.

[2] See HUD's FOIA response here.

[3] See CRC/JALA FOIA request here.

[4] See the FOIA request to OCC here.

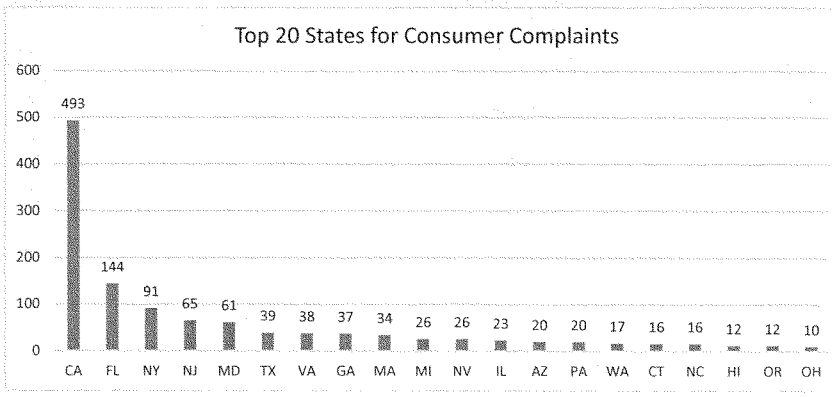
Key Findings

Who is complaining about OneWest and how does the bank respond?

- **Older Americans** account for at least 171 complaints (13%)
- **Servicemembers** account for at least 60 complaints (4.6%)
- Only 91 complaints (6.9%) closed with relief.
- California is the state with the most complaints at 493 (37.4%).
- Complaints from California and Florida represent almost half (48%) of all complaints.

What OneWest **products** are people complaining about?

- Mortgages account for 1,062 complaints (80.6%)
- Reverse mortgages account for 216 complaints (16.4%).
- The majority of complaints concern loan modifications, collections, and foreclosures.



Consumer complaint narratives highlight themes of ***lost documentation****,* ***disorganization****,* ***misinformation****,* ***billing errors****, and* ***arbitrary foreclosures*** *and* ***loan modification refusals****.*

Consumer Complaints about Reverse Mortgages

- "We mailed, faxed, and certified mailed them the necessary documentation and they NEVER acknowledged getting it....Two months after my mom passed they sent us a package referencing foreclosure procedures...It's been six months of being tossed back and fourth from Financial Freedom to...OneWest Bank to CIT Bank...ALL we want to do is keep our MOTHERS home. All we need is someone to tell us, who has the deed now to purchase the property from. We are running out of time...Please help us before it's too late. Financial Freedom is a Financial Nightmare! Six months talking to people and still no results! NEVER DO A REVERSE MORTGAGE!!!!!!! It's not worth it!"—**Reverse Mortgage in MS**

- "We had a Reverse Mortgage but I was not on the deed, yet this was my homestead for over 35 years. I was forced into bankruptcy and finally given time by the courts to take my homestead through bankruptcy...I am desperate. I live off of fixed income, my husband's social security and I work to make ends meet. I am XXXX years of age and I need help. This is not fair to me."—**Reverse Mortgage in FL**

- "Freedom Financial is...intentionally stalling in order to avoid or stop the [family] estate from purchasing the home."--**Reverse Mortgage in GA**

- "My Mother passed away... [in] 2015. She had a reverse mortgage with Financial Freedom ("FF"). We were busy dealing with funerals services, bills, etc., but contacted FF within 30 days to notify them of her death. They sent forms...asking our intent for the property. We checked the appropriate boxes that indicated our intent to purchase the property for the family. We also called them and had extensive conversation with a rep....The forms were mailed in. I called to confirm they had been received and never heard anything else. I assumed the extension had been granted...[only later] I discovered a foreclosure had been filed against the property." – **Reverse Mortgage in CA**

- "My mother passed away...[in] 2014...We notified Financial Freedom that our intent was to clear the home of personal property, to make repairs/renovations, and to market the property for sale...We were granted a 90 day extension...Both OneWest Bank and Financial Freedom deny receiving request for extension and instituted Foreclosure Proceedings on the Estate property... Financial Freedom has been unwilling to work with us; we simply requested legal extensions in order to market the property at a fair price in line with local comps." – **Reverse Mortgage in CA**

- "I began getting letters from Financial Freedom threatening me with foreclosure. These letters said I owed Financial Freedom {$3300.00} for advances they paid out on my reverse mortgage. However, when I called Financial Freedom on numerous occasions no one could explain to me what these were for. Finally, my son ordered an account history and after reviewing the history we determined that Financial Freedom was billing me for taxes that had already been paid or for taxes they claim they paid 8-10 years ago"—**Reverse Mortgage in MI**

- "After [my father] died [Financial Freedom] said that I, as legal heir, would be allowed to purchase my father's home for 95 % of its fair market value. They sent an appraiser who took a photo of the front and rear of the house and added a {$450.00} appraisal fee to my father's account with Financial Freedom. The appraiser never even came inside…I told Financial Freedom that the property was not worth {$120000.00}. This was confirmed by a real estate agent, and friend, who lived next door. I told Financial Freedom that I wanted to get my own appraisal and they said only their appraiser could be used….I feel completely cheated by this dishonest appraiser, Financial Freedom and…the buyer at auction….Completely unfair and immoral and criminal in my opinion."—**Reverse Mortgage in MA**

- "I am now trapped in a situation whereby I face the threat of losing my home over {$1200.00}."—**Reverse Mortgage in FL**

- "How could the US bail out banks when this is what they do to elderly homeowners?" – **Reverse Mortgage in NJ**

- "I have had a lot of trouble and feel like the loan was misrepresented. I receive {$1100.00} in Social Security each month….I have been in my home 60 years and am not fit to move. It is tearing me up. I don't know what to do. They are driving me crazy. I went to a lawyer but I can't afford to pay them….My banker has tried to help me also with forms. I am helpless as to how to live…I have no money for needed items."—**Reverse Mortgage in KS**

- "I am desperate. I live off of fixed income, my husband's social security and I work to make ends meet. I am XXXX years of age and I need help. This is not fair to me."—**Reverse Mortgage in FL**

- "Financial Freedom 'the reverse mortgage specialist' has been giving my XXXX-year old mother the run-around for the last three months since she notified them she vacated her home with a 'no fault ' home equity conversion mortgage (HECM), in trying to complete Financial Freedom's 'streamlined ' deed in lieu of foreclosure process. My mother is on an extremely limited income and cannot continue paying for this property while Financial Freedom gives her the run-around…It's completely stuck in Financial Freedom's limbo and every time we call customer service…to speak with a manager or the specialist handling the account they say that everyone is [in] a meeting or on break or on lunch and will return our call but a manager or supervisor NEVER calls us back. Every time we call, we get a different answer where the deed in lieu of foreclosure process is at and no one can tell us what the next step is to complete or what is needed to complete it. They are intentionally trying to delay the process and even an email from their legal office says they are purposely delaying for an unknown reason. Please help. My XXXX year old mother is losing her faculties and health is failing. This predatory and deceitful practice by Financial Freedom is taking its toll on her health and her finances…PLEASE HELP US."—**Reverse Mortgage in VA**

- "Near the end of 2011, I fell behind on my mortgage payments because I separated from my husband and finances changed drastically. I immediately applied for a loan modification. I followed through, faxed the application and all necessary documents to One West. Kept in touch with them to make sure they had received them. But every time, there was something missing, or they didn't receive my documents, or the documents had expired because so much time had passed since the first time I had sent the first documents. I felt they were playing me because I knew they had received them. They waited for all that time to go to then tell me my documents had expired…I did everything they asked me to and they still took my home, our home. My children and I were devastated whenever they would post our door and finally when they took it from us. This bank had no intention in giving me a modification. We had more than enough time to get it done before the sheriff sale. Finally, just two weeks before the sale, they told me I qualified for the modification but it was too late because the sale date was too close. I couldn't believe what I was hearing. This bank has to be punished for what they have been doing to homeowners. It is not like I ignored their phone calls or abandoned my home. I need…help and want to be compensated for my loss. They wanted to take my home."—**Reverse Mortgage in PA**

Consumer Complaints to the CFPB about Conventional Mortgages

- "I am really at the end of my endurance financially, emotionally, and self-worth. There is nothing else for us to do. Soon we will be homeless. I never thought my life would end this way. After all the years of hard work, this is what we have come to in our lives"—**Conventional ARM/Older American in MA**

- "[OneWest] is repeatedly denying my loan application stating I do not live in the subject property even though all my documents which includes all utility bills for gas, electric, water, cable and phone as well as my driver's license and vehicle registration all show this subject address. But because on [my credit report] it shows another residence…[that] I have not resided at in over 10 years, they will not accept that this is my primary residence…[OneWest] is stating I would need to contact the credit bureaus to have this changed. I came to find out I would need to contact each bureau in writing and will be responded to in 90 days which by then, I would most likely have a scheduled foreclosure sale date."—**Conventional ARM in NY**

- "[OneWest]…ruined my life, business and my family's future"—**Conventional Fixed Mortgage in MA**

- "We feel that bank was not helpful with us and is not trying to help keep our home. I think the bank is playing games with us. Every time I speak with someone it's something different"—**Conventional Fixed Mortgage in MD**

- "I have had a very difficult time with [OneWest]. I have tried to submit for a loan modification. I was never able to communicate to the same person which always caused confusion. [OneWest] always seemed to lose my paper work, which I constantly had to re-fax."—**Conventional ARM in CA**

- "I'm filing this complaint because it's been a horrible process to be left a widow with a XXXX dollar mortgage because the banks threw money at my late husband who was gambling on our equity…And it was heartbreaking to go through the humiliation of a foreclosure that turned out to be a back door agreement between IndyMac/OneWest and XXXX…I want anyone going through this to learn from my experience."—**Conventional ARM in CA**

- "OneWest bank has taken away from me the chance to avoid foreclosure, the chance to have my loan modified by HAMP program. OneWest Bank has failed in their duty of care with my HAMP modification. OneWest is the reason I am losing my home. OneWest Bank has caused me a lot of harm."—**Conventional ARM in FL**

- "OneWest Bank FSB does not have standing to foreclose on the subject property as it is not the holder in due course of the subject loan… I'm a victim of robo-signing"—**Conventional Fixed Mortgage in FL**

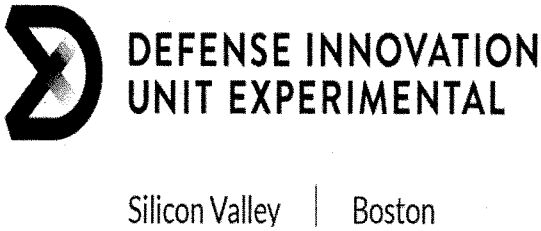
- "Can my home be foreclosed if the original signed documents cannot be presented?"—**FHA Mortgage/Elderly American in MD**

- "I did on several occasions send in complete [HAMP] applications, and yet there were always 'missing documents'…--their word against mine"—**Conventional ARM in LA**

- "As a…widow, I cannot afford the house my late husband left me with…I just wish to have some better closure with this…I wish to be able to have bank agree to a short sale or deed in lieu of foreclosure and give me up to 2-months to clear out of the house I've lived in for 28 years."—**Conventional ARM in CA**

- "The bank has acknowledged that they have no legal standing to continue to hold their lien against our home….I appreciate the Consumer Financial Protection Bureau's assistance and can say without equivocation that it was your involvement that moved the bank to begin a dialogue."—**Mortgage/Older American in CA**

Pre-Decisional Draft 1.0--For Discussion Purposes Only



Silicon Valley | Boston

China's Technology Transfer Strategy:

How Chinese Investments in Emerging Technology Enable A Strategic Competitor to Access the Crown Jewels of U.S. Innovation

Michael Brown and Pavneet Singh

February, 2017

Executive Summary

This report explores China's participation in venture deals[1] financing early-stage technology companies to assess: how large the overall investment is, whether it is growing, and what technologies are the focus of investment. **Chinese participation in venture-backed startups is at a record level of 7-10% of all venture deals done** and has grown quite rapidly in the past five years. The technologies China is investing in are the same ones that we expect will be foundational to future innovation in the U.S.: artificial intelligence, autonomous vehicles, augmented/virtual reality, robotics and blockchain technology. Moreover, these are some of the same technologies of interest to the US Defense Department to build on the technological superiority of the U.S. military today.

Because the U.S. economy is open, foreign investors, including those from China, are able to invest in the newest and most relevant technologies we are developing for the future and gain experience with those technologies at the same rate as the U.S. does. **The U.S. government does not currently monitor or restrict venture investing and the potential transfer of early-stage technology know-how.** The primary tool the government has to block or mitigate foreign investment is the Committee on Foreign Investment in the United States (CFIUS); however, since CFIUS reviews specific deals on a case-by-case basis (rather than systematic assessments of acquisitions or acquirers) and only deals that involve a controlling interest by foreign investors (usually mergers and acquisitions), CFIUS is only partially effective and allows concerning activity beyond its jurisdiction. The other principal tool to inhibit technology transfer is export controls. Export controls are effective at deterring exports of *products* to undesirable countries and can be used to prevent the loss of advanced *technologies* but controls were not designed to govern early-stage technologies or investment activity. Importantly, to be effective, export controls require collaboration with international allies, which is a long process where cooperation is not guaranteed.

This report surfaces some of the more concerning investment trends by Chinese entities in the U.S. early-stage technology ecosystem. There is further detail on the strengths and weaknesses of the U.S. government's existing tools and specific recommendations on how to stem the transfer of technology and technical know-how from this asset class. **For the Department of Defense, in particular, the report highlights a series of actions to take from developing a critical technologies list to restricting Chinese investments in technologies on that list, enhancing counterintelligence efforts and increasing investment to stimulate technology development through DARPA.**

However, while these findings are concerning, venture investing is only a small part of China's investment in the U.S.--which includes all forms of investment and investor types. Investing is itself only a piece of a larger story of massive technology transfer from the U.S. to China which has been ongoing for decades. This report places venture investing within the larger context of China's long-term, systematic effort to attain global leadership in many industries, partly by transferring leading edge technologies from around the world. Therefore, the recommendation **for the U.S. government is to expand the scope of CFIUS to include any commercial activity that could result in technology transfer such as venture investing *and* to restrict investments and acquisitions of U.S. companies that own technologies the DOD identifies as critical to national security.**

Importance to the Department of Defense (DoD)

U.S. military superiority since World War II has relied on both U.S. economic scale and technological superiority. U.S. technological pre-eminence enabled the series of offset strategies which included being first with nuclear weapons (the First Offset) and the electronics-enabled weapons of night vision, laser-guided bombs, stealth and jamming technologies as well as spaced-based military communications and navigation enabling the U.S. to dominate a battlefield (the Second Offset). Much of this technology came from research sponsored by the U.S. government

[1] A venture deal is a financing that provides startup or growth equity capital provided by private investors, usually venture capitalists.

and the Defense Department specifically. However, the technologies which will create the Third Offset are being developed by early-stage technology companies with large commercial markets. If we allow China access to these same technologies concurrently, then not only may we lose *our* technological superiority but we may even be facilitating *China's* technological superiority.

That China will grow to be an economy as large as ours may be inevitable; that we aid their mercantilist strategy through free trade and open investment in our technology sector is a choice. As a result, while this strategic competition with China is a long-term threat rather than a short-term crisis, preserving our technological superiority and economic capacity requires urgent action today.

Key Supporting Points:

- **China is executing a multi-decade plan to transfer technology to increase the size and value-add of its economy from its base as the world's 2nd largest economy. By 2050, China will be 150% the size of the U.S.[2] (with the goal of being double the US economy by that time and decrease U.S.' relevance globally)[3].**
- This technology transfer to China occurs in part through increasing levels of investment and acquisitions of U.S. companies which are at record levels today. **China participated in about 10% of all venture deals in 2015 up from a 5% average participation rate during 2010-2016.**
- **China is investing in the critical future technologies that will be foundational for future innovations across technology both for commercial and military applications: artificial intelligence, robotics, autonomous vehicles, augmented and virtual reality, financial technology and gene editing.** The line demarcating products designed for commercial vs. military purposes is blurring in these new technologies.
- **Investments are only one means of technology transfer which also occurs through the following licit and illicit vehicles** where the cost of stolen intellectual property has been estimated at $300 billion per year.[4]
    - Industrial espionage, where China is by far the most aggressive country operating in the U.S.
    - Cyber theft on a massive scale deploying hundreds of thousands of Chinese army professionals
    - Academia, since ¼ of STEM graduate students are Chinese foreign nationals
    - China's use of open source information cataloguing foreign innovation on a large scale
    - Chinese-based technology transfer organizations
    - U.S.-based associations sponsored by the Chinese government to recruit talent
    - Technical expertise on how to do deals learned from US firms
- **China's goals are to be #1 in global market share in key industries, to reduce reliance on foreign technology and to foster indigenous innovation.** Through published documents such as Five-Year Plans and Made in China 2025, **China's industrial policy and national focus on innovation are clear.**
- **There are clear examples of Chinese indigenous innovation** where China is doing much more than copying technology.
- **The U.S. does not have a comprehensive policy or the tools to address this massive technology transfer to China.** CFIUS is one of the only tools in place today to govern foreign investments, but it was not designed to protect sensitive technologies and is only partially effective.
- **The U.S. government does not have a holistic view of how fast this technology transfer is occurring, the level of Chinese investment in U.S. technology or what technologies we should be protecting.**
- DoD has several areas of risk resulting from the scale of China's investments and its technology transfer:
    - Supply chains for U.S. military equipment and services are increasingly owned by Chinese firms

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[2] According to the Economist, the U.S. GDP will be $70 trillion by 2050 and China's GDP will be $105 trillion. "Long Term Macroeconomic Forecasts--Key Trends to 2050," *The Economist Intelligence Unit* (2015).

[3] The U.S. has not competed with an economic rival that could be larger than its own economy in 150 years. Michael Pillsbury. *The Hundred-Year Marathon.* (New York: St. Martin's Griffin, 2016)

[4] "The IP Commission Report: The Report on the Theft of American Intellectual Property," National Bureau of Asian Research (May, 2013). Retrieved at http://www.ipcommission.org

- China's targeted investments to close the gap in capabilities between its military and the U.S. in key areas such as jet engine design.
- Industrial espionage and cyber theft mean key defense designs and plans are in Chinese hands.
- There is no agreed upon list of technologies to protect for the future though an effort exists today to delineate technologies critical to current acquisition programs (JAPEC[5]).

The appropriate policy recommendations depend on assessments of the urgency and importance of the strategic threat that China poses:

- A minimalist action would be to develop the data collection and analysis capability to better assess what is happening. DoD should invest in developing the critical technologies list we need to protect for the future.
- Defensive actions to slow the technology transfer include restricting China's investment in and acquisition of technology companies by reforming CFIUS and modifying both export controls and student visas to be consistent with protecting agreed-upon critical technologies. More investment in counterintelligence and cyber protection would deter future intellectual property theft.
- To be fully effective the U.S. government-as-a-whole needs to change its policy to reflect that China has become a strategic competitor and engage the private sector and academia.
- Any of these defensive approaches should be accompanied by an investment program to proactively reinforce our strengths in technology development and innovation.

To respond to this strategic competitive threat requires reforming CFIUS as well as a long-term and consistent government-wide plan and, more likely, a national strategy to engage the private sector and academia to prevent the transfer of sensitive technology. Existing US policy and processes governing the acquisition of sensitive technology and facilities by potential adversaries do not regulate venture-based investment. Nor does the U.S. government have the capability to restrict foreign investment in specific *technologies* on national security grounds, such as artificial intelligence and semiconductors that are so foundational to future military advantage. Developing and implementing such a national strategy goes well beyond what DoD alone can do to slow this technology transfer. In this report, there are recommendations to respond to China's investments but there would need to be additional study to fully address the strategic threat that goes well beyond DoD's responsibilities.

China's Growing Investment in the U.S. & in U.S. Technology

China's Global and U.S. Investment

China's global foreign direct investment (FDI) level is growing rapidly and is at a record level in a range of $200-250 billion, with $213 billion in announced acquisitions in 2016.[6] [7] **China's FDI investment in the U.S. in 2016 was $45.6 billion and cumulative FDI in the U.S. since 2000 now exceeds $100 billion.**[8] China's investment stems from a variety of motivations. As China's economy has grown to the world's second largest, there is a commercial interest in expanding to other markets and this also provides some diversification for companies and individuals who would like to diversify their investments both geographically and from a currency standpoint. With the recent concerns about devaluation of the currency relative to the U.S. dollar, the Chinese have made more investments overseas and this has led to an increased level of capital controls.[9]

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[5] Joint Acquisition Protection & Exploitation Cell, described on p. 14 of this paper.

[6] Lingling Wei, "China Issuing 'Strict Controls' on Overseas Investment," *Wall Street Journal* (November 26, 2016). Retrieved at http://www.wsj.com

[7] While China's global FDI has been growing at 33% annually since 2003, a leading China think tank expects global FDI to decline in 2017 to a level closer to 2015 and well below $200 billion. Lingling Wei, "China's Overseas Funding to Shrink," *Wall Street Journal* (January 14, 2017)

[8] Thilo Hanemann and Daniel Rosen, "Chinese Investment in the United States; Recent Trends and the Policy Agenda" *Rhodium Group Report* (December 9, 2016). Retrieved at http://www.rhg.com

[9] These capital controls and the slower growth rate of the Chinese economy are likely primary causes for the forecasted China global FDI to decline in 2017.

China's **U.S. Technology** Investment

China's total investment in U.S. technology (electronics, information & communications technology, biotech & energy) for the past decade 2006-2016 totaled about $35 billion and in 2016 was about $8.5B.[10] Since the U.S. is a global leader of technological innovation, it is logical that China would seek to make increasing investments in U.S. technology companies. While it is likely that China's investment in technology is driven in part by commercial interests, it is unlikely this is the sole reason given China's explicit technology goals. Investment is one of the means for China to accomplish its technology transfer goals.[11] Both these technology goals and China's multiple vehicles for technology transfer are described in later sections.

China's **U.S. Early-Stage Technology** Investment

Chinese investment activity in *early stage technology* deals is also growing rapidly and peaked in 2015 at 285 deals valued at $12 billion, **almost 10% of the value of all technology deals in that year ($137 billion).**[12] This means that China invested on the order of $3-4 billion in early stage venture deals. The specific areas of technology where these investments occurred are covered in the next section.

These investments are consistent with China's goals made clear in President Xi Jinping's statements, successive Five Year Plans, Made in China 2025 and Project 863,[13] namely, to:

- Establish China as one of the *most innovative* countries by 2020 and a *leading* innovator by 2030[14]
- Become a leading global science and technology power by 2049--the 100th anniversary of the PRC
- **Double down on R&D of core information and communications (ICT) technologies...to develop technologies on its own, *acquiring expertise from abroad when indigenous development is not possible.***

The growing investments in U.S. technology overall and early-stage ventures in particular, comprise a part of China's plan to acquire expertise from abroad and to develop indigenous innovation.

China's Investment in Critical Future Technologies

Investments from mainland China-based[15] investors into early-stage U.S. technology companies continue to grow in all sectors and are dispersed across all the stages of the investment lifecycle.[16] Some notable investment data include:

- China-based investors participated in 1,002 financings in the U.S. from 2010 to 2016 contributing to roughly $30 billion in venture-backed funding. Over the same period, overall funding into early stage technology was roughly $620 billion, indicating that **Chinese investors participated in 5% of overall deal value during this period (2010-2016) growing to almost 10% in 2015.**

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[10] China Investment Monitor, Rhodium Group, January 17, 2017; Retrieved at http://www.rhg.com

[11] "This strategy seems to be increasingly the norm in the tech industry, with Chinese companies making investments to soak up strategic technologies, capabilities, talent and brands that they can then take home." Ana Swanson, "Gold Rush: Chinese Tech Companies Invest Overseas," *CKGSB Knowledge* (April 20, 2015). Retrieved at http://knowledge.ckgsb.edu.cn/2015/04/20/finance-and-investment/gold-rush-chinese-tech-companies-invest-overseas/

[12] "The Rise of Chinese Investment in U.S. Tech Startups" *CB Insights Blog* (December 2, 2016). Retrieved at http://www.cbinsights.com

[13] Project 863 is shorthand for the month (3/March) and year (1986) when it was introduced by China's leading strategic weapons pioneers to Deng Xiaoping. The proposal was approved and served as China's leading industrial R&D program, importantly reforming decision making to be less stove-piped and more collaborative; reorienting the procurement process; investing in training of technical experts; and developing technologies of strategic value.

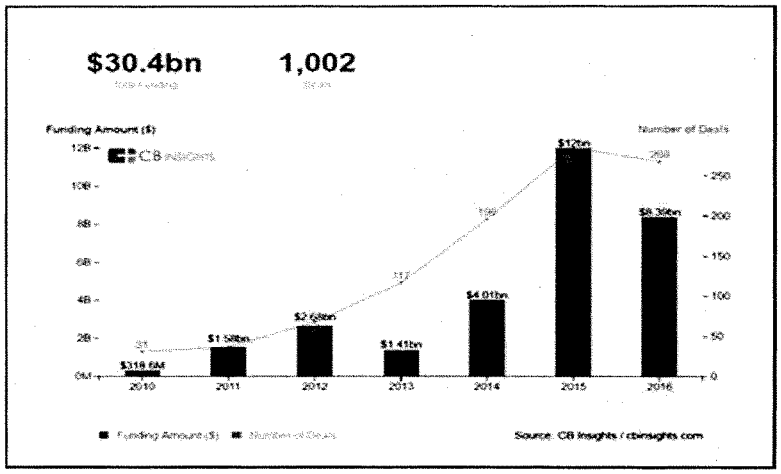
[14] "Xi Sets Targets for China's Science, Technology Progress" *Xinhua* (2016, May 30). Retrieved at http://www.xinhuanet.com

[15] For the purposes of this inquiry, China-based investors include investors from mainland China and Hong Kong.

[16] For the purposes of this study, we identified 439 unique investors from China that have invested in the United States from 2010 to 2016. These investors span from individual angel investors, Chinese entities serving as incubators or tech accelerators and traditional venture capital firms to corporations, banks, and hedge funds taking active stakes in early-stage companies The full list of Chinese investment vehicle types included in the CB Insights database include: Incubator/Accelerator; Venture Capital; Corporation; Corporate Venture; Private Equity; Asset/Investment Management; Holding Company; Angel Investor; Investment Bank; Sovereign Wealth Fund; Angel Investor (Group); Hedge Fund; Advisory; Government; Diversified Financial Services; Merchant Bank; Family Office; Debt & Specialty Finance; Business Plan Competition

- Activity from Chinese investors peaked in 2015 participating in 285 deals valued at $12 billion. In 2016, reflecting the broader decline in venture capital financings, Chinese investors participated in 7% of deals valued at $8.4 billion.[17]

Chart 1: Chinese Investment in U.S. Venture Capital Market, 2010 - 2016



Showing deals from Jan 01, 2010 - Dec 26, 2016

	Seed / Angel	Series A	Series B	Series C	Series D	Series E+
% of deals	32.47%	25.17%	16.70%	13.29%	6.23%	6.11%
Avg deal size	$1.55M	$12.5M	$28.6M	$42.4M	$55.5M	$185.7M

Table 1: Dispersion of Chinese Investment in U.S. Venture Capital Market, 2010 - 2016

- A majority of the investment occurred in the Seed/Angel stage (276 transactions and 33% of all deals), followed by Series A (214 transactions and 25% of all deals).[18] This corresponds with the recent increase in Chinese investment in early-stage technology deals and indicates that Chinese investors are interested in early looks at the most promising (even if yet unproven) technologies.

- By country, China invests more in early stage technology companies than any other country except the EU as a block. (Details on this comparison and a pie chart by country are in Appendix 1.)

[17] "The Rise of Chinese Investment in U.S. Tech Startups," *CB Insights Blog*.

[18] Seed/Angel stage is typically the first investment in an idea before the idea is proven and often attracts a different class of investors than those who might lead a later stage venture round (typically denoted by a letter such as "A", "B", etc.) leveraging a more proven idea or business model.

Investment in Critical Technologies

China-based investors are particularly active in the emerging technology sectors of Artificial Intelligence (AI), Augmented Reality/Virtual Reality, Robotics and Financial Technology. In 2016, Chinese investment in this portfolio of technologies represented approximately 16% of their overall investment.[19]

- ***Artificial Intelligence:*** During 2010-2016, Chinese investors participated in fifty-one AI financings, contributing to the roughly $700 million raised. Participation accelerated in 2015 and 2016, with Chinese investors participated in twenty-nine deals and $470 in financing.
- ***Robotics:*** Chinese investors contributed $253 million in financing in Robotics startups in 2010-2016. Deal activity peaked in 2016 with Chinese participation in fifteen deals and $80 million in financing.
- ***Augmented Reality/Virtual Reality (AR/VR):*** Chinese investors participated in $1.3 billion worth of deals during the period 2010-2016. In 2016, China-based investors participated in fifteen deals, contributing $1.06 billion in total funding value.
- ***Financial Technology (Fintech):*** Investments in Fintech, including blockchain technology, continued their rapid pace in 2016 with Chinese investors participating in twenty-one deals, valued approximately at $730 million. Overall, Chinese investors have participated in $2.8 billion in funding for Fintech companies during 2010-2016.

Two important trends stand out among the new wave of technology being funded. **First, the line demarcating products designed and used for commercial versus military purposes is blurring for these emerging technologies.** For example, VR for gaming is at a similar level of sophistication as the VR used in simulators for our armed forces.[20] Facial recognition and image detection for social networking and online shopping has real application in tracking terrorists or other threats to national security; and much of today's commercial autonomous vehicle technology and drone technology solutions find their genesis in DARPA grants over the last two decades when the Department of Defense sought to develop autonomy for war-fighting purposes.

The implication of this trend is that the current export control system, and policy apparatus for vetting foreign investment in the U.S., which are both designed to keep sensitive technology, companies, and infrastructure out of the hands of our adversaries, is built on a framework of being able to clearly distinguish the dual uses of a technology. This becomes a lot tougher when the technology itself is developed for commercial purposes and has widespread potential use as a fundamental technology building block such as artificial intelligence.[18] With the blurring of the line between civilian and military use, faster development cycles and the increasing mobility of human capital globally, our current export control system becomes even more problematic as a tool to manage how and where technology transfer occurs.

Second, these technologies–from artificial intelligence to robotics and virtual reality–will be foundational so that many applications or end-use technologies will be built upon them. These foundational technologies will be component technologies for future innovations much the same way that semiconductors have been components in all electronics, telecommunications and computing in the past several decades. This is especially true in the field of artificial intelligence, where the U.S. government is actively making investments to create the third wave of AI technology to achieve a future where machines can explain themselves to humans; where machines can create causal models, not just correlations; and where machines can take what they learn in one domain and apply the learnings to a completely different domain.[21] The breakthroughs that come with these new technologies will be the building

[19] Charts of the Chinese investment activity in these four critical technologies are in Appendix 1 and select deals for 2016 are provided in Appendix 2 which illustrates China's technology focus in venture investing.

[20] Major Loren Bymer, "Virtual Reality Used to Train Soldiers in New Training Simulator," *U.S. Army News & Information* (August 1, 2012). Retrieved at https://www.army.mil/article/84453

[21] Ed Felton and Terah Lyons, "The Administration's Report on the Future of Artificial Intelligence," *White House Blog*, October 12, 2016 Retrieved at: https://www.whitehouse.gov/blog/2016/10/12/administrations-report-future-artificial-intelligence

blocks for innovations in the decades ahead. There is likely to be an interaction between the new capabilities that are available (through innovations in robotics, artificial intelligence and virtual reality) and new generations of uses, applications and products. The same phenomenon occurred when faster microprocessors, more storage or higher networking bandwidth became available and led to future innovations such as cloud computing, mobile phones and consumer applications for GPS. Consequently, it becomes even more critical that exports, foreign ownership, and technology partnerships with foreign entities do not become conduits for technology transfers that will directly enable key means of foreign military advantage. What is at risk for the U.S. is not only losing an edge in the foundational technology, but also in successive generations of uses, applications and products that the foundational technology enables. According to Adam Siegel, a specialist in emerging technologies and national security at the Council on Foreign Relations, "The Chinese leadership is increasingly thinking about how to ensure they are competitive in the next wave of technologies."[22]

There are multiple ways Chinese invest in U.S. technology firms:

1. **Investments in U.S. venture-backed startups through venture firms.** In the past 10 years, China's investments in U.S. technology firms were limited to joint ventures or acquisitions, but now there are an increasing number of green field investments[23] in venture-backed startups (both as limited partners of U.S. venture firms and through Chinese venture firms) as well as investments through Chinese private equity firms. Examples of Chinese venture firms include West Summit Capital, Westlake Ventures (owned by the Hangzhou government), GGV Capital, GSR Ventures, ZGC Capital, Hax and Sinovation. Sinovation (formerly known as China's Innovation Works) provides a great example of an active Chinese venture firm investing in the U.S.: it was founded in 2009, manages three funds of $1.2 billion in total capital and has invested in almost 300 startups--including 25 in artificial intelligence. As evidence of its government sponsorship, Sinovation has received awards by China's Ministry of Science & Technology as well as the Municipal Science & Technology Committee of Beijing where the firm is headquartered. (An overview of Sinovation and Hax and their investments are profiled as case studies of Chinese venture capital firms in Appendix 3.) A sample listing of government-backed venture firms and their sources of capital are provided in Appendix 4.

2. **Investments by Chinese companies.** Increasingly, Chinese internet companies such as Baidu, Tencent, Alibaba and JD.com are aggressively investing in venture-backed technology deals. In 2015, these companies participated in 34 deals worth $3.4 billion, up from 7 deals in 2012 worth $355 million.[24] Tencent is by far the most active (with 2x the deals in 2015 than the others combined) having started earlier with its investing but Baidu and Alibaba are not far behind. Some Chinese internet companies are championing investments in specific technologies; Baidu, for example has a clear investment focus in artificial intelligence. The chart that follows shows the growth of investment from 2013 to 2016 from these Chinese internet companies.[25]

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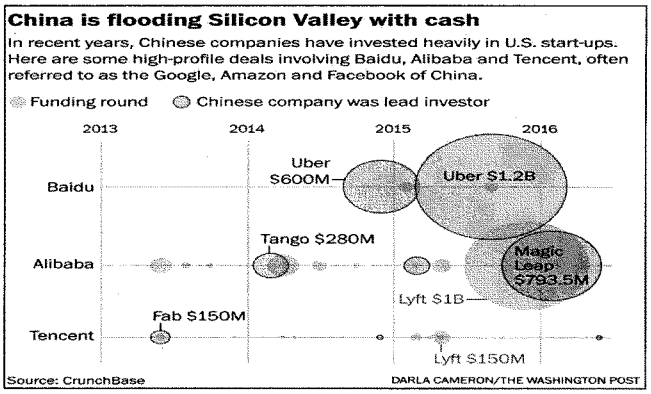
[22] John Markoff and Matthew Rosenberg, "China Gains on the U.S. in the Artificial Intelligence Arms Race," *The New York Times* (February 3, 2017). Retrieved at http://www.nytimes.com.

[23] Greenfield investments typically refer to new investments and sometimes a parent company's operations in a foreign country built from the ground up..

[24] "The Rise of China's Investment in U.S. Tech Startups," *CBInsights Blog*

[25] Elizabeth Dwoskin, "China Is Flooding Silicon Valley with Cash," *Washington Post* (August 6, 2016).



3. **Private equity (PE).** Chinese private equity is expanding at an unprecedented pace with the number of globally active funds at 672 (2013-2015), the highest in 5 years. Total value of Chinese PE deals in 2016 (through June) is at a record $18 billion worldwide. This year Chinese PE firms participated in the $3.6 billion takeover of Lexmark, the $2.75 billion purchase of Dutch chipmaker NXP Semiconductors and the $600 million acquisition of Oslo-based Operat Software's web browser business.[26] Examples of Chinese private equity firms include AGIC, Legend Capital and Golden Brick Capital and these often partner with U.S. private equity firms, such as TPG (involved in acquiring a stake in China International Capital in 2012) and Carlyle (involved in purchase of Focus Media Holding in 2013). One of the most globally active China PE investors is Yunfeng Capital started by Alibaba Group founder Jack Ma.

4. **Special purpose vehicles.** There are also examples of special purpose investment vehicles like Canyon Bridge (an example of Chinese capital and U.S. management expertise combined) which are solely formed to purchase a company and obscure the source of capital for a foreign acquisition, in this case, Lattice Semiconductor. Presumably, a special purpose vehicle is formed to enhance the possibility that the transaction would be approved by CFIUS.

5. **Acquisitions.** Chinese acquisitions continue to increase dramatically with the largest globally being China National Chemical's proposed takeover of Syngenta (Swiss pesticides) for $43 billion. China's acquisitions of foreign companies are now equal to U.S.' acquisitions of foreign companies. In the U.S., the largest recent China-based acquisitions have been the electronics distributor, Ingram Micro ($6.1 billion) and the U.S. hotel owner, Strategic Hotels & Resorts--owners of the Waldorf-Astoria Hotel ($8.1 billion).

As long as U.S. policy supports open investment by all nations, we can expect increased investment from China through a broader number of vehicles, some cleverly designed to obfuscate Chinese capital and ownership. The investment activity *beyond acquisitions* is not tracked by the U.S. government and we have limited visibility into the investors, the technologies invested in, or the increase or decrease of investment flows, except through what is tracked by private data sources. However, even these private data sources are not comprehensively tracked by the U.S. government to assemble a holistic picture of what is happening.

[26] Cathy Chan, "Chinese Private Equity Funds Are Taking on the World's Giants", *Bloomberg News* (July 20, 2016)

China's Economic and Technology Goals

China has developed a leading global economy faster than any country in modern history. This transformation began with the reform and opening of China's economy under Deng Xiaoping in 1978. By 2015, China's GDP was $11.4 trillion compared to the U.S. at $18 trillion. However, in purchasing power parity (PPP), China is already slightly larger than the U.S. This represents the first time the US has not been the largest economy since it overtook the U.K. in 1872.[27] Since the US economy is growing at 1-3% and China's is growing at 5-7%, the trajectory is clear in narrowing the GDP gap (some projections show China's GDP exceeding ours within the next decade)[28]. The time scale during which this growth occurred is stunning as China's economy has grown from 10% of the US economy in the 1970s to the second largest global economy in just fifty years. Analogous growth in the U.S. economy to global leadership took a century to achieve.

From this point forward, China plans to further transform its economy through a national focus on technology and indigenous innovation with a goal to reduce U.S. relevance and be double the size of the U.S. economy by 2050.[29] To accomplish this, China aims to displace the U.S. in key industries using its large market size to promote domestic champions which can become global leaders through state subsidies, access to low-cost capital and limiting China's domestic market access to foreign companies. China already leads the world in many key industries including overall manufacturing (accounting for almost 25% of global manufacturing in 2012), autos, high-tech products, where China produced 2.5 times the value of goods that the U.S. produced in 2012,[30,31] and e-commerce.[32] Beijing is home to the most Initial Public Offerings (IPOs) (2x the dollar value of the U.S.) and is the world's largest e-commerce retail market.[33] In fact, China has the potential to lead in all internet-based industries aided by discriminatory domestic policies such as data localization requirements, forced technology transfer and the Great Firewall. Chinese domestic champions such as Baidu, Tencent and Alibaba enjoy privileged market access in China and are market leaders domestically, while also becoming leading global technology companies.

China's leaders recognize that to achieve its economic goals, the economy must transform *even faster* in the future than in its recent past. The Chinese government wants to "revitalize the nation through science, technology and innovation."[34] President Xi's strategy is for China to develop its own industries to be leading globally, develop more cyber talent, double down on R&D especially of core ICT technologies and transform China to be a powerhouse of innovation. One area China has targeted for global leadership is the design and production of semiconductors. "China's strategy relies, in particular, on large-scale spending, including $150 billion in public and state-influenced private funds over a 10-year period aimed at subsidizing investment and acquisitions as well as purchasing technology."[35] Several official source documents clearly support these long-term economic and technology goals. (Summary descriptions of three documents are listed here with more documents and descriptions provided in Appendix 5.)

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[27] Ben Carter, "Is China's Economy Really the Largest in the World?" *BBC News* (December 16, 2014)

[28] Malcolm Scott and Cedric Sam, "China and the U.S.: Tale of Two Giant Economies", *Bloomberg News* (May 12, 2016)

[29] Pillsbury, *The Hundred-Year Marathon.*

[30] High tech products in this case are defined by the World Bank as products with high R&D intensity such as aerospace, computers, pharmaceuticals, scientific instruments and electrical machinery

[31] Jeff Desjardins, "China vs. United States: A Tale of Two Economies," *Visual Capitalist* (October 15, 2015)

[32] By 2010, China already led the world in several commodity industries where the US previously led such as steel (with 8x our output), cotton, tobacco, beer, and coal.

[33] E-Marketer.com: "China Eclipses the U.S. to Become the World's Largest e-Commerce Market." Retrieved at https://www.emarketer.com/Article/China-Eclipses-US-Become-Worlds-Largest-Retail-Market/1014364 (August 18, 2016)

[34] "Xi Sets Targets for China's Science, Technology Mastery" *Xinhua* (May 30, 2016).

[35] "Ensuring Long Term U.S. Leadership in Semiconductors," Executive Office of the President, President's Council of Advisors on Science & Technology, January, 2017. Retrieved at http://www.whitehouse.gov/ostp/pcast

- **Made in China 2025** is a plan designed to align State and private efforts to establish China as the world's pre-eminent manufacturing power by 2049 emphasizing the integration of information technology. Key sectors prioritized include advanced information technology, automated machine tools and robotics, aerospace and aeronautical equipment, maritime equipment and high tech shipping, biopharma and advanced medical products, and new energy vehicles & equipment.[36]
- **13th Five Year Plan of 2016-2020 "Internet Plus"**[37] which deepens reforms and priorities called for in *Made in China 2025* and emphasizes stronger control by the government over national networks as China continues to control the internet domestically and gains access to global networks by controlling key component and telecommunications technologies. Key aspects include[38]:
    - Focus on catapulting China into a leading position in "advanced industries" including semiconductors, chip materials, robotics, aviation equipment and satellites;
    - Decreasing dependence on imports and innovation;
    - Increasing R&D spending to 2.5% of GDP (up from 2.1% from 2011-2015);
    - Creating a $4.4 billion fund to invest in startups and new technologies;
- **China's Mega Project Priorities** are 16 Manhattan-style projects[39] to focus on specific innovations. These are analogous to what is envisioned by Third Offset capabilities. In China these projects receive a *national* (not just a military) focus. Here are some selected examples (a complete list is in Appendix 6):
    - Core electronics, high-end general chips, basic software
    - Next generation broadband wireless mobile communications
    - Quantum communications
    - Classified defense-related projects (possibly satellite navigation and inertial confinement fusion)

Today, there are clear examples of Chinese indigenous innovation showing that China is doing much more than copying technology--making progress on President Xi's goal to become one of the most innovative economies by 2020:

- **Micius Quantum Computing Satellite.** The 2016 launch of the Micius Satellite suggests an aggressive push into quantum communications; expertise in quantum computing may someday enable the capability to break all existing encryption methods.
- **Sunway Taihu Light Supercomputer.** In June of 2016, China introduced the world's fastest supercomputer, the Sunway TaihuLight capable of theoretical peak performance of 124.5 petaflops. The TaihuLight is the first system in the world to exceed 100 petaflops (quadrillions of floating-point operations per second). More importantly, the previous version of this Chinese supercomputer used Intel microprocessors but the Sunway TaihuLight uses Chinese designed and manufactured microprocessors.[40]
- **Long Range Anti-Ship Missile (LRASM).** A cruise missile system with a high-level of artificial intelligence: a "semi-autonomous" weapon having the capability to avoid defenses and make final targeting decisions with a goal of destroying larger ships in a fleet like aircraft carriers.[41]
- **Consumer Drones.** JDI's (Dajiang Innovation) market leadership in low-cost, easy-to-fly drones and aerial photography systems which have made this company the standard in consumer drone technology accounting for 70% of the worldwide drone market.
- **Autos.** In the auto industry, China plans to take advantage of two paradigm shifts to further its lead in the

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[36] Scott Kennedy, "Critical Questions: Made in China 2025," Center for Strategic and International Studies" November 7, 2016. Retrieved at http://www.csis.org/analysis/made-china-2025.

[37] "China Unveils Internet Plus Action Plan to Fuel Growth," The State Council for the People's Republic of China. *Xinhua* (July 4, 2015) Retrieved at http://www.english.gov.cn/policies

[38] Lulu Chang, "China Outlines its Latest FYP Called Internet Plus," Digital Trends (March 6, 2016). Retrieved at http://www.digitaltrends.com.

[39] Michael Raska, "Scientific Innovation and China's Military Modernization," *The Diplomat* (September 3, 2013), Retrieved at http://www.thediplomat.com

[40] Patrick Thibodeau, "China Builds World's Fastest Supercomputer without U.S. Chips," *Computerworld* (June 20, 2016), Retreived at http://www.computerworld.com

[41] John Markoff and Matthew Rosenberg, "China Gains on the U.S. in the Artificial Intelligence Arms Race," *The New York Times* (February 3, 2017).

world's largest manufacturing industry: autonomous vehicles and electric vehicles. China is investing in an electric vehicle supply chain including battery technology and aims to have 50% of the world's electric vehicle production and 90% of global battery production capacity.[42]

According to Tangent Link, a U.K.-based provider of defense reports, "one of the enduring myths in many Western CEO-suites is that the Chinese are great at copying and stealing, but will have difficulty 'out-inventing' the West. This arrogant and outdated hypothesis is crumbling fast."[43]

By some measures of innovation, China has taken the global lead but without question China's capacity to innovate is rising:

- In patent applications, China already surpasses the U.S. with over 1 million patent applications received by the China State Intellectual Property Office in 2015 (up 19% year over year) compared to 589,410 patent applications received by the U.S. Patent and Trademark Office (up 2% year over year).[44]
- In academic research papers, Chinese authorship of articles in peer-reviewed international science journals increased such that China is now in 2nd place (2011) up from 13th place just a few years earlier.[45]
- China spent 1.6% of GDP in R&D in 2011 but has a stated goal of spending 2.5% of GDP R&D by 2020--about $350 billion.[46] Combined U.S. business and federal government R&D spending is 3-4% of GDP.
- China awarded 1,288,999 Science, Technology, Engineering & Mathematics (STEM) degrees in 2014--more than double the degrees the U.S. awarded at 525,374 degrees.[47]

To assess the comparative innovation capability between China and the U.S., McKinsey recently analyzed the industries where China has an innovation lead and where it lags.[48] In traditional manufacturing industries where low costs provide a competitive advantage, China leads by leveraging a concentrated supply base and expertise in automation and modular design (examples: electronics, solar panels, construction equipment). In consumer markets, China leads given its market size (examples: smartphones, household appliances). In engineering markets, China has mixed results leading in high-speed rail but not in aerospace, nuclear power or medical equipment. In science-based industries such as branded pharmaceuticals or satellites, China is behind the U.S. but China is investing billions of dollars to catch up. (The McKinsey analysis is provided in Appendix 7.)

Many of the critical future technologies attracting venture focus today such as artificial intelligence, augmented reality and autonomous vehicles are likely to have large consumer-based markets implying that China will apply its advantages both in efficiency-driven and customer-focused industries to these new technologies with the potential to *lead in innovation and be global market share leaders.* The success of JDI in the consumer drone market with 70% worldwide share is consistent with this McKinsey analysis. In artificial intelligence, the race between the U.S. and China is so close that whether the Chinese "will quickly catch the U.S...is a matter of intense discussion and disagreement in the U.S. Andrew Ng, chief scientist at Baidu, said the U.S. may be too myopic and self-confident to understand the speed of the Chinese competition."[49] And in the field of advanced industrial robotics, China is leveraging its market and investment capital to ultimately lead in the design

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[42] John Longhurst, "Car Wars: Beijing's Winning Plan" November, 2016.

[43] "Quantum Leap: Who Said China Couldn't Invent?" *Geo-political Standpoint (GPS) Report 85* (October 14, 2016), Tangent Link

[44] "China vs. U.S. Patent Trends: How Do the Giants Stack Up?", Technology & Patent Research. Retrieved at http://www.tpinternational.com

[45] Hannas, *China Industrial Espionage*, Chapter 3

[46] Hannas, *China Industrial Espionage*, Chapter 3 and "The U.S. Leads the World in R&D Spending", The Capital Group Companies (May 9, 2016). Retrieved at http://www.thecapitalideas.com

[47] Jackie Kraemer and Jennifer Craw, "Statistic of the Month: Engineering and Science Degree Attainment by Country", *National Center on Education and the Economy* (May 27, 2016). Retrieved at http://www.ncee.org

[48] Erik Roth, Jeongmin Seong, Jonathan Woetzel, "Gauging the Strength of Chinese Innovation," *McKinsey Quarterly* (October, 2015).

[49] John Markoff and Matthew Rosenberg, "China Gains on the U.S. in the Artificial Intelligence Arms Race." *The New York Times* (February 3, 2017).

and manufacture of robots.[50] Given there are many industries where China already leads the world in innovation and given China's massive scale and national focus on science and technology advancement, it would be foolhardy to bet against China's continued progress even in the areas where they do not lead today.

Implications for the Department of Defense (DoD)

U.S. military superiority since World War II has relied on both U.S. economic scale and technological superiority. The size of the U.S. economy allows DoD to spend $600 billion per year (while remaining only 3% of GDP in 2016) which equals the defense spending of the next 8 largest nations combined. In 2016, China was the second largest spender at $215 billion, up 47% from the previous year while the U.S. spending remained flat.[51] U.S. technological preeminence enabled the series of offset strategies which included the First and Second Offsets and now DoD is currently working to maintain technology superiority in its Third Offset strategy.

China's goal to be the preeminent global economy combined with its emphasis on technology transfer and innovation constitutes a major strategic competition with the U.S. There are several areas of concern:

1. China's transformation to be the manufacturer for the world means more supply chains are owned by China, which creates risks to U.S. military technology and operations. For example, the Aviation Industry Corporation of China (AVIC) is a Chinese-state owned aerospace and defense company which has now procured key components of the U.S. military aircraft supply chain.[52] Additionally, as the U.S.-based semiconductor industry focuses on high-end designs and moves older, low-end designs offshore, the Chinese semiconductor industry now controls a significant percentage of the supply of older chips used in maintaining U.S. military aircraft and equipment designed 40 years ago and still in service.
2. China has targeted several key technologies such as jet engine design which will reduce current U.S. military superiority and is actively working to acquire companies that will close this gap.
3. China's industrial espionage and cyber theft efforts continue without adequate U.S. investment in manpower and programs to thwart these efforts. This allows technology transfer at an alarming rate.[53]
4. China's investment strategy (through venture and private equity investments as well as acquisitions) includes all of the fundamental technologies which will likely be the sources of innovation for the next several decades: artificial intelligence, autonomous vehicles, robotics, augmented and virtual reality, gene editing, etc. As a result, China has access to the U.S.-based innovation in the same areas and at the same time which could negate Third Offset advantages for the U.S. Further, when the Chinese make an investment in an early stage company developing advanced technology, there is an opportunity cost to the U.S. since that company is potentially off-limits for purposes of working with DoD.
5. Beyond the threat from investments alone, China's national focus on mega projects (analogous to the U.S. space program in the 1960s to not only develop technology but *create demand* for the technology) complements the increase in military spending as China gains experience in manufacturing and refining these new technologies for practical use.
6. The Defense Department does not currently have an agreed-upon list of critical technologies the U.S. must protect although there has been extensive work on export controls to protect technologies from being shipped to U.S. adversaries.

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[50] Farhad Manjoo, "Make Robots Great Again," *The New York Times* (January 26, 2017).

[51] 2016 Fact Sheet, Stockholm International Peace Research Institute (SIPRI) and "The Military Balance", International Institute for Strategic Studies (IISS) 2016. Retrieved at http://www.en.m.wikipedia.org

[52] "How America's Giants Are Aiding China's Rise", *Geo-political Standpoint (GPS) Report 84*, October 13, 2016, Tangent Link.

[53] The IP Commission Report (2013)

DoD began developing a list of critical technologies in 2016 in an effort known as the Joint Acquisition Protection & Exploitation Cell (JAPEC). The mission of JAPEC is to "integrate protection efforts across the Department to proactively mitigate losses and exploit opportunities to deter and disrupt adversaries which threaten U.S. military advantage." JAPEC is working to identify critical acquisition programs and technologies that require protection as well as assess vulnerabilities associated with known losses and implement advanced protection mechanisms.[54] However, given the relative newness of this effort, there is much work left to do to consolidate the technologies across DoD requiring protection for current acquisition programs. The integration of the technologies critical to the Third Offset strategy is only beginning. The JAPEC effort complements the government's robust system of export controls which are designed to comply with trade agreements, embargoes, sanctions and other political measures to meet U.S. national security and foreign policy objectives.

Finally, there is no technology landscape map to help DoD understand the fundamental component technologies required to protect applications or end-use technologies embedded in acquisition programs. For example, semiconductor technology is a fundamental component technology today that would be required to protect capabilities inherent in almost all acquisition programs. This is likely to be the case in the future with such fundamental technologies as artificial intelligence, robotics, autonomous vehicles, advanced materials science, etc. With an agreed-upon list of critical technologies and a technology landscape to clarify the value-added map of technologies (from components to end-use applications), the U.S. government can be much clearer about what acquisitions to deny through a reformed CFIUS process, what foreign investments we should not allow and where to allocate resources to thwart industrial espionage or cyber theft.

China's Multiple Vehicles for Technology Transfer

Given the authoritarian nature of China's government, China is able to focus resources from a variety of different sources to enable a broad transfer of scientific knowledge and technology. Additionally, China coordinates these different sources to achieve a larger impact through a well-articulated industrial policy documented in its Five-Year and other plans. The principal vehicles discussed so far are investments in early-stage technologies as well as acquisitions. When viewed individually, some of these practices may seem commonplace and not unlike those employed by other countries. However, when viewed in combination, and with the resources China is applying, **the composite picture illustrates the intent, design and dedication of a regime focused on technology transfer at a massive scale.**

The following table compares these transfer vehicles on a relative scale of the level of activity for China in the U.S. compared to other countries. This illustrates that what differentiates China from other countries' activities in the U.S. is the *scale* of China's efforts. Naturally, the most troublesome of all the vehicles are the illegal ones--the outright theft of technology and intellectual property which is very cost-effective for China. In fact, China views borrowing, stealing and leveraging in efficiency terms rather than in moral terms.[55]

[54] Brian D. Hughes, "Protecting U.S. Military's Technical Advantage" presented at the 18th Annual NDIA Systems Engineering Conference in Springfield, VA, October 28, 2015. Retrieved at http://www.acq.osd.mil

[55] Hannas, *China Industrial Espionage*.

Vehicles for Chinese Technology Transfer from the U.S.

Legal		China-based research centers in U.S. China-based tech transfer orgs in U.S. Professional associations Leveraging U.S. deal expertise **Early-stage investments**	Foreign students sent to U.S. Open-source tracking of foreign innovation Requirement of JVs for U.S. companies doing business in China **Acquisitions**
Illegal			Cyber attacks Cyber theft Industrial Espionage
	Low Activity	**Medium Activity**	**High Activity**

China's Activity in the U.S. Relative to Other Countries' Activities in the U.S.

The 8 principal sources and methods for technology transfer *in addition to investments and acquisitions* are:

1. **Industrial espionage**

For years, the Chinese have been engaged in a sophisticated industrial espionage program targeting key technologies and intellectual property to enhance commercial enterprises and support domestic champions.[56] This has recently been on the rise as Randall Coleman, Assistant Director of the FBI's Counterintelligence Division observed in 2015 that espionage caseloads are up 53% in the past two years and that in an FBI survey of 165 companies, 95% of those companies cite China as the perpetrator. "China's intelligence services are as aggressive now as they've ever been" underscoring the pervasive nature of intellectual property and trade secret theft.[57] The FBI reports that China pays Chinese nationals to seek employment in targeted U.S. technology firms (where there is sensitive technology that China identifies it needs) to allow these "insiders" to more readily exfiltrate valuable intellectual property. Fortunately, convictions of Chinese nationals and naturalized citizens for industrial espionage are also on the rise, up 10X since 1985[58].

Despite the rise in convictions, there is no way to know how big this problem really is. The scale of the espionage (through some of the methods described below) continues to increase and it would be difficult to quantify this problem without more resources applied by both the FBI and the Defense Department's various counterintelligence agencies. The FBI Silicon Valley office, for example, only employs about 10 individuals in this work.

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[56] *2016 Report to Congress of the US-China Economic & Security Review Commission* (November, 2016) and Hannas, *China Industrial Espionage*, Chapter 8

[57] Shanie Harris, "FBI Probes 'Hundreds' of China Spy Cases", *The Daily Beast* (July 23, 2015). Retrieved at http://www.thedailybeast.com

[58] Notes from briefing, "Economic and S&T Intelligence Collection" by Joseph P. O'Neill, Faculty Member, National Intelligence University, November 28, 2016.

2. Cyber theft

China's cyber capabilities are among the strongest in the world probably only exceeded by Russia and the U.S. although some have argued that China's cyber successes to date demonstrate more about U.S. system vulnerability than Chinese capabilities. Regardless, cyber theft is an ideal tool for China given this asymmetric vulnerability of the U.S. (given how much information is digitally accessible) and the plausible deniability given the difficulty of attribution in cyber attacks. Several documented high profile cyber theft incidents are described in Appendix 8 and may be the tip of the iceberg in terms of the numbers of incidents and their scale. As former NSA Director General Keith Alexander famously told Congress in 2012, this represents the "greatest transfer of wealth in history". At that time, it was estimated that U.S. companies lose $250 billion per year through intellectual property theft and another $114 billion due to cybercrime, totaling $338 billion of impact each year. "That's our future disappearing in front of us," warned General Alexander.[59]

As reported in the IP Commission Report of 2013, Verizon worked with 18 private institutions and government agencies to estimate that:

- 96% of the world's cyber espionage originated in China
- $100 billion in lost sales and 2.1 million in lost jobs result from this theft
- $300 billion worth of intellectual property is stolen *each* year[60]

What really distinguishes China from other nation-state actors in cyber attacks is the sheer scale of activity as China dedicates a massive amount of manpower to its global cyber activities. The FBI's former deputy director for counterintelligence reported in 2010 that the China deploys between 250,000 and 300,000 soldiers in the People's Liberation Army (3PLA) dedicated to cyber espionage. Within another part of the armed forces, 2PLA has between 30,000 and 50,000 human spies working on insider operations.[61] China's cyber activity is not solely focused on a national security agenda. In fact, much of this activity can be deployed to support China's *economic* goals in stealing valuable intellectual property to support China's technology transfer. Additionally, China recently passed two laws--the anti-terrorism law and the cybersecurity law--which are of concern since they could be used to gather sensitive commercial information from U.S. companies legally.[62]

3. **Academia**

For many years, China has sent an increasing number of students to the U.S. In 2016, there were 328,000 Chinese foreign nationals studying at U.S. colleges and universities (⅓ of all foreign students). Chinese foreign nationals represent ½ of all foreign applicants.[63] The U.S. educational system has come to rely on the financial contribution of these foreign students.

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[59] Josh Rogin, "NSA Chief: Cybercrime Constitutes the 'Greatest Transfer of Wealth in History' " *Foreign Policy Magazine* (July, 2012). Retrieved at http://www.foreignpolicy.com

[60] The IP Commission Report (2013)

[61] Joshua Philipp, "Rash of China Spy Cases Shows a Silent National Emergency", *The Epoch Times* (April 25, 2016). Retrieved at http://www.theepochtimes.com

[62] **Anti-terrorism law** passed in December, 2015 which gives the Chinese government broad access to technical information and decryption codes when state security agents demand it for investigating or preventing terrorism. Telecommunication and internet service providers "shall provide technical interfaces, decryption and other technical support and assistance" when required. Chris Buckley, "China Passes Antiterrorism Law that Critics Fear May Overreach," *The New York Times* (January 6, 2016). Retrieved at http://www.nytimes.com.

Cybersecurity law passed in November, 2016 contains vague language aimed at preventing network intrusions that would require U.S. companies submit their technology, possibly including source code, to security reviews with Chinese officials. There are an expansive list of sectors defined as part of China's critical information infrastructure such as telecommunications, energy, transportation, information services and finance all of which would be subject to security reviews. The law does not specify what a security review will entail. Several U.S. companies are concerned about the increased costs of doing business in China as well as the need to provide company sensitive information to the Cybersecurity Administration of China to prove that their equipment, software and operations are safe. Josh Chin and Eva Dou, "China's New Cybersecurity Law Rattles Foreign Tech Firms," *Wall Street Journal* (November 7, 2016). Retrieved at http://www.wsj.com.

[63] Project Atlas, *Institute of International Education*, Fall 2015. Retrieved at http://www.iee.org.

Statistics on U.S. STEM programs highlight the large proportion of foreign students:

- 84% of foreign students in PhD programs were studying in science & engineering (2001-2011)[64]
- For doctoral programs, 57% of engineering, 53% of computer science and 50% of math and statistics candidates were foreign; half of these are Chinese[65]
- 54% of patents issued by universities include foreign student's work[66]
- 45% of STEM undergraduates are foreign and ⅓ of these are from China[67]

From this data, we can infer that **25% of the graduate students in STEM fields are Chinese foreign nationals**. Since these graduates do not have visas to remain in the U.S., nearly all will take their knowledge and skills back to China. Academia is an opportune environment for learning about science and technology since the cultural values of U.S. educational institutions reflect an open and free exchange of ideas. As a result, Chinese science and engineering students frequently master technologies that later become critical to key military systems, amounting over time to unintentional violations of U.S. export control laws. The phenomena of graduate student research increasingly having national security implications will inevitably increase as the distinction between military and civilian technology blurs. Further, since there are close ties between academia and U.S. government-sponsored research--including at our national laboratories--ensuring that foreign nationals are not working on sensitive research paid for by the U.S. government (including DoD) will become increasingly important.

Chinese companies are also approaching U.S. academic institutions to promote joint research and attract future talent. As an example, Huawei has partnered with UC-Berkeley to focus jointly on artificial intelligence research. Huawei made an initial commitment of $1 million in funding to cover areas such as deep learning, reinforcement learning, machine learning, natural language processing and computer vision.[68] More recently, Huawei has approached MIT with an offer for a grant to build a joint research facility.

4. China's use of open sources tracking foreign innovation

China has made collecting and distributing science and technology information a national priority for decades. "By 1985, there were 412 major science & technology intelligence institutes nationwide [in China]...employing ...60,000 workers...investigating, collecting, analyzing, synthesizing, repackaging, benchmarking and reverse engineering."[69] In 1991, the book, *Sources and Methods of Obtaining National Defense Science & Technology Intelligence*, detailed a comprehensive account of China's foreign military open-source collection (known as "China's Spy Guide") collecting all types of media (including verbal information prized for its timeliness over written information) and making them available in database form. The National Internet-based Science & Technology Information Service Systems (NISS) makes 26 million holdings of foreign journals, patents and reports available to the public around the clock. Chinese exploitation of foreign open-source science and technology information is a systematic and scale operation making maximum use of diversified sources: scanning technical literature, analyzing patents, reverse engineering product samples and capturing conversations at scientific meetings. This circumvents the cost and risk of indigenous research.[70]

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[64] "Survey of Graduate Students and Postdoctorates in Science & Engineering", *National Science Foundation*, November, 2015.

[65] Drew Desilver, "Growth from Asia Drives Surge in US Foreign Students," *Pew Research Center* (June 18, 2015)

[66] National Science Foundation Survey, November, 2015

[67] Donisha Adams and Rachel Bernstein, Science (November 21, 2014); Retrieved at http://www.sciencemag.org

[68] Li Yuan, "Chinese Technology Companies, including Baidu, Invest Heavily in AI Efforts", *Bloomberg News* (August 24, 2016)

[69] Hannas, *China Industrial Espionage*, Chapter 2, p. 22.

[70] Hannas, *China Industrial Espionage*, Chapter 2

5. Chinese-based technology transfer organizations

At the national level, China has more than a dozen organizations that seek to access foreign technologies and the scientists who develop them (not counting the clandestine services, open-sources, and procurement offices). These organizations are led by the State Administration of Foreign Experts Affairs (SAFEA). SAFEA's success is evident in the 440,000 foreign experts working in China annually. Complementing SAFEA is the State Council's Overseas Chinese Affairs Office (OCAO) which provides overseas Chinese (whether they have lived in China or not) with the opportunity to support their ancestral country. The Ministry of Personnel (MOP) is involved heavily in foreign recruitment and foreign technology transfer including the Overseas Scholars and Experts Service Center to interact with Chinese students studying abroad. The Ministry of Science & Technology (MOST) also dedicates significant resources to acquiring foreign technology including 135 declared personnel in overseas embassies and consulates.

The Overseas Scholars and Experts Service Center sponsors associations at many universities which serve as an organized means to transfer technology to China. Many of the national programs also have complementary provincial and municipal organizations specifically focused on the skills and talent than can benefit a local area. These organizations make available debriefing rooms, free translators, personnel to make travel arrangements, dedicated "transfer centers" and face-to-face meetings between technology experts and Chinese company representatives.

China also promotes "people to people" exchanges through a network of NGOs (e.g., the China Science and Technology Exchange Center and the China Association for the International Exchange of Personnel) that insulate overseas specialists from the potential risks of sharing technology directly with PRC government officials.[71]

6. Chinese research centers in the U.S. to access talent and knowledge

There are now increasing examples of Chinese firms setting up research centers to access U.S. talent and technology:

- In 2013, **Baidu** set up the Institute for Deep Learning in Silicon Valley to compete with Google, Apple, Facebook and others for talent in the artificial intelligence field.[72] Baidu recently hired former Microsoft executive Qi Lu as its group president and chief operating officer. Lu was the architect of Microsoft's strategy for artificial intelligence and bots.
- Another example is the **Zhong Guan Cun (ZGC) Innovation Center** opened in May, 2016 in Silicon Valley.
- Another type of research center is **TechCode** which is an entrepreneurs' network "committed to breaking down geographic barriers and eliminating potential inequalities of international cooperation" according to its website. As a network of entrepreneurs, Tech Code is a system of incubators ("startups without borders") worldwide (Beijing, Shanghai, Shenzhen, Gu'an, Silicon Valley, Seoul, Tel Aviv and Berlin) that leverages an online development platform for projects focused on China's development and funded by the Chinese government.[73]
- In addition, there are a number of research centers promoting a sustainable environment and clean energy including the **U.S.-China Clean Energy Research Center (CERC)** recently expanded and promoted together by President Obama and President Xi.

7. U.S.-based associations sponsored by the Chinese government

There are many professional and scholar associations which bring Chinese engineers together such as the Silicon Valley Chinese Engineers (6000 members), the Hua Yuan Science & Technology Association (HYSTA) and the Chinese Association for Science and Technology (CAST). The largest concentration of China's science and technology advocacy groups in the U.S. are in California and Silicon Valley in particular. "'The Valley' is ground

[71] Hannas, *China Industrial Espionage*, Chapter 4

[72] Li Yuan, "China Races to Tap Artificial Intelligence", *Wall Street Journal* (August 24, 2016)

[73] "Startups Nation" from the Tech Code website, http://www.techcode.com

[zero] for... legal, illegal and quasi-legal practices that fall just below the thresholds set by U.S. law."[74]

With these professional and scholar associations being the target, the Chinese have implemented a variety of programs such as the "Thousand Talents Program" to bring this technology home by recruiting Chinese engineers with offers of career advancement, increased compensation, the opportunity do basic research or to lead their own development labs in China. China set a goal of bringing back 500,000 Chinese overseas students and scholars from abroad by 2015.[75] Another example is "Spring Light" which pays overseas Chinese scientists and engineers to return home for short periods of lucrative service that may include teaching, academic exchanges, or working in government-sponsored labs. In addition, "Spring Light" includes a global database of Chinese scholars to match specific technology needs to pools of overseas talent.[76]

The Chinese diplomatic missions to the U.S. directly support technology transfer as embassy or consulate officials facilitate a wide variety of venues and forums supported by U.S. investors and local governments to promote Chinese investment. Seven examples of these are (descriptions of these forums are in Appendix 9):

- Silicon Valley Innovation and Entrepreneurship Forum (SVIEF)
- DEMO China
- Silicon Valley-China Future Forum
- China Silicon Valley
- The Global Chamber San Francisco (GCSF)
- U.S.-China VC Summit & Startup Expo
- Chinese American Semiconductor Professionals Association (CASPA)

The messaging for these associations and programs is often controlled by the "United Front" which is a propaganda arm for the Chinese government to promote a positive image of China and Chinese culture around the world.[77]

8. Leveraging technical expertise of U.S. private equity, venture firms, investment banks and law firms
As China has done more investing, its expertise has been enhanced by working with U.S. investment banks or law firms who benefit from increased business. As China works with U.S. private equity and venture firms to invest in deals, these firms benefit through the increased value of equity stakes in these investments. Many U.S. law firms have built a practice in advising Chinese companies on how to structure deals to increase the likelihood of CFIUS approval for transactions. Consulting organizations have also built a practice in structuring mitigation agreements that will be more likely to gain CFIUS approval. As China's investments have ramped up dramatically in the past 3 years, the level of deal expertise has increased considerably.

How are these multiple vehicles used together for coordinated impact?

Because the Chinese Communist Party is much more involved in planning economic activity and supporting companies (not only through state-owned-enterprises but also in favoring national champions it supports globally like Huawei), there is a great deal more coordination of investment along with other vehicles of technology transfer to accomplish the larger economic goals specified in China's documented plans. The scale of the Chinese economy is so large that not everything is coordinated centrally. However, the importance and degree of political control by

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[74] Hannas, *China Industrial Espionage*, Chapter 5, p. 122

[75] Xu Liyan and Qiu Jing, "Beyond Factory Floor: China's Plan to Nurture Talent," Yale Global Online (September 10, 2012). Retrieved at http://yaleglobal.yale.edu/content/beyond-factory-floor-chinas-plan-nurture-talent

[76] Hannas, *China Industrial Espionage*, Chapter 5.

[77] The Confucius Institutes, launched in 2004, are a good example which offer Chinese language and cultural instruction often in partnership with local universities. However, their purpose is also to portray Chinese history and policy in the best possible light so that China can be seen as a "pacifistic, happy nation. In the past decade, these institutes have been welcomed on some 350 college campuses across the world including Stanford, Columbia and Penn." Pillsbury, *The Hundred-Year Marathon*.

the Communist Party ensures that investments support national goals and are not purely guided by commercial interest. The goals of many of the government-funded Chinese venture capital firms are focused on experience with advanced technologies and recruiting talent--not simply making money.

There are not enough examples to definitively say there is a standard playbook of all the vehicles used in combination. However, there are a few examples where several of these technology transfer vehicles are used together. Documented examples are targeted cyber attacks to understand the scope of technology and intellectual property of value and where that resides within a company followed by cyber theft or industrial espionage to steal that technology.[78] In another example, Chinese cyber attackers manipulated company sales figures to weaken that company's view of itself and make it more likely to accept a purchase offer from a Chinese company. In a variation on this theme, a Chinese customer placed large orders with a public company and then cancelled it to weaken a company's results as a market surprise. Finally, there is the example of Silicon Valley startup, Quixey, who relied on a large investor, Alibaba, as one of its most important customers promising access to the Chinese market. However, Alibaba refused to pay Quixey for a custom contract to provide specialized technology to search within apps in Alibaba's operating system. Alibaba subsequently took advantage of Quixey's cash squeeze to negotiate favorable financing terms which puts Alibaba in a better position to later make an offer for the technology or the company.[79] Thus, through a combination of these technology transfer vehicles, China can achieve more than it can with a single vehicle.

Before the U.S.-China Economic and Security Review Commission, a former forensic auditor and counterintelligence analyst testified that China is executing a series of campaigns targeting specific industries he studied including telecommunications & network equipment (to benefit global champions Huawei and ZTE), information security, semiconductors, media & entertainment and financial technology. He outlined a process that involves many of the vehicles described here as key technologies are targeted, studied, stolen and applied within Chinese companies. He characterized these as cyber-economic campaigns which "are persistent, intense, patiently executed and include the simultaneous execution of such a large and diverse set of legal and illegal methods, individuals and organizations, there's little chance the targeted U.S. competitors can effectively defend or compete in the future without significant support of the U.S. government." [80]

U.S. Government Tools to Thwart Technology Transfer

(1) The Committee on Foreign Investment in the U.S. (CFIUS) is one of the only tools in place today to govern foreign investments that could be used to transfer sensitive technology to adversaries, but it was not designed for this purpose and is only partially effective.[81] CFIUS was established by statute in the Foreign Investment and National Security Act of 2007 (FINSA) which formally gave an interagency working group the power to review national security implications of foreign investments in U.S. companies or operations. The Treasury Department is the lead agency among 14 participating agencies. The nine voting member agencies are Treasury, State, Commerce, the United States Trade Representative, Office of Science & Technology Policy, Defense, Homeland Security, Justice and Energy. While transaction reporting is voluntary, CFIUS can and does monitor transactions beyond those that are voluntarily submitted and can initiate a review of any of these. CFIUS is required to provide clearance for reviewed transactions on a short timeline: within 75 days unless a Presidential review is required and in that case, there are 90

[78] "APT1: Exposing One of China's Cyber Espionage Units", *Mandiant Report*, 2013. Retrieved at http://www.fireeye.com/content/dam/fireeye-www.services/pdfs

[79] Elizabeth Dwoskin, "China Is Flooding Silicon Valley with Cash," *Washington Post* (August 6, 2016).

[80] Jeffrey Z. Johnson, President & CEO of SquirrelWerkz, in testimony before the US-China Economic and Security Review Commission, January 26, 2017.

[81] CFIUS was established by executive order in 1975 during the OPEC oil embargo of the 1970s to prevent oil-rich nations with greatly expanding wealth from gaining too much control of U.S. assets.

days for a review and a Presidential recommendation.

As those involved in the CFIUS process readily acknowledge, CFIUS is a blunt tool *not* designed for the purpose of slowing technology transfer. **CFIUS only reviews *some* of the relevant transactions because transactions that do not result in a foreign controlling interest are beyond its jurisdiction.** There are many transaction types such as joint ventures, minority investments and purchased assets from bankruptcies that are effective for transferring technology but do not result in foreign control of a U.S. entity and are, therefore, outside of CFIUS' jurisdiction.

The workload for CFIUS is increasing rapidly. CFIUS reviews about 150 transactions per year but this is on the rise. At the same time, the number of transactions which have national security implications is also rising as Chinese purchases of U.S.-based companies or assets now represent the largest number of CFIUS reviews. Congress has not provided dedicated funding for CFIUS reviews which means that this critical process must be handled within existing agency budgets. A review of the strengths and weaknesses of the current CFIUS process are included as Appendix 11.

(2) Export controls are designed to prevent sensitive technologies or products from being shipped to adversaries.[82] In practice, there are several problems that may result from using export controls to thwart technology transfer to an adversary. First, export controls are often backward-looking in terms of specifying the technologies that are critical since most controls focus on products rather than broad technologies. Second, there is diffused responsibility for export controls since some are controlled by the State Department and some by the Commerce Department with DoD in an advisory role.[83] Third, with the technologies that are the focus of venture investing (far in advance of any specific products produced or military weapons), export controls have not been traditionally effective. From the U.S. government's perspective, this has largely been a function of having the foresight to place these technologies on an export control list and the political will to do so. In other words, the authority is in place for effective export controls if there is agreement among DoD, State and Commerce about what technologies to protect. From the private sector's perspective, since understanding and complying with export controls is a company's responsibility there is a question of whether early-stage technology companies understand the controls and have the resources within a trade compliance function to handle this complexity.

While the restricted export lists (EAR and CCL[76]) can accommodate the regulation of software-based technologies such as artificial intelligence, controlling a broad technology will be highly controversial within the venture and technology community where the largest markets are for benign, commercial purposes. In fact, there is great pressure to specify technologies as narrowly as possible when writing export controls to facilitate more U.S. exports especially if the technologies are available outside the U.S.. As the venture investment data indicates, the regulations do not prevent (or even deter) foreign investment in seed or early-stage companies. Additionally, it is not the purview of the export control enforcement authorities to proactively seek out companies developing new

[82] The current U.S. export control system is based on the requirements of the Export Administration Act, the International Economic Powers Enhancement Act (IEEPA), the Arms Export Control Act (AECA) and the resulting implementing regulations (most notably, Export Administration Regulations (EAR) and International Traffic in Arms Regulations (ITAR)). The EAR and ITAR each have a control list: the Commerce Control List (CCL) and the US Munitions List (USML). Several other Federal Agencies have niche export control regulations such as the Department of Energy, the Food and Drug Administration and the National Nuclear Security Administration, among others. The CCL lists certain dual-use, fully commercial, and less sensitive military items while items that are considered defense articles and services are included in the USML. USML is a list of articles and/or services that are specifically designed, developed, configured, adapted or modified for a military application and do not have a predominant civil application or civil performance equivalent; have significant military or intelligence applicability; and are determined or may be determined as a defense article or defense service. Taking a closer look at the dual-use paradigm, the CCL enumerates dual-use, commercial, and less sensitive military goods, software, and technology in categories ranging from materials processing, electronics, sensors and lasers, to navigation and avionics. Each item has an Export Control Classification Number ("ECCN") that specifies characteristics and capabilities of the items controlled in each ECCN. The definition of an export is intentionally broad and includes the provision of technical information to a foreign national anywhere in the world.

[83] Previous attempts at consolidating the organizational responsibility for export controls to a single government department focused on controlling a single list have not been implemented.

technologies or to investigate the relationship between investors and employees of a startup. Lastly, export controls are going to be much more effective if there is an international effort to protect the technology; otherwise, there may be an unintended consequence of the technology developing faster outside the U.S. aided by foreign investment through an allied country. If and when a dual-use technology is deemed worthy of control, the U.S. government can impose unilateral controls while it undertakes an effort to have the technology controlled internationally through the multilateral export control regimes but this process can take up to three years and may not be successful.

(3) VISAs for Chinese foreign national students studying in the U.S. are controlled by the State Department and not scrutinized for fields of study with the protection of critical technologies in mind.

Recommendations

The recommendations are divided into two sections: The first outlines actions DoD can take to deter China's technology transfer; and the second identifies areas where the whole of U.S. government needs to coordinate actions as part of a coherent policy.

Recommendations for DoD: <u>PROTECTING CRITICAL TECHNOLOGIES</u>

1. Develop three lists of **critical technologies** which must be maintained dynamically:
   A. Technologies (including fundamental component technologies) supporting *current* acquisition programs. This is what JAPEC is designed to do but JAPEC is hindered by a lack of resources and a single leader to accomplish the mission.
   B. *Future* technologies which will be the source of innovations for decades to come such as artificial intelligence, autonomous vehicles, advanced materials science, etc.
   C. *Defensive* technologies which deny China the ability to close the gap with current U.S. military capability (such as advanced semiconductors, jet engine design, etc.)
   D. Invest in the capability and process to maintain these lists on an ongoing basis.
   E. Decide on the resource and leadership model to accomplish this.

2. Develop a **technology *landscape*** map to identify the risks of key end-use and component technologies moving offshore adding to the government's understanding of what to protect. This will help ensure that critical technology lists are forward-looking.

3. Increase the **counterintelligence** efforts to deter Chinese foreign nationals from stealing intellectual property and technology from start-ups developing critical technologies.

4. Apply the DoD-led critical technologies list as the basis for CFIUS transaction denials and export controls. Since there is no agreement on this list across departments/agencies today, DoD should partner with the economic agencies (Commerce, USTR, Treasury and others) in sharing the rationale of technologies to be protected.

5. Review **export controls** to recommend to Commerce and State further limitations on entire classes of technology, products, tools and equipment consistent with the critical technologies we want to protect.

6. Develop an **intelligence sharing mechanism with allies** in reviewing foreign technology investments. To prevent China, for example, from acquiring a critical technology, we need to share the list of critical technologies and develop a mechanism to coordinate with allies facing similar decisions regarding foreign investment.[84]

[84] This worked on an informal basis recently when the U.S. worked with Germany to block the acquisition of Aixtron, a German company with U.S.

7. Request that the intelligence community collect and analyze the intelligence regarding China's capabilities as a strategic economic competitor on a regular basis.

8. Increase the new technology capabilities of DoD through focused efforts like the near-term Strategic Capabilities Office (SCO) and the longer-term Third Offset strategy to stimulate the demand for new technologies and gain the experience of refining these for military purposes

9. Allocate more budget to **DoD-sponsored research** such as DARPA programs as well as creating the demand for these advanced technologies (perhaps through new weapons programs) to ensure DoD and the supporting industrial base gets the experience with refining and producing the new technologies

11. Continue **fast prototyping and pilot projects** through the work begun by DIUx to ensure DoD benefits from the latest technologies developed.

Recommendation for U.S. Government: RESTRICT CHINA'S INVESTMENTS IN CRITICAL TECHNOLOGIES & EXPAND OUR NATIONAL TECHNOLOGY STRATEGY

Given the strategic competition underway with China, we propose **restricting investments and acquisitions by China in the critical technologies identified by DOD.** Since the vast majority of technology development today comes from the commercial sector (rather than from government research) and so many of these technologies are dual-use (such as autonomous vehicle capability which has commercial as well as military applications), restricting investments in a critical technology is the clearest and easiest policy to implement rather than attempting to distinguish between commercial technology and military technology where the difference is largely the field of use. To be effective, the restrictions should cover all transaction *types* that enable technology transfer under an expanded CFIUS jurisdiction (not only acquisitions but new investments, and joint ventures--whether located in the U.S. or abroad).[85]

To engage effectively with the private sector, **the U.S. government must be willing to acknowledge the strategic competition underway with China and change its policies regarding open investment and free trade in the technology sector.** The U.S. must be willing to acknowledge the strategic threat from equal access to U.S. technology, the unfair trading practices China engages in and share evidence regarding the degree of industrial espionage and cyber theft. With this change in policy, rationale and disclosure, the U.S. government can enlist the private sector and academia to further thwart the technology transfer to China.

1. Data collection & analysis capability. Since there is no comprehensive source on foreign investment across our economy, at a minimum, the U.S. government should develop a data collection & analysis capability for real-time visibility into foreign investments with a priority on countries which are a national security concern. DoD is not a natural home for this capability.

2. Consider a lead agency for a new U.S. government China policy. To coordinate all the departments and agencies with a coherent, well-articulated policy, this effort may need to be a National Security Council priority.

operations which provides important processing equipment (chemical vapor deposition) in the semiconductor industry.

[85] These recommendations are completely aligned with the 2016 Report to Congress of the US-China Economic & Security Review Commission. In fact, the Commission goes further to recommend authorizing CFIUS to bar Chinese *state-owned* enterprises from acquiring or controlling ***any*** U.S. company and not limiting this to technology companies. The Commission stresses that the U.S. should be much stronger in ensuring that China is abiding by its bilateral and multilateral commitments including with the WTO. This Commission for years has warned the Congress and the public about the technology transfers to China and the unfair competitive practices of Chinese companies and the Chinese government. *2016 US-China Economic & Security Commission Report.*

3. Reform CFIUS: expand jurisdiction to review all technology transfer transactions and restrict investments in and acquisition of critical technology companies by adversaries.

A. Mandatory reporting requirements of foreign investments above a certain threshold (e.g., $1M);
   (1) This does not imply that all of these investments will be reviewed or approved;
   (2) However, if the investments are in companies working on the agreed-upon list of critical technologies *and* the investment is from a country that represents a national security concern, these investments will be challenged by CFIUS. While the private sector will not like the mandatory reporting requirement and potential review by CFIUS, this alone will be enough of a deterrent in the certainty of closing a financing round that most startups will avoid foreign capital

B. Expand CFIUS' jurisdiction to include all technology transfer transactions: joint ventures (whether located in the U.S. or abroad because technology transfer can occur whether the joint venture is in the U.S. or abroad), green field investments, assets purchased from bankruptcies, reverse mergers, etc.

C. Develop a more formal and transparent risk scoring of transactions (discriminating by country and by sector) to facilitate the review of more transactions; strive to accept low-risk transactions quickly while dedicating more resources for the high-risk transactions

D. Provide the security agencies (Department of Defense, Department of Justice, Department of Homeland Security) the formal authority to reject transactions based on national security concerns arising from a formal risk scoring approach and when there is agreement among them

E. Given the cost and lack of proven effectiveness of mitigating agreements, strive to minimize these and standardize the ones that are needed; if mitigating agreements cannot be simple, CFIUS should deny the transaction

F. Allocate budget for CFIUS participating agencies to ensure sufficient resources to review a large number of transactions (e.g., 1500 per year or 10X the current level)

G. Formally collaborate with our allies in developing a coordinated strategy (especially with respect to China) that addresses international security[86]

H. Allow for a longer-time frame than 90 days if the complexity of the national security concerns warrants further investigation

4. Increase the FBI counterintelligence resources applied. Work collaboratively between DoD and the FBI to not only understand better the scale of the industrial espionage problem but set the goal of stopping the theft before it occurs as a measure of success in addition to the number of successful cases prosecuted. Be more proactive in canceling VISAs for Chinese agents engaging in industrial espionage.

5. Outreach to private sector: Invest in education and awareness in an outreach to U.S. businesses and the public.

A. Share the scale of China's industrial espionage and plans for global economic dominance: reveal cases of market manipulation, compromised supply chains, and espionage to make the case for economic losses rather than rely purely on private sector's patriotism

B. Develop a "Know Your Employee" program to educate companies working to develop sensitive technologies to mitigate the risks of employing foreign nationals

C. Develop a "Know Your Investor" program with outreach to the VC community to alert them to increasing foreign investments in critical technologies with the potential for technology transfer or intellectual property theft; share what we know from counterintelligence efforts

D. Increase cybersecurity protection of the technology sector. Since this is a source of very cost-effective illegal

[86] This paper did not undertake a comparative analysis of how other countries review foreign investments but we do know that some countries have an established mechanism for this and others do not. However, since technology transfer to China is a multinational issue, it only makes sense to coordinate with our allies in deterring this. The U.S. is already working with some allied governments on a limited and informal basis but to increase our effectiveness, we should make this a regular and formal process.

technology transfer, the U.S. government should consider what incentives and assistance it can provide to ensure that technology companies (and even early-stage technology companies) implement best practices to prevent cyber theft. One idea might be for the Department of Homeland Security to consider technology companies as part of its critical infrastructure programs.

6. Outreach to academia: Work with the State Department to ensure that student visas are appropriately scrutinized and used as part of this change in policy.

7. Create a national focus to stimulate technology development and innovation with the goal of creating an urgent national focus on U.S. leadership in these areas which have been traditional strengths. This would build upon and expand the work outlined in the current U.S. 21st Century Science, Technology & Innovation Strategy.[87] From a human capital standpoint, this would include an increased emphasis on STEM graduates in the U.S. and should consider immigration reform such that the large numbers of foreign graduate students can stay in the U.S. after graduation to contribute to our economy. This also implies a large increase in the basic research budget by government and the appropriate incentives (e.g., through tax policy) for the private sector. The U.S. should consider naming national innovation priorities and funding some moon shots to stimulate our efforts.[88]

Alternatives to these Recommendations

1. **Do Nothing.** Even though this is the de facto approach today, the cost of doing nothing is extraordinarily high: the loss of $300 billion worth of stolen intellectual property each year, $300 billion in lost U.S. sales resulting from this theft and 2.1 million U.S. jobs.[89]
2. **Restrict investments on a case-by-case basis.** This approach puts too much faith in the ability to appropriately discern which investments are problematic and which are benign. Given our recent experience with the semiconductor industry where there can be so many single transactions before the pattern emerges, this is a risky approach. There is more certainty and efficiency in the private sector and in government from a broader but simpler policy that all understand.
3. **Increased diplomacy and incentives to require China to more uniformly adhere to fair trade.** The cost of increased technology transfer is too high to wait the years that would be required to know if this diplomatic approach is working. Given the experience of the past 15 years since China became a member of the WTO, there is sufficient evidence already to know that there are many Chinese violations of fair trading practices and China is unlikely to put support of the international economic order ahead of its own economic interests as it continues to pursue a mercantilist strategy.
4. **Focus on U.S. technology development instead of restricting Chinese investment.** In fact, such a focus is what we are recommending (see #7 above) but feel this strategy alone is not a substitute for effective defensive steps to slow the technology transfer underway to China. A more successful policy is likely to combine what we can do to foster innovation and technology while we also deter further technology transfer.

[87] "A 21st Century Science, Technology & Innovation Strategy for America's National Security"

[88] In fact, this was recommended recently for the semiconductor industry by the President's Council of Advisors on Science & Technology in their report to the President in January, 2017. We are suggesting a much broader focus of future technology development rather than a narrow focus on a single industry.

[89] The IP Commission Report (2013).

Costs and Implications

A complete assessment of both the implications and game theory of potential reactions would require a much more significant analysis but an outline of the major areas of concern follows.

1. **China restricted investment in U.S. technology sector.**
   a. For the private sector, the costs of reporting foreign investment above a certain threshold level ($1 million) would be minor. The possibility of a CFIUS review would be the bigger burden if an early-stage company is contemplating foreign capital; this would likely reduce some of the foreign capital investment since companies would not be willing to undertake the risk of a time-delay in a financing.
   b. Limiting China's investment in U.S. technology companies would reduce the capital that China currently contributes to the venture rounds of financing and reduce the capital available for U.S. mergers and acquisitions (M&A) but the impact would be minor. China only participates in 10% of venture financing and the Chinese contribution is probably 2-3% of the total $137 billion in U.S. venture investment.[90] There would be a similarly minor impact on the U.S. technology M&A market which is about 12% of the total U.S. M&A market. China's acquisition of U.S. companies totaled $50-70 billion in 2016 or 2-3% of the total U.S. M&A market of $2.25 trillion.[91] However, the impact to an individual company could be significant as there are examples of weaker companies where the only reasonable acquisition offer is from a Chinese company interested in the technology for strategic reasons.
2. **China retaliation in trade.**
   a. **Creating friction.** According to early reports, China is preparing to create some friction for U.S. companies with operations in China as a first step if the Trump Administration pursues any trade war tactics as have been promised in the campaign. These tactics would include more scrutiny through investigations for tax compliance, anti-dumping and anti-trust probes. China would also scale back on its government purchases of products from U.S. suppliers.[92]
   b. **Trade disruption**. A likely outcome of the recommendations to restrict China's technology investments and acquisitions would be disruption of the trading flows with China potentially limiting imports and increasing tariffs. There could clearly be many examples of U.S. businesses which might be damaged by supply chain disruptions especially in the technology sector and these would be difficult to estimate. However, in terms of the macroeconomic effect, a disruption in trade would disproportionately negatively affect the Chinese economy in a ratio of 4 to 1. Total Chinese exports to the U.S. were $498 billion in 2015 (18% of China's total exports) and 4% of the Chinese GDP. U.S. exports to China were $161 billion in 2015[93] (7 % of U.S. total exports and 1% of U.S. GDP). Given the importance of growth to China's economy, it would be a painful decision for the Chinese government to implement a policy which would reduce its target growth rate of 7%. In the extreme case, if China were to stop *all* exports to the U.S., this would reduce China's target GDP growth rate by 4 points to 3%. Exports play a much smaller role in the overall U.S. economy and represent 12.5% of U.S. GDP while exports represent 21% of China's GDP as China is the world's largest exporter.
   c. **Higher priced imports**. The other significant impact to the U.S. economy of fewer imports from China would be cost increases for imported goods. Given the low-cost of manufactured goods from China, the resulting 1.0-1.5% higher prices paid for substitute goods would result in increased inflationary pressure for the economy and profitability pressure for U.S. businesses.[94] Given the low inflation environment we are

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[90] "The Rise of Chinese Investment in U.S. Tech Startups", *CB Insights Blog*;

[91] "M&A in the U.S.", *Institute for Mergers, Acquisitions & Alliances*. Retrieved at http://www.imaa-institute.org

[92] Steven Yang, "China Said to Mull Scrutiny of U.S. Firms If Trump Starts Feud", *Bloomberg News*, January 6, 2017

[93] "U.S.-China Trade Facts", Office of the United States Trade Representative, 2016. Retrieved at http://www.ustr.gov

[94] "Understanding the U.S.-China Trade Relationship," Prepared for the U.S.-China Business Council by Oxford Economics (January, 2017)

currently enjoying, this risk would not be as significant as the potential disruptions in global supply chains.

While a significant judgment call, the costs of these recommendations are outweighed by the benefits of a stronger U.S. economy in the long-run buoyed by increased innovation and reduced risk of technology transfer. As history shows us repeatedly, a strong, globally-leading economy is the only means to ensure long-term national security.

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APPENDIX 1: Chinese Investment in Critical Technologies

Compared to other sources of investment, Chinese entities ranked only behind domestic U.S. sources ($469 billion) and Europe ($76 billion), but well ahead of Japan ($19 billion), Russia ($9 billion), Israel ($6.5 billion), India ($5 billion), and Korea ($3.3 billion).

Chart 2: Chinese Share of U.S. Venture Capital Market 2010-2016

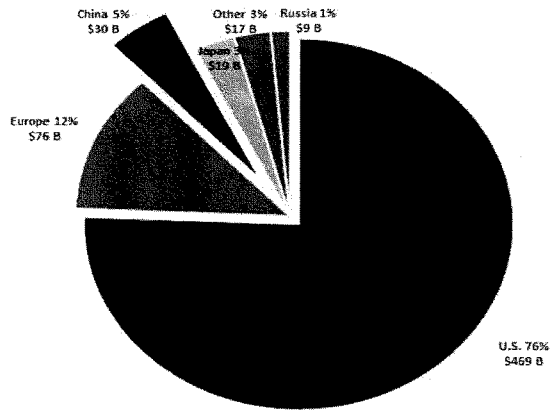

Chart 3: Chinese Investment in U.S. Artificial Intelligence Companies, 2010 - 2016

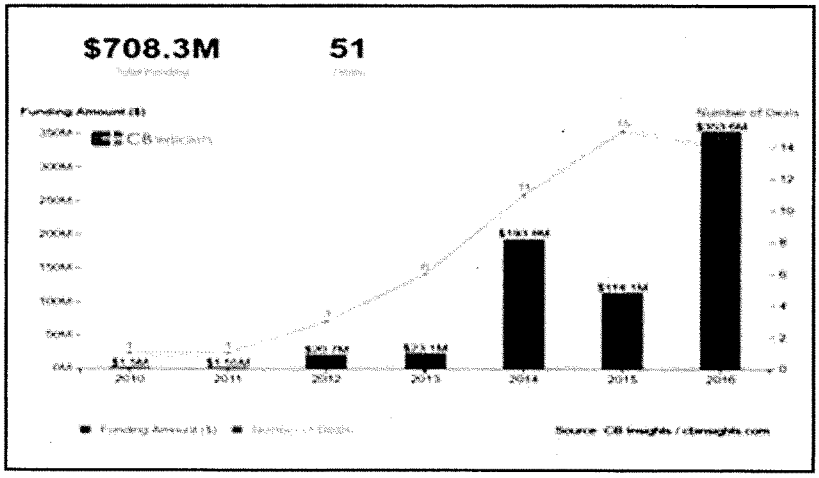

Chart 4: Chinese Investment in U.S. Robotics Companies, 2010 - 2016

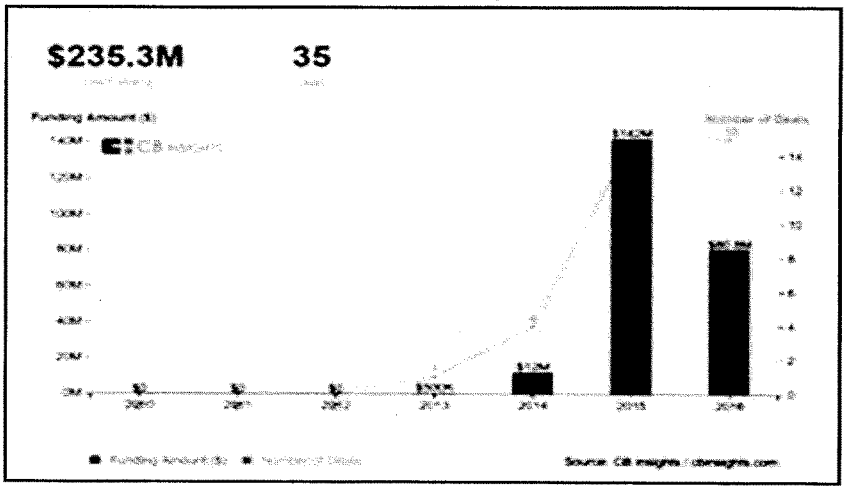

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Chart 5: Chinese Investment in U.S. AR/VR Companies, 2010 - 2016

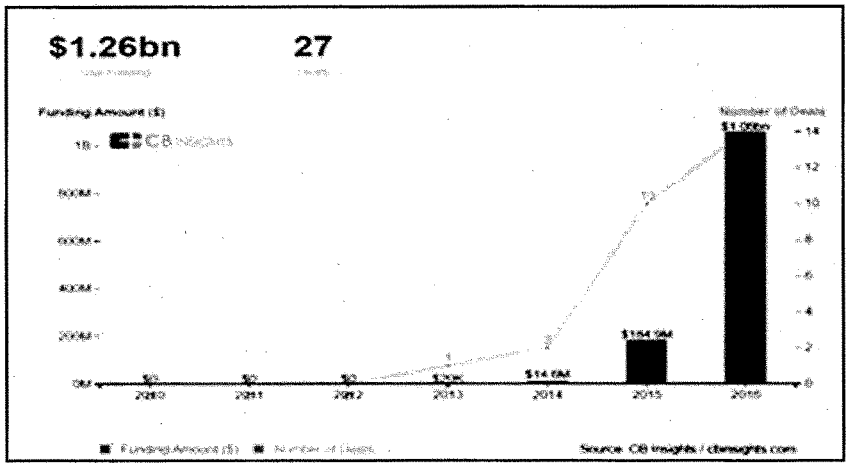
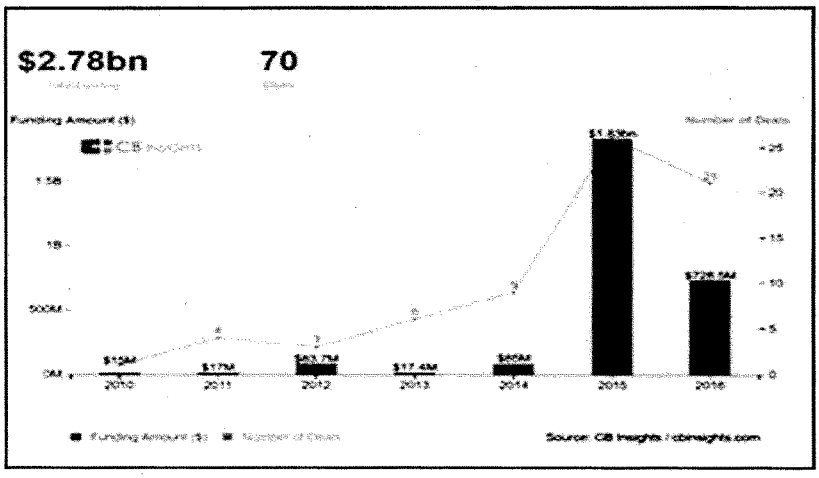


Chart 6: Chinese Investment in U.S. FinTech Companies, 2010 - 2016



APPENDIX 2: Select Chinese Venture Deals in 2016 Illustrating Technology Focus[95]

Company	Focus Area	Round Amount ($M)	China Investors	Date	Location
Magic Leap	Augmented reality	$798.5	Alibaba Group, Enjoyor Group	Feb-16	Florida
Zoox	Autonomous vehicles	$200	AID Partners	May-16	California
Unity Technologies	Game development platform	$181	China Investment Corporation, Frees Fund	Jul-16	California
Velodyne	LiDAR sensor technology	$150	Baidu	Aug-16	California
NextVR	VR content	$80	CITIC Guoan, NetEase Capital, China Assets Holdings, CMC Holdings	Jul-16	California
Razer	Gaming hardware and products	$75	Hangzhou Liaison Interactive	Feb-16	California
Circle Internet Financial	Consumer payments	$60	Baidu	Jun-16	Massachusetts
Meta	Augmented reality	$50	Tencent, Lenovo Group, Ningbo GQY, Horizons Ventures, Banyan Capital	Jun-16	California

[95] CBInsights data

Appendix 3: Case Studies of Chinese Venture Firms: SINOVATION and HAX

Sinovation Ventures

Sinovation Ventures is a venture capital firm domiciled in China with an office in Silicon Valley. The firm was founded by Dr. Kai-Fu Lee in September 2009 and invests in early stage companies (Series A and Series B) in the United States and China. The company focuses on the following investment areas: Internet of Things connected devices, developer tools; and online education. Sinovation's portfolio includes companies developing artificial intelligence, robotics, financial technology and AR/VR technologies.[96]

Some sample portfolio companies include[97]:

- ***Swivl:*** Swivl, owned and operated by Satarii, is the maker of a personal cameraman robotic video device. Swivl turns an iOS device into a personal cameraman with wireless microphone.
- ***Robby:*** Robby manufactures self-driving delivery robots that can autonomously navigate sidewalks to the consumer's door. This can reduce the costs for the on-demand meal, grocery, and package delivery industry by eliminating the high costs of human deliverers, which can ultimately lead to lower costs for the consumer.
- ***Deep Vision:*** Deep Vision is a deep learning company that is developing computer vision for cars, robots, drones and machines of all type. Deep Learning-powered breakthroughs are ushering in a revolution in computer vision which combine big data sets and powerful data centers.
- ***SPACES:*** SPACES is an independent virtual-and mixed-reality company based in Los Angeles, CA. SPACES is working with such companies as Microsoft, NBCUniversal, Big Blue Bubble and The Hettema Group, among others, to develop and produce a wide range of projects across all VR and MxR platforms and technologies, including Oculus Rift, HTC Vive, Microsoft HoloLens, Samsung Gear VR, PlayStation VR and Google Cardboard.

Sinovation Ventures has invested in almost 300 start-ups so far, including many well-known internet companies such as Zhihu, Dianxin, Umeng, Tongbu Network, Wandoujia, Anquanbao, Kuaiya, Qingting FM, Yaochufa, Weiche, Moji Weather, Elex, Kakao, Baozou Comics, Face++, VIPKID, Boxfish, U17, SNH48, ImbaTV, Molbase, Ebest, Maihaoche, EALL, The ONE Piano, Zaijia, Joy Run, Horizon Robotics, Niu, Planetary Resources, etc. and Meitu which is expected to go public on the Hong Kong Stock Exchange soon.[98]

The firm combines incubation and investment offerings to facilitate the growth of companies that suit the Chinese marketplace. It has been awarded as a cutting-edge "National-Level Technology Company Incubator" by China's Ministry of Science and Technology (MOST). It has also been recognized as an "Incubation Base for Strategic Emerging Industries in Beijing" and a "Zhongguancun National-Level Innovative Model of Incubator for Indigenous Entrepreneurship" by Municipal Science and Technology Committee of Beijing, where the Firm's headquarters is based. Sinovation Ventures has established itself as a top-tier venture capital firm in China and has been backed by leading investors around the world. It currently manages three U.S. dollar funds and two RMB funds, with a total asset under management of $1.2 billion (or about RMB 8 billion).[99]

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[96] http://www.sinovationventures.com/

[97] Data retrieved from CB Insights Database

[98] https://www.crunchbase.com/organization/sinovation-ventures#/entity

[99] *Ibid.*

Hax

HAX is a hardware accelerator that has helped over 30 companies launch in the past 2 years. Based in Shenzhen and with an office in San Francisco, HAX provides end-to-end technical and financial support to early-stage hardware companies through its "Interactive Manufacturing Process", which enables rapid development of manufacturable products.

Between 2014 and 2016, Hax participated in nearly half of all deals involving Chinese investors (14 of 29 deals). HAX companies receive up to $25,000 to $100,000 each and access to the SOS Ventures Hardware scaling fund.[100]

Some examples of Hax investments include:

- ***Petronics:*** Petronics is the creator of "Mousr", a robotic mouse that has sensors, actuators, and intelligence that actually sees a cat and responds to its hunting movements like a real animal would.
- ***Dispatch:*** Dispatch is creating a platform for local delivery powered by a fleet of autonomous vehicles designed for sidewalks and pedestrian spaces.
- ***Clean Robotics:*** Clean Robotics provides trash sorting robots for offices.

HAX is backed by SOS Ventures, a venture firm with headquarters in Shenzen and an office in San Francisco. It funds a handful of accelerators similar to Hax – Indie Bio in the biosynthetic space; Chinaccelerator for pure software; and Food-X for food-related startups. SOS Ventures provides funding at the seed, venture, and growth stage, providing expertise and technical assistance to entrepreneurs in areas such as engineering, mass manufacturing, product/market fit, messaging, and presentation. The company's website claims funding for over 500 startups.[101]

[100] Retrieved at https://www.crunchbase.com/organization/haxlr8r#/entity

[101] Retrieved at https://www.sosv.com/

Appendix 4: Chinese Government-Backed Funds in Silicon Valley[102]

Company	Tie to Local Government	Total Money Raised	Select Investments
Westlake Ventures	Owned by Hangzhou government	$66 million ($16 million already available and $50 million pending approval for transfer out of the country)	WI Harper Group, SVC Angel Fund, Amino Capital, FreeS Fund, Spider Capital, Benhamou Global Ventures
ZGC Capital Corporation	Indirectly owned by 17 state-owned enterprises, including China State Construction and Beijing Industrial Development Investment Management Company.	$60 million so far, plans to raise $500 million by 2020	KiloAngel, Danhua Capital, Plug & Play (in the process), Santa Clara office building
HEDA Investment Co.Ltd	HEDA is a fund set up by Hangzhou Economic and Development, an economic development zone under municipal government of Hangzhou	$500 million	None yet: Focusing on information technology and bio tech.
Shanghai Lingang Economic Development Group	Supervised by the state-owned Assets Supervision and Administration Commission of the State Council (SASAC) of Shanghai.	None yet; plans to raise an overseas fund this year	A San Francisco office building for $42 million.
Research Institute of Tsinghua University in Shenzhen	Half-owned by the municipal government of Shenzhen, and the other half is owned by Tsinghua University.	Tens of millions of dollars	TEEC (Tsinghua Entrepreneurs & Executives Club) Angel Fund, Early-stage startups

[102] Yunan Zhang, "Chinese Government's Path to Silicon Valley," *The Information* (January 25, 2017)

Appendix 5: China's Economic and Technology Goals

Made in China 2025 is a plan aligning State and private efforts to establish China as the world's pre-eminent manufacturing power by 2049. "Its guiding principles are to have manufacturing be innovation-driven, emphasize quality over quantity, achieve green development, optimize the structure of Chinese industry and nurture human talent."[103] *Made in China 2025* highlights 10 priority sectors emphasizing the criticality of integrating information technology with industry. Key sectors prioritized include:

- Advanced information technology
- Automated machine tools and robotics
- Aerospace and aeronautical equipment
- Maritime equipment and high tech shipping
- Biopharma and advanced medical products
- New energy vehicles & equipment

12th Five Year Plan of 2011-2015 lists a "new generation information technology industry" as one of the seven strategic and emerging industries to develop. Policies and practices were put in place to (1) prioritize indigenous innovation, especially in high-performance integrated circuit products, (2) promote domestic champions and (3) encourage technology acquisitions

- ICT priorities include
  - Mobile communications,
  - Next generation internet
  - Internet of things
  - Cloud computing
  - Integrated circuits
  - New display technologies
  - High-end software & servers
- Policies and practices:
  - Prioritize indigenous innovation, especially in high-performance integrated circuit products
  - Promote domestic champions: pursue M&A, reorganizations and alliances between upstream and downstream enterprises
  - Encourage technology acquisitions, participation in standards setting & moving up the value chain

13th Five Year Plan of 2016-2020 "Internet Plus"[104] deepens reforms and priorities called for in *Made in China 2025* and emphasizes stronger control by the government over network-related issues as China continues to control the internet within China and gains access to global networks by controlling key component and telecommunications technologies

- Plan goal to "Encourage hundreds of thousands of people's passion for innovation, building the new engine for economic development"
- Leverages large internet base of 649 million users, 557 million of whom access the internet with a mobile phone
- Deliver to large cities 100 MBps internet bandwidth and provide broadband access to 98% of the population living in incorporated villages
- ICT priorities include:
  - Expansion of network economic space

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[103] Scott Kennedy, "Critical Questions Made in China 2025," Center for Strategic and International Studies; Retrieved at https://www.csis.org/analysis/made-china-2025

[104] Lulu Chang, "China Outlines its Latest FYP Called Internet Plus."

- New generation information infrastructure,
- Advancements in Big Data
- Enhanced information security and cyberspace governance
- Fostering of domestic capabilities in:
  - Artificial intelligence
  - Smart hardware
  - New displays and intelligent mobile terminals,
  - 5th generation mobile communications
  - Advanced sensors and wearable devices

Medium and Long-Term Plan for Science & Technology Development is the most far- reaching of government plans to "shift China's current growth model to a more sustainable one, to make innovation the driver of future economic growth and emphasize the building of an indigenous innovation capability."[105] There are 3 strategic objectives:

- Building innovation-based economy through indigenous innovation
- Fostering an enterprise-centered technology system and enhancing Chinese firms' innovation
- Achieving major breakthroughs in targeted strategic areas of development and basic research and boosting domestically owned intellectual property

Project 863: China's National High Technology Program is designed to overcome the shortcomings in national security through the use of science & technology

- Encompasses development of dual-use technology (civilian and military applications)
- Lays a foundation for indigenous innovation

China's Mega Project Priorities are 16 Manhattan-style projects[106] to bring together the focus on specific innovations and the resources to ensure progress. These are outlined in Appendix 6.

Appendix 6: Chinese National Science and Technology Major Special Projects Mega-Projects

October 2016

Original Announced National Science and Technology Major Special Projects Contained in the '2006-2020 Medium and Long-Term S&T Development Plan'	**Agencies in Charge**
Core Electronics, high-end general chips, basic software	Ministry of Industry and Information Technology (MIIT)
Ultra large scale integration manufacturing technology	Beijing, Shanghai governments
High-end computer numerical controlled machine tools and basic manufacturing technology	National Development and Reform Commission, MIIT
Water pollution control and treatment	Ministry of Environmental Protection
Large-scale oil and gas fields and coal-bed methane	China Petroleum, China United Coal-bed Methane Co.

[105] Hannas, *Chinese Industrial Espionage*, Chapter 3

[106] Michael Raska, "Scientific Innovation and China's Military Modernization", *The Diplomat* (September 3, 2013), Retrieved at http://www.thediplomat.com

development	
Next generation broadband wireless mobile communications	Ministry of Science & Technology (MOST), National Energy Bureau, Tsinghua University
Genetic transformation and breeding of new plants	MIIT, Datang Electronics, CAS, Shanghai Institute of Microsystems, China Putian
Major new drug development	Ministry of Agriculture
High-resolution Earth observation system	MOST, Ministry of Health, People's Liberation Army (PLA) General Logistics Department
Prevention and control of major infectious diseases	State Administration for Science, Technology and Industry for National Defense (SASTIND), China National Space Administration
Large passenger aircraft	MOST, Ministry of Health, PLA General Logistics Department
Manned spaceflight and lunar exploration project	MIIT, Commercial Aircraft Corp. of China
3 Unidentified Classified Defense-Related Mega-Projects (candidates include Beidou Satellite Navigation System and Inertial Confinement fusion)	
New Additional National Science and Technology Major Special Projects Contained in the 'Science, Technology and Innovation 2030 Plan'	
Aero-engines and gas turbines	SASTIND, China Aircraft Engine Corp.
Quantum communications	
Information networks and cyber security	
Smart manufacturing and robotics	
Deep-space and deep-sea exploration	
Key materials	
Neuroscience	
Health care	

Source: Tai Ming Cheung, Associate Professor and Director of the Institute on Global Conflict and Cooperation (IIGC) at the University of California, San Diego

Appendix 7: McKinsey Study on Industries Where China Leads in Innovation

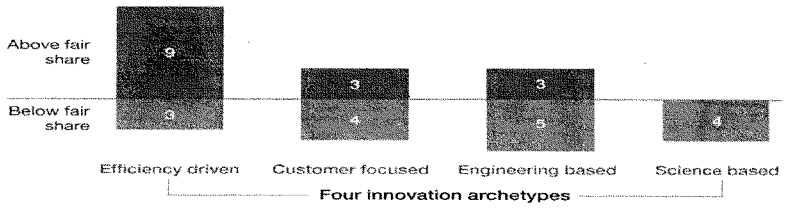
To assess the comparative innovation capability between China and the U.S., McKinsey recently analyzed in what industries China was developing an innovation lead and in what industries China is lagging.[107]

- In traditional manufacturing-based industries where low costs provide a competitive advantage, it is not surprising that China is leading the world. These industries would include electronics, solar panels and construction equipment where a combination of a large and concentrated supply base, agile manufacturing, modular design and flexible automation all provide benefits.
- In its consumer markets (which are customer-focused), China has a natural advantage given the sheer size of the market of 1.3 billion people (4x that of the U.S.) and this advantage is compounded when markets are protected. Industries where China again leads the world would include household appliances, smartphones (functionality delivered at low cost) and internet software companies (Alibaba, Baidu and Tencent).
- In engineering-based industries, the results are mixed. The best example is high-speed rail where innovation has been matched with local demand and government sponsorship. China accounts for 86% of the global growth in railroads since 2008. Other examples would be wind power and telecommunications equipment (Huawei and ZTE). China is not yet leading in automobile engines, aerospace, nuclear power or medical equipment.
- In science-based industries, such as branded pharmaceuticals, the results are poor. Here, the massive growth and national focus on R&D spending have not yet paid dividends. These investments naturally take a long time to pay off and the Chinese government is actively working to remove obstacles to enable Chinese firms to lead. This is an area where focus on national mega projects can be fruitful since they concentrate government sponsorship with focused resources and local demand. For example, China is rapidly improving its drug discovery and medical trials process to favor its domestic companies. Gene editing is a technology where the government sees tremendous promise and is actively supporting.

The following chart summarizes this industry-grouping analysis:

Chinese companies in industries that rely on efficiency-driven innovation perform well, science-based companies less so.

Chinese industries: actual vs expected performance in innovation
(based on China's share of global GDP[1]), number of industries = 31



[1]China's share was 12% in 2013.

Source: IHS Global Insight; International Data Corporation; annual reports; McKinsey Global Institute analysis

[107] Erik Roth, Jeongmin Seong, Jonathan Woetzel, "Gauging the Strength of Chinese Innovation," *McKinsey Quarterly* (October, 2015).

Appendix 8: Largest Chinese Cyber Attacks

- **Breach of more than two dozen major weapons system designs** in February, 2012 from the military and defense contractors including those for the advanced Patriot missile system (PAC-3), an Army system for shooting down ballistic missiles (Terminal High Altitude Area Defense, THAAD) and the Navy's Aegis ballistic-missile defense system, the F-35 Joint Strike Fighter, the F/A-18 fighter jet, the V-22 Osprey, the Black Hawk helicopter and the Navy's new Littoral Combat Ship[108]
- **"Titan Rain"** a series of coordinated attacks for multiple years since at least 2003 which compromised hundreds of government computers stealing sensitive information[109] " In 2004, an analyst named Shawn Carpenter at Sandia National Laboratories traced the origins of a massive cyber espionage ring back to a team of government sponsored researchers in Guangdong Province in China. The hackers, code named by the FBI "Titan Rain," stole massive amounts of information from military labs, NASA, the World Bank, and others."[110]
- **PLA Unit 61398** (a cyberforce within the Chinese military) which penetrated the networks of >141 blue chip companies across 20 strategically targeted industries identified in China's 12th Five Year Plan for 2011-2015 such as aerospace, satellite and telecommunications and IT. Among other areas of theft, source code was stolen from some of the most prominent U.S. technology companies such as Google, Adobe and others; Google announced this in January, 2010. This resulted in the U.S. indictment of 5 members of this organization. According to Mandiant, PLA Unit 61398 is just one of more than 20 cyber attack groups within China.[111]
- **"Hidden Lynx"** which according to Symantec has a long history of attacking the defense industrial sector of Western countries with some of the most sophisticated techniques has successfully attacked the tech sector, financial services, defense contractors and government agencies since at least 2009[112]
- "DHS says that between December 2011 and June 2012, cyber criminals targeted **23 gas pipeline companies** and stole information that could be used **for sabotage purposes**. Forensic data suggests the probes originated in China."[113]
- "Canadian researchers say in March, 2105 that Chinese hackers attacked U.S. hosting site **GitHub**. GitHub said the attack involved "a wide combination of attack vectors" and used new techniques to involve unsuspecting web users in the flood of traffic to the site. According to the researchers, the attack targeted pages for two GitHub users—Great Fire and the *New York Times*' Chinese mirror site—both of which circumvent China's firewall."[114]
- **"The Commerce Department's Bureau of Industry and Security** had to throw away all of its computers in October 2006, paralyzing the bureau for more than a month due to targeted attacks originating from China. BIS is where export licenses for technology items to countries like China are issued."[115]
- **Breach of the U.S. Office of Personnel Management (OPM)** in 2014 where the personnel files of 4.2 million former and current government employee as well as the security clearance background information for 21.5 million individuals was stolen. Former NSA Director Michael Hayden said that this would compromise our national security for an entire generation.[116]

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[108] Ellen Nakashima, "Confidential Report Lists U.S. Weapons System Designs Compromised by Chinese Cyberspies", *Washington Post* (May 27, 2013). Retrieved at http://www.washingtonpost.com

[109] Nathan Thornburgh, "Inside the Chinese Hack Attack", *Time* (August 25, 2005). Retrieved at http://www.content.time.com

[110] Josh Rogin, "The Top 10 Chinese Cyber Attacks (that We Know of)," *Foreign Policy* (January 22, 2010) Retrieved at http://www.http://foreignpolicy.com/2010/01/22/the-top-10-chinese-cyber-attacks-that-we-know-of/

[111] "APT1: Exposing One of China's Cyber Espionage Units", *Mandiant Report*, 2013.

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[113] Robert Knake, "Five Chinese Cyber Attacks that Might Be Even Worse than the OPM Hack," *Defense One* (June 15, 2015). Retrieved at http://www.defenseone.com.

[114] Knake, "Five Chinese Cyber Attacks that Might Be Even Worse than the OPM Hack"

[115] Rogin, "The Top 10 Chinese Cyber Attacks (that We Know of)

[116] "The OPM Breach: How the Government Jeopardized our National Security for More than a Generation," Committee on Oversight & Government Reform, U.S. House of Representatives, 114th Congress (September 7, 2016).

Appendix 9: U.S. Events with Chinese Sponsorship

1. **Silicon Valley Innovation and Entrepreneurship Forum (SVIEF)**, according to its website "is an international conference designed to foster innovation and promote business partnerships connecting U.S. and Asia-Pacific region." SVIEF has expanded to hold two conferences per year, the main conference held in the fall of 2016 and Silicon Valley Smart Future Summit held in winter and focused on interconnected devices. Both events are held at the Santa Clara Convention Center in Silicon Valley. A U.S. Congresswoman (Judy Chu) is the honorary Chairwoman of SVIEF and a keynote speaker at the principal fall conference was former U.S. Secretary of Energy Steven Chu. This gathering of startup CEOs, venture capitalists, Chinese companies and Chinese venture capitalists makes this an ideal location to collect information on the state of U.S. technology. Chinese officials attend who are assigned to collect intelligence.

2. **DEMO China**, an annual event held in Santa Clara, California (the heart of Silicon Valley) showcasing promising startups to Chinese investors. The event includes a keynote by the Chinese Consulate General, and has panels throughout the day covering topics such as navigating obstacles to investment in the U.S. and China; tips on how to evaluate startups; advantages of technology accelerators; and discussion of other investment trends.

3. **Silicon Valley-China Future Forum** (August, 2016) to link Silicon Valley with Chinese capital specifically in the fields of augmented reality, virtual reality and artificial intelligence.

4. **China Silicon Valley** is working with Silicon Valley city governments to drive increased investment and job growth by facilitating talent, technology and business exchange and investment between cities and businesses in China and their Silicon Valley counterparts. The intent is to help provide a one-stop service for government relations, legal, tax, consulting, networking and talent acquisition to facilitate Chinese government, businesses and individuals to invest, establish a factory, R&D center or other business activities in Silicon Valley. China Silicon Valley has an extensive network of business partners from diversified industries in Silicon Valley to carry out these activities.

5. **The Global Chamber San Francisco (GCSF)** hosts a seminar for entrepreneurs, investors and service providers with an interest in U.S.-China markets on strategies and best practices to enter and capitalize on business opportunities in U.S. & China.

6. **U.S.-China VC Summit & Startup Expo** (October, 2016) hosts a conference in Boston for investors and entrepreneurs who want to collaborate on opportunities between the U.S. and China.

7. **Chinese American Semiconductor Professional Association (CASPA)** holds many dozens of events per year in Silicon Valley and China. For 2017, the published schedule includes 4 conferences, 4 tradeshows, 4 workshops, 3 career development events, 3 international trips to China, hosted delegations from China and 6 members networking events. These events are all gathering Chinese and American semiconductor talent with the purpose of recruiting American talent.

APPENDIX 10: Private Sector Largely Unaware of China's Technology Transfer Threat

The private sector is largely unaware of China's plans for economic domination (nor have companies spent time contemplating its potential consequences) and unaware of the scale of technology transfer to China underway except for well-publicized cyber incidents. This is largely due to the fact that the U.S. trade and investment policies towards China are encouraging of bilateral trade and engagement. The benefits of low-cost manufacturing and the promise of a large China market have been widely promoted--certainly by the Chinese business community and government but also reinforced by U.S. economic policies designed to foster the integration of the U.S. and Chinese economies as part of a calculated geopolitical embrace of China, begun under President Nixon, accelerated under Presidents Reagan and Clinton, and continued to this day.

While there have been FBI efforts to warn companies of industrial espionage risks, these are rarely the lead stories in the narrative with China even though the number of convictions have been rising. In cases where the information is classified, the FBI has greater difficulty sharing the evidence which would show China to be the perpetrator in cases of market manipulation combined with industrial espionage and cyber theft. In other cases, the U.S. government has not connected all the dots when China has used some of the technology transfer methods outlined above in combination.[117] Further, since economic espionage has not been a priority for the U.S. intelligence agencies, gathering and analyzing this intelligence has not been a focus for resources nor a planned, systematic effort. The FBI officials who spoke with the authors of this report noted that the bureau has very limited resources relative to the threat. Even where resources are applied, the measure of success for law enforcement is prosecutions rather than preventing the theft.

We spoke with some Silicon Valley technology executives and many venture capitalists in the course of this work (a list is available in Appendix 12). Most were not aware of the degree of threat China poses and were more focused on the market opportunity of selling to Chinese businesses or consumers than in long-term trends of technology transfer that threaten to erode U.S. global competitiveness and, along with it, military supremacy. Firms, like Cisco, who directly compete with a Chinese-backed global champion, like Huawei, represent the exception since Cisco is well aware that when Huawei competes for business in an emerging market, like Africa, that the Chinese government joins Huawei and brings a portfolio of additional offerings to bear on a deal. For example, the Chinese government might offer to build infrastructure in an emerging market, finance this with low-cost capital from the China Development Bank and, in the process, provide jobs in the community in addition to supporting Huawei with subsidies for extremely competitive pricing on telecommunications and networking gear. Cisco finds this is extremely difficult to compete with and has lost market share on a global basis to Huawei in emerging markets. By protecting Huawei's domestic market and backing them in the export market as described above, China has created a global champion that is today the world's largest telecommunications equipment manufacturer.

Many of the venture capitalists we spoke with were largely unaware of the participation of Chinese capital in early-stage technology companies. This is no surprise given that Chinese capital is in only about 10% of venture deals even though this percentage has increased dramatically from a few years ago. Several U.S. venture firms who have done deals with Chinese venture capitalists expressed their frustration about multiple rounds of re-negotiation on price and terms saying you never really knew if you had concluded a deal. Most were aware that the Chinese internet companies (Baidu, Tencent, Alibaba, etc.) were actively participating in deals as strategic investors. Naturally, the venture community and technology companies are pleased to have the benefit of this additional capital in the market when they benefit from the higher valuations that result; at least one venture capitalist was concerned about the asset pricing distortion that comes with what was seen as a willingness of the Chinese to overpay for assets. We also learned that Chinese capital is involved to a small degree as limited partners of U.S. venture firms. The lists of limited partners are very closely guarded but the venture capitalists we spoke with assured us that the Chinese limited partner stakes in their firms were well under 10%.

[117] Conversations with Department of Defense and FBI Counterintelligence revealed that with so little resource applied to cases of economic espionage, we are unable to do the forensic work to see where cyber theft has led to industrial espionage and market manipulation.

Appendix 11: Strengths and Weaknesses of CFIUS Process Today

Strengths

- An understood process defined by FINSA statute (2007)
- No clear view on what constitutes a controlling interest that triggers an assessment by CFIUS which allows CFIUS to review more transactions than if a quantitative metric were always applied such as a 51% equity stake
- Many problematic potential acquisitions by Chinese companies have been stopped

Weaknesses

- CFIUS reporting is voluntary--transactions do not have to be reported
- There are many types of technology transfer ***not*** currently covered by CFIUS
    - Joint ventures where the U.S. company contributes IP/technology rather than an entire business
    - Technology licenses
    - Private company transactions that are "below the radar"
    - Minority investments that do not rise to the level of a "controlling interest"
    - Reverse mergers
    - Greenfield investments
    - Assets purchased from bankruptcies
- There's an inherent bias to develop mitigation agreements[118] to allow transactions to proceed but mitigation agreements are difficult to construct and enforce. Mitigation agreements lock companies into uncompetitive cost structures; these are too often designed under time pressure resulting in one-of-a-kind agreements or agreements which are far too comprehensive. There are no government resources assigned to monitor these agreements which undoubtedly means they are unenforced. The likelihood of a costly mitigation agreement also reduces the incentive for friendly foreign companies to acquire U.S. companies.
- There is no formal risk-scoring (by country and by sector) to create a transparent, scalable process to manage large numbers of transactions; expecting consensus among the 14 CFIUS agencies is unrealistic
- Security agencies (Department of Defense, Department of Justice, Department of Homeland Security) are not tasked to collaborate in articulating the national security risks of foreign investment in sensitive technology and facilities
- No comprehensive view of the technology landscape exists, and since CFIUS is only designed to review a single deal at a time, there is increased risk of damaging a complete sector critical to national security such as is happening in semiconductors[119]
- Allied governments' view of threats are not incorporated
- Required certification to Congress of "no unmitigated security threats" is unrealistic; with an increasing number of complex transactions there will be unmitigated security threats that evolve
- 90-day timeline defined by statute does not allow for dealing with more complex transactions
- CFIUS transactions are expanding to >150/year and there is no dedicated funding by Congress to support this effort; resources are stretched in every participating agency

[118] Mitigation agreements incorporate conditions that satisfy the national security risks such as governance measures, security requirements, separating a sensitive operation from the transaction or monitoring/verification mechanisms. From 2009-2011, roughly 8% of all cases reviewed resulted in mitigation agreements. "Understanding the CFIUS Process," Organization for International Investment.

[119] "Ensuring Long-Term U.S. Leadership in Semiconductors," President's Council of Advisors on Science and Technology, January 2017

Pre-Decisional Draft 1.0--For Discussion Purposes Only

Appendix 12: Consultations

CONSULTATIONS

INTERVIEWS w/ OFFICIALS FROM POLICY, ACADEMIC AND INVESTMENT ECOSYSTEM

U.S. Government

Economic Departments, Agencies, and Councils
- Department of the Treasury
- Department of Commerce
- USTR
- National Economic Council
- Department of Energy

National Security Departments, Agencies, and Councils
- Department of Defense (JS; Net Assessment; DARPA)
- Department of State
- Department of Justice/FBI
- Department of Homeland Security
- Central Intelligence Agency
- Open Source Center
- Office of the Director of National Intelligence
- National Security Council
- Office of Science and Technology Policy

Presidential Boards and Congressional Commissions
- President's Intelligence Advisory Board
- U.S. - China Economic and Security Review Commission

Venture Capital and Financial Community
- Focus Ventures
- Kleiner Perkins
- Norwest Ventures
- Sutter Hill Ventures
- Translink Capital
- In-Q-Tel
- Silicon Valley Bank
- Cisco Ventures
- National Venture Capital Association
- Robotics Hub

Legal and Consulting Firms
- Chertoff Group
- Scowcroft Group
- Wessel Group
- Kelley Drye & Warren
- Covington and Burling
- Steptoe and Johnson
- Chain Security
- Wiley Rein
- Accenture
- Skadden Arps
- Defense Group, Inc.
- Squirrel Werkz

Academic and Research Institutions
- Stanford University
- Georgetown University
- George Washington University
- Center for Strategic and International Studies
- National Intelligence University
- RAND Corporation
- Institute for Defense Analysis
- Center for New American Security
- Heritage Foundation
- Harvard Business School
- University of California--San Diego

Other Industry Groups / Associations
- Semiconductor Industry Assn.
- U.S. Chamber of Commerce
- Institute for the Study of War

Authors
- William Hannas
- James Mulvenon

About the Authors

Michael Brown is a White House Presidential Innovation Fellow working with DIUx.

Through August of 2016, Michael was the CEO of Symantec Corporation, the global leader in cybersecurity. During his tenure as CEO (2014-16), he led a turnaround as the company developed a new strategy focused on its security business, sold its Veritas business, hired a new executive team, formed business units, improved operating margins and articulated a new culture fostering innovation. Michael served on the Symantec Board from 2005 until 2016.

Michael is the former Chairman and CEO of Quantum Corporation (1995-2003), a leader in the computer storage industry specializing in backup and archiving products. As CEO of Quantum, the company achieved record revenues as the world's leader in disk drives for PCs and the world's largest tape drive business. Michael joined Quantum in 1984 and served in various management roles before being named as CEO in 1995. Michael served on the Quantum Board from 1995 until 2014.

Michael has also served as the Chairman of EqualLogic and Line 6 and has served on the public boards of Nektar Therapeutics, Maxtor Corporation, and Digital Impact. He serves on the Board of Trustees of the Berklee College of Music in Boston. He has a BA degree in economics from Harvard and an MBA from Stanford University.

Pavneet Singh has served in several roles on the National Security Council and National Economic Council at the White House and is a consultant with DIUx.

Most recently, he served as director of international affairs and managed the U.S.-China and U.S.-India economic relationships including serving as the NSC's lead director for the Asia Pacific Economic Cooperation (APEC) Leaders' Summit in Beijing and developing the President's economic deliverables for the bilateral summit with Chinese President Xi Jinping.

From 2011 to 2013, Pavneet was the senior advisor to the Deputy National Security Advisor Mike Froman and provided strategic and policy guidance across a portfolio that included trade, energy, climate, exports and managing the U.S. economic relationships with emerging economies. Prior to the White House, Pavneet worked as an analyst at the World Bank and at the Brookings Institute. Pavneet earned his master's with distinction in international relations at Georgetown University and his undergraduate degrees in business administration and political economy from UC-Berkeley.

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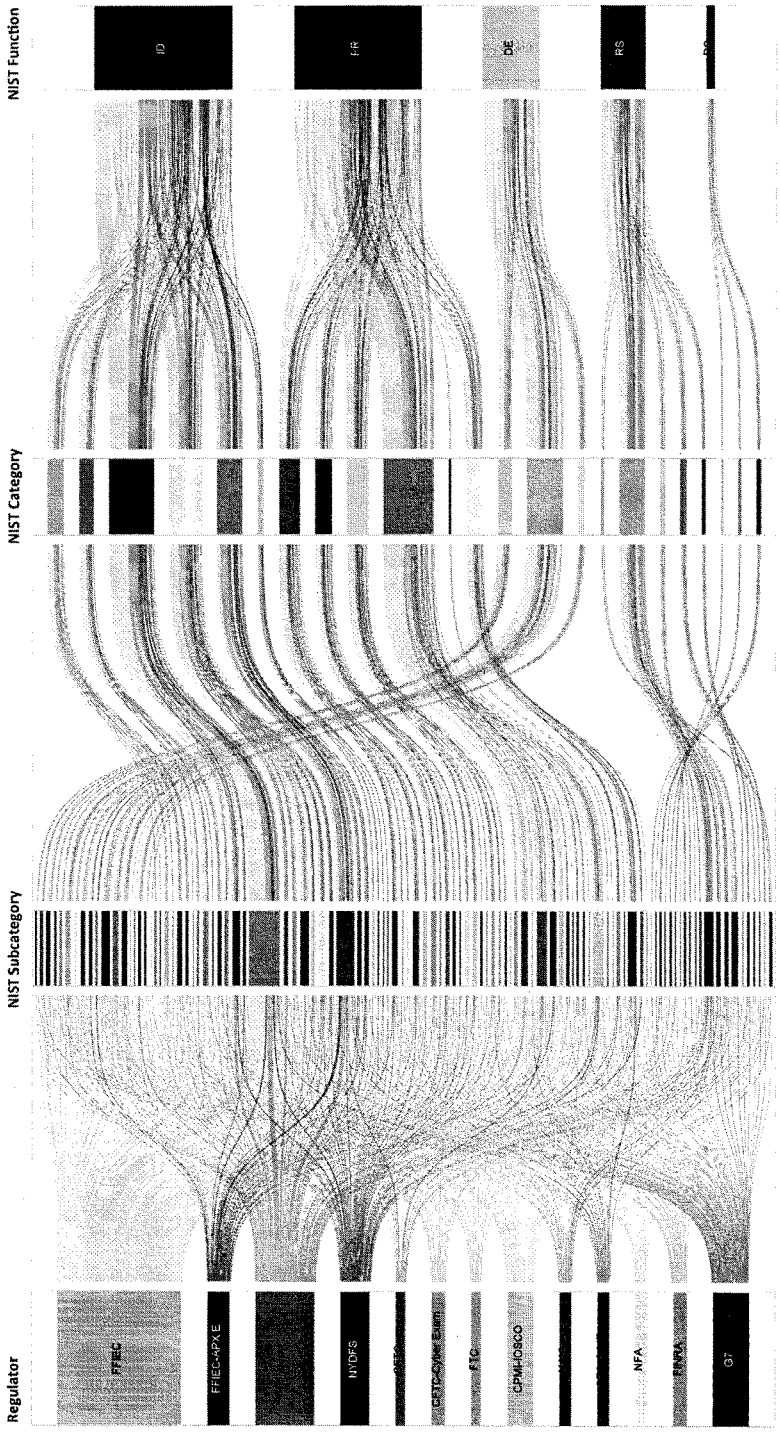
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FINRA
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The Future of Banking

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Piyush Gupta Influencer Follow
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Be it the macroeconomy, geopolitics or technological changes, we are living in a world of radical uncertainty. Not only do we have to grapple with a world of tepid growth, this fourth industrial revolution – the digital revolution – that we are in, is disrupting whole industries from retail to music. Banking is no exception. In fact, the surprise is that our industry has not been disrupted sooner, being arguably the most digitisable of industries, being made up of bits and bytes. This is in part due to psychology – people think about money a bit differently than they do other things – and in part due to regulatory barriers, but now, the tipping point has come.

The threat banks face has been precipitated by huge shifts in technology – mobile, the social/networked economy, Big Data, artificial intelligence, etc – and fintech companies are attacking every aspect of the financial services value chain, from payments, to lending, to capital markets. This is changing the face of banking dramatically.

And since, as Bill Gates famously said: "People don't need banks, they need banking", our lunch is in danger of being eaten by fintech companies who are beginning to do banking better, smarter, cheaper, and more intelligently than banks are.

- The ubiquity of the smartphone. The mobile changes the nature of banking, because it not only puts massive computing power into customers' hands, it makes location and context extremely important. It renders the paradigm of going to a bank, or an ATM, or even interfacing with the desktop irrelevant. With the smartphone, banking does not have to be an independent activity but is one that is embedded into customers' lives, integrated with everything they do.

- Rise of the social/networked economy. Unlike in the past, when companies produced and consumers consumed, Uber and Airbnb have made quite clear that we are in the age of the 'prosumer'. In this world, anybody can sit at home and be part of a global distribution system. The ability of companies to link to each other through APIs, and to collaborate, has led to the democratisation of capacity and innovation. There is no longer a premium on scale.

- Explosion of Big Data. 90% of the data in the world today has been created in the last two years alone; the volume of cross-border data flows has grown 45x since 2005. Couple this with the sharp fall in data storage costs and the massive computing power able to analyse this data, and it's clear that a huge part of the battle for the customer will be fought along data lines.

- Artificial intelligence and cognitive learning. 20 years ago, the computer beat a human playing chess. Six years ago, it beat a human playing Jeopardy. Last year, it beat a human playing Go. Computers have begun to learn to think like us, and learn like us, improving as they go along.

A number of fintech companies have begun to pull together these technologies in a big way, and have made serious incursions into our space in a short span of time.

Take Alibaba. It is one the biggest payment companies in the world. It transfers more money through Alipay than many banks. It does hundreds of millions of transactions. It is one of the fastest fund gatherers in the world. Yu'e Bao hit USD 100 billion in just over a year, and today, is the world's largest money market fund. It has a rapidly growing loan book, and extended RMB 50 billion of loans to SMEs and provided credit lines to over 100 million individuals for Singles' Day last November. Its cost of credit is lower than many banks.

TransferWise moves over £1 billion every month and claims a 10% market share of the international transfer market in the UK, more than any other bank besides the major four. Robinhood, a zero-fee, stock-trading app, has hit USD 50 billion in total transaction volume in just over two years.

While banks can no longer afford to be complacent, and the pressure to innovate is very real, in the near term, it is not clear who will win: start-up or incumbent. Fintech companies do not have a monopoly on technology, and there is no reason for banks not

legacy tech architecture and mindset. But if we are able to transform these, and combine them with our innate strengths, including our robust networks and infrastructure, established risk management capabilities and trust factor, we can still do well.

A case in point: in April last year, DBS launched digibank, India's first mobile-only bank that is paperless, branchless and signatureless. digibank combined a suite of groundbreaking technologies from biometrics to AI. In one year alone, we acquired 1 million new customers, without a single one of them going to a branch.

Looking into the future

Over the medium-term, however, banks are likely to come under further pressure, for a number of reasons.

First, banks have traditionally operated as pipe companies, facilitating money flows in the global monetary system. As competition from fintech companies intensifies, however, banks will have to ensure that they provide a seamless banking experience integrated with customers' daily lives. The way forward is to make the shift from pipe company to platform company.

An example of a highly successful platform company is China's Tencent, which enables customers to chat, purchase and pay for goods and services, including financial products, within its WeChat application. In many jurisdictions, banks do not have the latitude to do likewise, being constrained by regulators to operating within the narrow confines of financial services, and being a fiduciary business.

To the extent that regulations remain uneven across financial services and fintech companies, the future of banking will be increasingly challenged. The good news for banks is that this is changing. Recognising that the line between financial and non-financial business is blurring, Singapore's central bank recently announced proposals to allow banks to expand into related businesses including e-commerce.

Second, the rise of blockchain/distributed ledger technology will supplant the current financial market infrastructure. The traditional 'hub and spoke' model, whereby a single institution, such as a bank, acts as the hub and disseminates information to individuals, will be disrupted.

Traditionally, banks have been seen as trusted guardians of financial activity, whether it is in safekeeping deposits, extending credit or facilitating payments. With the distributed ledger, however, anyone can digitally access anything of value – stocks, bonds, digital property, titles, deeds – quickly, securely, transparently and inexpensively, without the need for an intermediary. As the distributed ledger is a peer-to-peer model, all individuals are able to transact directly with each other without the need for a middleman.

Nordic countries are fast heading towards being cashless, and a similar picture can be seen in countries like China and India in Asia. With the rise of digital payments and digital cash, we are moving from a world where money was gold-backed, to the present one where it is fiat-backed, to a future where it will be electronic.

Couple this with distributed ledger technology and, technically, we could reach a stage where central banks could directly distribute digital currencies to every citizen in the world. Today, over 90 central banks are engaged in distributed ledger discussions worldwide, and the UK is currently undertaking long-term research into the implications of creating a central bank digital currency (CBDC).

In a speech last year, Victoria Cleland, chief cashier of the Bank of England, said the CBDC could be limited to a narrow set of players such as financial institutions. But it could also be widened such that businesses and households are able to hold balances in central bank money and to pay each other in real time with full and final settlement, in an electronic format.

"There are numerous implications to be thought through … providing wide access to CBDC could fundamentally change the structure of the financial system. For example, if a CBDC provided competition for commercial bank deposits, one outcome could be a reduction in deposit funding available to commercial banks, undermining their ability to provide credit to consumers. The risks that this could pose need to be fully explored and understood," she said.

It's radical thinking that the world's policymakers are already looking at.

Will we see a future without banks? If we look far out enough, anything is possible.

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Senior Vice President Applications Development and Maintenance

Questions for the Record Submitted to
Mr. Steven Mnuchin
House Financial Services Committee
July 27, 2017

Representative Joyce Beatty

1. During your confirmation hearings before the U.S. Senate Finance Committee in January 2017, in a written response to a Question for the Record from Sen. Bob Casey, you stated that "OneWest Bank did not 'robo-sign' documents." However, the Vice President of OneWest's department of bankruptcy and foreclosures, Erica Johnson-Seck, stated in a sworn deposition in a Florida court case in July 2009, that she robo-signed an average of 750 foreclosure documents a week. Furthermore, according to a Columbus Dispatch article published on January 29th, 2017 entitled, "Trump Treasury pick Mnuchin misled Senate on foreclosures, Ohio cases show," OneWest Bank frequently used robo-signing to foreclose on thousands of homeowners in the State of Ohio, including hundreds in Franklin County.

    a. You stated in a response to my colleague, Congressman Ellison, during your testimony on July 26th, 2017, there is no legal definition of the term "robo-signing." With that said, what is your definition or understanding of the term "robo-signing?"

    Answer: I respectfully refer you to my prior congressional testimony on these matters.

    b. How do you reconcile your testimony before Congress that OneWest Bank did not engage in robo-signing, with Ms. Johnson-Seck's sworn testimony in a deposition where she admits that not only did OneWest engage in robo-signing, but she herself engaged in the practice on behalf of OneWest Bank? Was Ms. Johnson-Seck mistaken in her testimony or were you mistaken?

    Answer: I respectfully refer you to my prior congressional testimony on these matters.

    c. You have repeatedly stated that you are proud of your time at OneWest Bank. Are you also proud of OneWest's engagement in robo-signing documents to foreclose on hundreds of Franklin County families?

    Answer: I respectfully refer you to my prior congressional testimony on these matters.

2. In a recent Wall Street Journal interview regarding tax reform, President Trump stated, "the people I care most about are the middle-income people in this country." However, prior to President Trump's election, House Republicans released their own tax reform

plan, which, according to an analysis by the Tax Policy Center, found that by 2025, 99.6% of the tax cuts would benefit the top 1%.

a. How does President Trump classify the term "middle-income?"

Answer: To my knowledge, the President has not proposed a classification for that term.

b. How do you reconcile President Trump's priority of focusing on tax relief for middle-income households with the House Republican tax reform plan, which clearly favors tax relief for the top 1%?

Answer: It is our intent for tax reform to include provisions to ensure that the reformed tax code is at least as progressive as the existing code and does not shift the tax burden from high-income to lower- and middle-income taxpayers.

c. Does the Administration support the theory of "trickle-down economics?"

Answer: The Administration supports a tax code that promotes growth, creates jobs, and puts America first.

3. On July 20th, 2017, the Office of Foreign Assets Control (OFAC) within the U.S. Department of Treasury fined ExxonMobil Corp., of Irving, Texas, including its U.S. subsidiaries ExxonMobil Development Company and ExxonMobil Oil Corp., $2 million for several violations of the Ukraine-Related Sanctions Regulations, 31 C.F.R. part 589. OFAC determined that this case constituted an egregious violation, which mandates the statutory maximum civil penalty.

According to Securities and Exchange Commission filings, ExxonMobil Corporation earned $7.8 billion in 2016. To put OFAC's $2 million fine to a company that earned $7.8 billion in one year alone into perspective, that is the equivalent of a $14 fine for the average American household making $55,745.

a. Please explain how OFAC calculated the $2 million fine.

Answer: The $2 million fine represented the maximum penalty OFAC could impose pursuant to its statutory authorities given the facts of the case. Between on or about May 14, 2014 and on or about May 23, 2014, the Presidents of two U.S. subsidiaries of ExxonMobil Corp. – ExxonMobil Company and ExxonMobil Oil Corp. – signed eight legal documents relating to oil and gas projects in Russia with Igor Sechin, who was the President of the Russian oil company Rosneft OAO, designated by OFAC under its Ukraine-related sanctions authorities, and publicly named on OFAC's Specially Designated Nationals (SDN) List. OFAC determined that the signing of each document constituted a separate violation and, under the International Emergency Economic Powers Act, the maximum penalty

that OFAC could impose at the time of the violations was $250,000 or twice the value of the transaction.

In determining what fine ultimately to impose, OFAC followed the criteria set forth in its Economic Sanctions Enforcement Guidelines (the "Enforcement Guidelines"), which are published in the *Code of Federal Regulations* at 31 C.F.R. Part 501, app. A. OFAC determined that the eight violations were not voluntarily self-disclosed to OFAC and that the violations constituted an egregious case. In making the egregiousness determination under the Enforcement Guidelines, OFAC gave substantial weight to four General Factors, with particular emphasis on the first two General Factors: (1) whether the violations constituted a willful or reckless violation of the law; (2) the company's awareness of the conduct at issue; (3) the harm to sanctions program objectives that occurred as a result of the conduct; and (4) the individual characteristics of the company that engaged in the violations. The Enforcement Guidelines state that a case will be considered an "egregious case" where the analysis of the applicable General Factors, with a focus on the four General Factors identified above, indicates that the case represents a particularly serious violation of the law calling for a strong enforcement response. Consistent with the Enforcement Guidelines outcome for an egregious case that was not voluntarily self-disclosed and where the aggravating and mitigating factors did not merit further mitigation, the penalty amount assessed against ExxonMobil represents the statutory maximum penalty amount for the eight violations OFAC identified.

b. Do you believe a $14 fine for the average American household is sufficient enough to deter the bad actors from repeating this behavior again, especially, behavior that could be financially lucrative if gone undetected?

Answer: As a general matter, OFAC's existing authorities have been successful at deterring individuals and companies from violating U.S. economic sanctions laws and regulations. Importantly, the amount of the civil monetary penalty levied in any particular case is not the full measure of OFAC's ability to deter violations. Bad actors are also deterred by OFAC's demonstrated ability to identify and penalize those who violate U.S. sanctions laws and by the full scope of OFAC's authorities to penalize wrongdoers, which include the prospect of additional fines and criminal referrals for repeat offenders.

As for this particular case, it would not be appropriate for me to comment further in light of ongoing litigation in which ExxonMobil is challenging OFAC's imposition of this penalty.

c. Do you believe a $2 million fine for a company that earned $7.8 billion in one year is sufficient enough to deter that company from repeating this behavior again, especially considering how financially lucrative this behavior can be if left undetected?

Answer As a general matter, OFAC's existing authorities have been successful at deterring individuals and companies from violating U.S. economic sanctions laws and regulations. Importantly, the amount of the civil monetary penalty levied in any particular case is not the full measure of OFAC's ability to deter violations. Bad actors are also deterred by OFAC's demonstrated ability to identify and penalize those who violate U.S. sanctions laws and by the full scope of OFAC's authorities to penalize wrongdoers, which include the prospect of additional fines and criminal referrals for repeat offenders.

As for this particular case, it would not be appropriate for me to comment further in light of ongoing litigation in which ExxonMobil is challenging OFAC's imposition of this penalty.

d. Do you believe the statutory maximum fines for violations of U.S. sanctions are sufficient to deter others from engaging in similar behavior? If so, would you work with Congress to strengthen these laws?

   Answer: OFAC's public enforcement responses to violations of U.S. economic sanctions laws and regulations discourage companies from engaging in future similar conduct and send a clear message to companies in the same or similar industries regarding the seriousness of these violations and the importance of complying with OFAC's sanctions regulations. Apart from OFAC's actions, the Department of Justice may also pursue a criminal investigation and prosecution for sanctions violations in appropriate cases.

   While we would not comment on hypothetical legislation without knowing its details, OFAC has a long history of working with Congress to address technical issues affecting the implementation of sanctions, and would be pleased to continue to do so.

4. As you may know, Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub.L.111-203, established the Offices of Minority and Women Inclusion within many of the federal financial regulators in an effort to increase diversity in their respective agencies and within their regulated entities. Since becoming Treasury Secretary, to the date of your testimony before the Committee on Financial Services, have you have an opportunity to meet with the Director of the OMWI office at the Treasury Department? If so, how many times have you met and what did you discuss at these meetings?

   Answer: I have not had an opportunity to meet Dr. Lorraine Cole, who heads Treasury's OMWI office. I do interact daily with the Assistant Secretary for Management Kody Kinsley, who reports to me and manages and briefs me on many management issues and program areas in the Department. Assistant Secretary Kinsley meets regularly with Dr. Cole, who reports to him.

Representative Keith Ellison

1. **Debt Limit:** I appreciate your repeated urging for Congress to avoid a catastrophic default. Can you lay out the harms that would come to our economy and our international reputation if the U.S. defaulted on our national debt?

   Answer: Failing to honor our outstanding debt could result in further downgrades to our credit rating, and increased borrowing costs that would ultimately be borne by the American taxpayer for years to come. It could also cause serious disruption to the American economy, and potentially lead to another recession. Interest rates could increase not only for the U.S. Government, but for all Americans who borrow money, including homeowners, students, and businesses attempting to grow.

2. **Taxes / Violation of the "Mnuchin Rule":** In an interview with CNBC in November, you stated that a "rate reduction we have in upper-income taxes will be offset by less deductions so that there will be no absolute tax cut for the upper class."[1] This commitment became known as the "Mnuchin Rule". The Mnuchin Rule was the way you introduced yourself to the American people. Yet, Secretary Mnuchin, you admitted in June at a Senate hearing that you would "walk back" your own rule - the Mnuchin Rule.[2]

   a. Mr. Secretary, did you ever intend to uphold your promise that there would be no absolute tax cut for the upper class or was it meant to smooth your confirmation? At what point did you decide to break the Rule?

      Answer: See below.

   b. Please describe the tax decrease that families falling in the top 0.001% of income earners would receive under the Administration's proposed budget and tax plan.

      Answer: See below.

   c. Please describe the tax decrease that families falling in the top 0.01% of income earners would receive under the Administration's proposed budget and tax plan.

      Answer: See below.

   d. Please describe the tax decrease that families falling in the top 0.1% of income earners would receive under the Administration's proposed budget and tax plan.

      Answer: See below.

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[1] https://www.cnbc.com/2017/05/23/read-the-full-transcript-of-cnbcs-interview-with-treasury-secretary-steve-mnuchin.html

[2] https://www.bloomberg.com/news/articles/2017-05-25/-mnuchin-rule-against-wealthy-tax-cuts-comes-back-to-bite-him

e. Please describe the tax decrease that families falling in the top 1% of income earners would receive under the Administration's proposed budget and tax plan.

Answer: See below.

f. Please describe the tax decrease that families falling in the top 10% of income earners would receive under the Administration's proposed budget and tax plan.

Answer: It is our intent for tax reform to include provisions to ensure that the reformed tax code is at least as progressive as the existing code and does not shift the tax burden from high-income to lower- and middle-income taxpayers.

3. **Healthcare Plan Tax Cuts:** In your May testimony before the Senate Banking Committee, you responded to Senator Van Hollen's question about tax cuts embedded in the healthcare plan by saying that you were only partially involved in healthcare and that your primary involvement is with changes to the tax code. Mr. Secretary, the GOP health insurance bill is tax policy. It thus lies squarely within your area of responsibility. The GOP bill to cut health insurance for 23 million people gives wealthy individuals who earn a million dollars a year or more on average $50,000 in tax cuts per year on average.

   a. Does this decision – to cut insurance subsidies for working families in order to pay for tax cuts for millionaires not constitute a blatant violation of the Mnuchin Rule?

   Answer: These taxes were enacted as part of the Obamacare legislation. Whether these taxes should be repealed as part of health care reform should be considered separately from tax reform.

   b. The GOP pays for its bill to cut insurance subsidies by giving 400 of America's richest people roughly $7 million every year. Annually. You promised that the Administration would not implement absolute tax cuts for the rich. Yet the Trump and Republican budget plans both provide huge tax cuts for the rich. What do you say to the American people who feel betrayed by the generous tax cuts for millionaires and billionaires in your Administration's budget?

   Answer: The President's Budget assumes tax relief for middle-class families paid for by closing loopholes and economic growth spurred by pro-growth policies, including tax reform and deregulation.

4. **Funding for the Internal Revenue Service:** Increased funding for the IRS would reverse the short-sighted and damaging budget cuts which have increased our national debt, left the IRS ill-equipped to combat refund errors and fraud, drastically reduced taxpayer services, dangerously reduced audits, and limits the IRS's ability to implement

new laws passed by Congress.[3] I led a letter signed by 49 Democrats calling for $12.9 billion in appropriations for the IRS. The Trump budget proposal only provided $11 billion, a $239 million cut from already inadequate 2017 levels.[4] What will you do to ensure that the IRS receives adequate resources?

Answer: I remain committed to working with the President and members of Congress to ensure the IRS is adequately funded and staffed. Earlier this year, Treasury obtained exemptions to the Government-wide hiring freeze for critical IRS employees including customer service representatives, information technology specialists, and revenue agents. The 2018 Budget includes $3.9 billion for operations support including funds for maintaining critical IT systems, approximately $150 million above the FY 2017 level. This funding will allow the IRS to maintain critical tax filing and compliance systems. The Budget also provides $110 million for business systems modernization. These investments will allow the IRS to reduce outages, expand taxpayer online services, and develop new tools to enforce the tax code. The Budget also requests Congress restore Streamlined Critical Pay Authority to help the IRS compete with the private sector for expertise in data analytics and cybersecurity. IRS will utilize technology, training, and personnel savings in legacy operations to achieve the proposed reduction.

5. **Robo-signing:** "Robo-signing" is the term for when a mortgage company employee signs hundreds of foreclosures, swearing they have scrutinized the documents as required by law when in fact they have not. Another term, the legal term, is fraud. For the record, here is how banking regulators described robo-signing back in 2010 and 2011 when settlements were announced and OneWest signed its consent order with the Office of Thrift Supervision.[5]

> **John Walsh, Acting Comptroller of the Currency**
> "While the servicers got a couple of things right, what stood out was the pervasiveness of flaws and failings right across the process. Robo-signing may be the image that has lodged most firmly in our minds from news reports, but other deficiencies, beyond the mishandling of affidavits, were equally serious…That such routine business operations could be so badly mismanaged as to raise safety and soundness concerns was, quite frankly, astounding." April 2011.[6]
>
> "First, the scope of the enforcement actions that we took in April is very broad and comprehensive, and I think that's been poorly understood. Looking at the details of the foreclosure review, the enforcement orders tackle a large number of problems that need to be fixed. While "robo-signing" has become a shorthand for

[3] https://www.washingtonpost.com/news/powerpost/wp/2017/03/30/democrats-call-for-largest-irs-budget-to-improve-service-as-trump-calls-for-cuts/?utm_term=.4110e035aa96
[4] https://www.cbpp.org/research/federal-budget/trump-budget-continues-multi-year-assault-on-irs-funding-despite-mnuchins
[5] https://badbankmerger.com/#_ftn1
[6] http://www.pe.com/2011/04/14/foreclosure-fix-is-messy/

the broken process, these orders go far beyond just fixing "robo-signing" of documents. They address the entire system of controls that must be in place to ensure that those practices don't occur in the first place."[7]

"The volume of problem mortgages overwhelmed the capacities of the larger mortgage servicers and shoddy practices like "robosigning" resulted. Bank managers failed to pay enough attention to how simple, ordinarily low-risk aspect of the business were being done. Bank servicers, including the law firms and other vendors they employed, were skipping steps in back office operations and mismanaging case files in systemic dimensions." Office of the Comptroller of the Currency 2011 Audit Report.[8]

Governor Daniel K. Tarullo, Federal Reserve
"In the first portion of my testimony, I will explain our current understanding of the nature and extent of the deficiencies in mortgage documentation that have been so apparent in the robo-signing misconduct, as well as what the banking agencies are doing in support of a broader interagency effort to develop a full picture of these problems...The cost associated with foreclosure documentation problems, including robo-signing, are not the only potential liabilities facing financial institutions in the wake of the mortgage and housing crisis." December 2010.[9]

Sheila Bair, FDIC Chair
"The FDIC is especially concerned about a number of related problems with servicing and foreclosure documentation. "Robo-signing" is the use of highly-automated processes by some large servicers to generate affidavits in the foreclosure process without the affiant having thoroughly reviewed facts contained in the affidavit or having the affiant's signature witnessed in accordance with state laws. The other problem involves some servicers' inability to establish their legal standing to foreclose, since under current industry practices, they may not be in possession of the necessary documentation required under State law. These are not really separate issues; they are simply the most visible of a host of related, unresolved problems in the mortgage servicing industry.

As you know, even though the FDIC is not the primary federal regulator for the largest loan servicers, our examiners participated with other regulators in horizontal reviews of these servicers, as well as two companies that facilitate the loan securitization process. In these reviews, federal regulators cited "pervasive"

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[7] http://4closurefraud.org/2011/10/10/fraudclosure-remarks-by-john-walsh-acting-comptroller-of-the-currency-before-the-american-banker-regulatory-symposium-washington-d-c/
[8] https://www.treasury.gov/about/organizational-structure/ig/Agency%20Documents/oig12027.pdf
[9] https://www.federalreserve.gov/newsevents/testimony/tarullo20101201a.htm

misconduct in foreclosures and significant weaknesses in mortgage servicing processes."

There is strong evidence that OneWest Bank engaged in "robo-signing." There is strong evidence that OneWest Bank engaged in title fraud. That means that OneWest Bank took possession of people's homes that OneWest did not have the authority to take.

> *On April 13, 2011, the Office of Thrift Supervision filed a consent order. The OTS identified certain deficiencies and unsafe or unsound practices in how OneWest Bank handled its residential mortgage servicing and foreclosure proceedings. The consent order stated that OneWest Bank "filed or caused to be filed in state and federal courts numerous affidavits executed by its employees or employees of third-party service providers making various assertions, such as ownership of the mortgage note and mortgage, the amount of the principal and interest due, and the fees and expenses chargeable to the borrower, in which the affiant represented that the assertions in the affidavit were made based on personal knowledge or based on a review by the affiant of the relevant books and records, when, in many cases, they were not based on such personal knowledge or review of the relevant books and records...filed or caused to be filed in state and federal courts, or in local land records offices, numerous affidavits or other mortgage-related documents that were not properly notarized, specifically that were not signed or affirmed in the presence of a notary."*[10]

a. During your oral testimony, you stated "there was not robo-signing at OneWest," yet the OTS consent order states differently. You also stated that when you led OneWest you "upheld to the strictest amount of rules and regulations as was reviewed by the OCC, the Fed and the Consumer Protection Bureau." Yet, as Chairman, you signed the consent order in April 2011 but the Office of the Comptroller of the Currency did not terminate the consent order until July 2015. Do you deny the findings from the OCC Consent Order?

   Answer: I respectfully refer you to my prior congressional testimony on these matters.

b. Has the Federal Reserve terminated its consent order with OneWest?

   Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

c. The Department of Justice and the Office of Inspector General at the Department of Housing and Urban Development investigated and found that during a 64 month period (March 31, 2011 to August 31, 2016) Financial Freedom

[10] https://www.occ.gov/static/ots/misc-docs/consent-orders-97665.pdf

fraudulently requested reimbursements from FHA related to reverse mortgages.[11] This meant that the mortgagees on the relevant reverse mortgage loans serviced by Financial Freedom allegedly obtained additional interest that they were not entitled to receive. Do you deny that Financial Freedom inappropriately sought reimbursements from FHA?

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

d. How many modifications did OneWest offer that were accepted and did not default within two years? How many non-foreclosure alternatives did OneWest pursue? How many non-foreclosure alternatives did Financial Freedom offer? How many homes did OneWest foreclose on? How many reverse mortgages did Financial Freedom foreclose on? How many times did OneWest settle out of court for lawsuits brought by homeowners for illegal foreclosures?

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

e. During my five minutes for questions, you said that the bank always followed the rules. During your tenure as the Chairman, was OneWest subject to any non-public enforcement actions by the OCC?

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

And it is not just mortgage-related documents that seemed to be fraudulently signed. It was reported by the California Reinvestment Coalition that there were a number of concerning irregularities about some of the "supporters" of the OneWest – CIT merger.[12] It appears that some of the supporters of the petition were not real people and some did not know their name was used. For example, in one attachment of 593 petitions of "supporters" of the merger, 100% gave yahoo addresses, a high number of the people allegedly signed the petition in the middle of the night on February 14, 2015, and about 1/3 of email addresses given by supporters bounced back when contacted later.[13]

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[11] Settlement Press Release: https://www.justice.gov/opa/pr/financial-freedom-settles-alleged-liability-servicing-federally-insured-reverse-mortgage

[12] https://www.americanbanker.com/news/onewests-otting-seeks-wall-streets-help-lobbying-yellen-on-cit

[13] http://www.calreinvest.org/system/resources/W1siZiIsIjIwMTUvMTIvMDEvMTlfMDRfMjRfMTcwX3B1YmxpY19jb21tZW50c19jaXRfb25ld2VzdF9mZWJfOF8yMDE1XzFfLnBkZiJdXQ/public-comments-cit-onewest-feb-8-2015%20(1).pdf

a. Are you aware of these irregularities with the merger "supporters," and what do you believe should be done to ensure the integrity of public comment processes for future bank mergers? The Federal Reserve reported approximately 2,177 commenters supported the proposal, of which approximately 2,093 commenters submitted substantially identical form letters. In comparison, more than 21,000 people signed petitions against this merger, and 100 community groups also publicly opposed this merger.[14]

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

6. **OneWest Redlining Practices in California:** In February 2017, the U.S. Department of Urban Development accepted a complaint about OneWest's alleged redlining practices in California.[15] The investigation is ongoing. The complaintant is California Reinvestment Coalition (CRC) which alleges that OneWest Bank has violated the Fair Housing Act since 2011.[16] CRC alleges that OneWest provided very few mortgages to African Americans, Latinos or Asians. OneWest also located branches in mostly white areas.[17] And, OneWest had one of the weakest Community Reinvestment records of all California banks.[18] In fact, the Office of the Comptroller of the Currency conditioned its approval of the merger on improving the bank's CRA plan.[19] What is your response to these allegations? Did OneWest engage in redlining practices when you were the Chairman? Why did CIT and OneWest plan to reduce community reinvestment while awarding huge compensation packages to departing executives? For example, John Thain, the chairman and chief executive was able to keep unvested stock worth an estimated $13 million because the bank changed its retirement policy to meet his particular situation, and Joseph Otting collected a $12 million severance package when he was fired by CIT Group.[20]

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

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[14] https://www.federalreserve.gov/newsevents/pressreleases/files/orders20150721a1.pdf
[15] http://www.calreinvest.org/news/hud-accepts-crcs-redlining-complaint-against-cit-groups-onewest-bank
[16] http://www.calreinvest.org/news/hud-accepts-crcs-redlining-complaint-against-cit-groups-onewest-bank
[17] https://www.americanbanker.com/opinion/cra-goals-are-the-casualty-of-cit-onewest-merger
[18] https://badbankmerger.com/citna-bank-cra-exam/
[19] https://www.americanbanker.com/opinion/cits-impending-cra-plan-fails-california-communities
[20] https://www.wsj.com/articles/cit-chief-john-thain-takes-9-pay-cut-on-his-way-out-1458588182

7. **Independent Foreclosure Review:** In your testimony about your experience running OneWest bank, you referred to the Independent Foreclosure Review.

   a. Please explain how reviewers of OneWest Bank's foreclosure practices were chosen. Did OneWest pick your examiners?

      Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

   b. Did OneWest pay the reviewers? How much did OneWest pay the reviewers? What was the average hourly salary for a reviewer hired and paid by OneWest?

      Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

   c. Did OneWest provide guidance and categories of proper foreclosure proceedings to the reviewers?

      Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

   d. Was the term "robosigning" included in any of the categories reviewers were asked to consider? Was inadequate oversight of title documents included in the criteria reviewers were asked to consider?

      Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

   e. Did the reviewers find evidence of a lack of care in treating affidavits? Was it clear that affidavits showed appropriate review?

      Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

   f. How do you respond to the assertions of mistreatment of borrowers noted in the Office of Thrift Supervision consent order of 2011?

      Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

g. During the Independent Foreclosure Review, OneWest Bank was found to have an overall error rate over 5%, and a Service Members Civil Relief Act error rate of over 6%. Do you dispute that error rate?[21]

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

h. How was it possible that the FDIC, the OCC, or the Federal Reserve would conclude that OWB has done an adequate job offering loan modification programs under the loss share agreement when the OTS found it engaged in numerous abuses, including filing affidavits that were not based on personal knowledge or review of relevant records, filing affidavits that were not properly notarized, initiating foreclosures without ensuring that promissory notes and mortgage documents were properly endorsed or assigned, failing to devote adequate staff and resources to ensure proper administration of foreclosure processes, and failing to adequately oversee third party agents who are processing foreclosures?

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

i. Foreclosure data is not generally publicly available. Please provide the total number of foreclosures OneWest Bank and its subsidiary, Financial Freedom, conducted against homeowners during your time as Chairman. Please provide the number of deeds in lieu, short sales and other loss mitigation outcomes that did not preserve homeownership that OneWest Bank presided over since it took over Indymac Bank. Please provide that information broken out by state.

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

8. **Reverse Mortgages:** OneWest owned a reverse-mortgage servicing subsidiary called Financial Freedom. Many people might remember Robert Wagner or the late James Garner pitching these loan products to senior citizens. From April 2009 through April 2016, Financial Freedom was responsible for 39% of federally insured reverse-mortgage foreclosures nationwide, despite servicing approximately 17% of the market. The whole point of a reverse mortgage is that homeowners provide the mortgage to their house to a lender so they don't have to make mortgage payments. They are only responsible for insurance and property tax payments. Yet, it appears OneWest aggressively forecloses on elderly people. It was widely reported that one 92-year-old widow was threatened with

[21] Office of the Comptroller of the Currency. Foreclosure-Related Consent Orders Status Report: Observations, Payments, and Foreclosure Prevention Assistance, p. 14, Table 6, April 2014.

eviction and had to hire an attorney because of a 27 cents underpayment. The Department of Justice and Financial Freedom entered into an $89 million settlement for seeking unlawful interest payments from FHA on reverse mortgages.

a. It was reported that CIT Group was delaying its 2015 annual report because of undisclosed material weaknesses. What were the material weaknesses at Financial Freedom that CIT Group disclosed to investors in February 2016?[22] Why did CIT Group record $230 million in reserves?[23]

   Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

b. CIT Group told shareholders they received subpoenas from HUD's Office of Inspector General in 2015 regarding false claims allegation.[24] The Department of Justice press release said the alleged fraud took place from March 31, 2011 to August 31, 2016. Why did you and the OneWest leadership team take so long to fix these problems?[25]

   Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

c. It was reported that Sandra Jolley, was awarded $1.6 million, the maximum amount allowed under the whistleblower statute, for reporting that Financial Freedom obstructed repayment options and accelerated foreclosure to push older people, often freshly bereaved, out of their longtime homes at a rate far higher than other servicers.[26]

   Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

d. Why was Colleen Ison-Hodroff, an 84-year-old widow from Minneapolis told by Financial Freedom to pay off the full balance due on her residence a few days after her husband's funeral? She had been told she could stay in the home after his

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[22] https://www.sec.gov/Archives/edgar/data/1171825/000089109216012893/e68535_nt10k.htm
[23] http://www.businesswire.com/news/home/20160728005491/en/CIT-Reports-Quarter-2016-Net-Income-14
[24] https://badbankmerger.com/2016/03/09/cit-groups-new-10-k-hud-subpoena-relativity-media-bankruptcy-mnuchin/
[25] https://www.justice.gov/opa/pr/financial-freedom-settles-alleged-liability-servicing-federally-insured-reverse-mortgage
[26] https://www.employmentlawgroup.com/in-the-news/press-releases/consumer-advocate-helps-government-secure-89-million-settlement-reverse-mortgage-foreclosure-scheme/

death but that was not allowed by Financial Freedom. Mrs. Ison-Hodroff's reverse mortgage was not insured by HUD. You have previously claimed that HUD regulations forced Financial Freedom to foreclose on seniors, yet this mortgage was not a federally-insured reverse mortgage and Financial Freedom still moved to aggressively foreclose on her. How many other non-federally insured reverse mortgages has Financial Freedom foreclosed on, how many have been against non-borrowing spouses, and how many non-federally insured reverse mortgages does Financial Freedom currently service? Please describe what options Financial Freedom has used to keep these seniors in their homes, given your earlier stated concerns about helping seniors to retain their homes.[27]

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

e. Why did so many spouses who took out reverse mortgages from Financial Freedom seem unaware that if the loan was originated to only one spouse that it could subsequently result in a foreclosure against the non-borrowing, surviving spouse if the borrower spouse were to pre-decease them?

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

f. As Treasury Secretary, what will you do to stop reverse-mortgage abuse?

Answer: Treasury supports the availability of safe, transparent mortgage products. The Department of Housing and Urban Development (HUD), through the Federal Housing Administration (FHA), insures the predominant reverse mortgage product available to homeowners, the Home Equity Conversion Mortgage (HECM). We would direct you to the HUD Secretary for specific questions about this product.

9. **Study of the Efficacy of a Remittances Pilot Program serving Somalia:** Congress just passed a requirement (S. 722, Section 271) requiring the Department of Treasury study the efficacy of establishing a pilot program to provide technical assistance to depository institutions that want to serve money services businesses serving individuals in Somalia. The language also requested feedback from the Treasury Department to provide input into the potential impact of allowing money services businesses to share State examination information with depository institutions. This report is due 270 days from the date of enactment. I expect the Treasury Department to complete this report by that date. As the author of this language, I encourage your staff to coordinate with my staff on the scope of this effort. Please share a proposed workplan with me.

[27] http://www.scotsmanguide.com/rsPopPrintCMS.aspx?id=45097161327&prTyp=2

Answer: Treasury has carefully studied the provisions of the Countering America's Adversaries Through Sanctions Act and is currently working on a strategy to address the new requirements laid out in section 271. Treasury staff has begun consultations with the Federal banking agencies on the strategy. We would be pleased to brief you and your staff on expected way ahead.

10. **myRA:** The Administration announced plans to kill the myRA program. This is deeply unfortunate because we have too many workers who do not have access to a retirement account at work.

    a. How does the Treasury Department plan to help more people save for retirement to meet the gap closed by killing this program?

       Answer: The myRA program is communicating frequently with participants about the phase out of the myRA program, and encouraging participants to save with private sector retirement savings options. As of December 4, 2017, there were approximately 10,000 individuals with savings in a myRA account. Retirement savers have options in the private sector that offer no account maintenance fees, no minimum balance, and safe investment opportunities.

    b. What will happen to the tens of thousands currently saving in this program? Will they be able to stay in the program? Until when?

       Answer: As of December 4, 2017, there were approximately 10,000 individuals with savings in a myRA account. The myRA program is providing account holders new information on program's wind-down as additional information becomes available. Treasury staff anticipate that the program will be fully phased-out during calendar year 2018. Individuals have the option to transfer their funds to another Roth IRA provider or to withdraw their funds.

    c. Please share the calculations the Treasury Department used to assess the cost of the program.

       Answer: To assess the cost of the program, Treasury aggregated actual myRA program expenses for FY14 ($10.7 million), FY15 ($17.0 million), FY16 ($26.4 million), and a staff estimate of FY17 expenses ($16.7 million). From the program's beginning to when Treasury announced steps to wind down the program on July 28, 2017, approximately 20,000 myRA accounts received deposits totaling nearly $35 million. Ultimately, the demand for the program did not justify the cost to taxpayers.

Representative Tom Emmer

1. Mr. Secretary, I am concerned that an Obama Administration decision to align with global financial regulators currently threatens to create additional instability and turbulence in America's health benefits markets. As you know, the National Association of Insurance Commissioners (NAIC) is moving forward with a proposal to require a new, additional Risk Based Capital charge for all types of insurance, including health insurance, on top of the existing state Risk Based Capital formulas. In your capacity as the U.S. representative to global financial regulators, please respond to the following questions for the benefit of the House Financial Services Committee:

    a. Does the Treasury Department have a position on this proposal?

    Answer: Treasury does not currently have a view regarding the additional operational risk charge that was added to the NAIC Risk Based Capital formula by the Capital Adequacy (E) Task Force at the 2016 NAIC Spring National Meeting. Treasury is reviewing the additional operational risk charge. Treasury, through the Federal Insurance Office (FIO), continues to engage with stakeholders, including state insurance regulators and the NAIC, in order to further evaluate this issue and to ensure appropriate coordination and consultation.

    b. Unlike other insurance markets, the U.S. health insurance market is short duration market where two-thirds of claims are known within 60 days of service and 90% of claims are known within 90 days. As a result, if there are operational issues they are identified and addressed in a timely manner. The claims process for health insurers limits the opportunity and incidence of operational risk. Is the Department of Treasury aware of any evidence that new Risk Based Capital requirements for health insurers are necessary, especially considering the unique nature of U.S. health insurance markets?

    Answer: Treasury does not currently have a view regarding the additional operational risk charge that was added to the NAIC Risk Based Capital formula. At this time, Treasury would refer you to the NAIC's public justification for the operational risk charge, available at http://www.naic.org/documents/cmte_e_capad_2016_13_0.pdf. An August 2017 NAIC newsletter summarizing the operational risk charge and its status is also available at: http://www.naic.org/documents/cmte_e_capad_hrbc_1708.pdf.

    c. Given the unique nature of health insurance markets in the U.S. and the differences between health insurance markets and other types of insurance markets, should health insurance be treated in exactly the same manner as other types of insurance in evaluating the need for, and amount of any additional risk-based capital?

Answer: Treasury does not currently have a view regarding the additional operational risk charge that was added to the NAIC Risk Based Capital formula by the Capital Adequacy (E) Task Force at the 2016 NAIC Spring National Meeting. Treasury is reviewing the additional operational risk charge. Treasury, through the FIO, continues to engage with stakeholders, including the state insurance regulators and the NAIC, to evaluate the issue and to ensure appropriate coordination and consultation.

d. Is the Department of Treasury aware of what metrics might be used to determine the size and amount of the new, additional Risk Based Capital charge in the health insurance markets, and if those metrics might include comparisons to health insurance markets in other countries?

Answer: Treasury is reviewing the additional operational risk charge. Treasury, through the FIO, continues to engage with stakeholders, including the state insurance regulators and the NAIC, to evaluate the issue and to ensure appropriate coordination and consultation.

Representative French Hill

1. In response to the Markets in Financial Instruments Directive (MiFID) II regulation that is scheduled to take effect on January 3, 2018, I am concerned about the negative impact the regulation could have on the ability of U.S. firms to provide investment research. MiFID II will require asset managers to pay for research reports they've been getting for free from brokers in exchange for trading commissions. Many small and mid-cap companies depend on research coverage to attract investment, and EU rules that impede the provision of research could have a direct impact on job creation and capital formation here in the United States. As you are aware of the issue, and given your broad responsibilities at Treasury, are you willing to work with the SEC and the EU to find a path forward that could result in short term relief to prevent negative impacts to investment in US companies?

   Answer: I am aware of the issue and concerned about the implications of MiFID II's impact on American firms. To that end I strongly support the SEC's efforts to find a solution to the conflicting rules of law. Treasury staff have engaged with European officials on a range of MiFID implementation issues, most notably through the joint U.S.-EU Financial Regulatory Forum, and will continue to engage relevant European officials in order to support a solution to concerns such as this.

2. On May 21, 2017, Treasury announced that the United States and Saudi Arabia would establish and co-chair the Terrorist Financing Targeting Center (TFTC) in Riyadh, Saudi Arabia, a new, collaborative effort to confront "new and evolving threats arising from terrorist financing."17 The TFTC is a key deliverable from President Trump's summit in Saudi Arabia earlier this year and supports the Administration's priorities to fight terrorism. Can you describe the purposes and goals of the new TFTC?

Answer: The Terrorist Financing Targeting Center (TFTC), announced by President Trump during the Riyadh Summit in May 2017, is a new initiative that brings together the United States and every member of the Gulf Cooperation Council as part of a multilateral initiative to combat terrorist financing. The TFTC, which is co-chaired by the United States and the Kingdom of Saudi Arabia, will deepen existing multilateral cooperation by coordinating joint disruptive actions, including multilateral sanctions designations, enhancing information sharing, and institutionalizing capacity-building to target terrorist financing networks that pose national security threats to the United States and the Gulf. Secretary Mnuchin attended the opening of the TFTC during his visit to Riyadh in October. We will work together through the TFTC to counter an array of terrorist organizations, including ISIS, al Qa'ida, Hizballah, Lashkar–e-Tayyiba, the Taliban, and the Haqqani Network. This collaborative Center will also address a host of other transnational threats throughout the Middle East, including from Iran, the Assad regime in Syria, and the situation in Yemen.

3. As you know, the IMF Board bent the Fund's rules to allow Greece's ill-fated loan in 2010, which went on to seriously damage the IMF's reputation among its members. I was recently pleased to see the IMF insist on debt sustainability before it will take part in a third Greek bailout. But this seems to merely postpone questions about the Fund's involvement in such countries. How can the IMF's independence be maintained if it is a junior partner to Europe's bailout fund, and why should we put taxpayer resources on the line in such cases – moreover, what would prevent the IMF from serving as a junior partner to a Chinese-led rescue fund in the future?

   Answer: By insisting on specific and credible debt relief measures before it is willing to approve the third program, the IMF has clearly drawn on lessons from previous programs with Greece. Treasury agrees that the IMF should not be a "junior partner" by deferring to others on the macroeconomic standards it applies to a program, including standards on debt sustainability. That does not mean that IMF financing needs to constitute the majority of a financing package. The IMF can maintain its appropriate role in setting standards of macroeconomic sustainability while relying on Europe to provide the bulk of the financing. We feel strongly that Europe must continue to provide the bulk of the financial assistance to Greece (€46 billion in European financing remains). Therefore, it is appropriate that the IMF's third program, if approved, is precautionary in nature since Greece does not anticipate needing additional funding from the IMF.

   The IMF can continue to play an important role in working with Greece and the European institutions to implement a policy framework that supports economic growth and sustainability and provides support that allows Greece to repay its creditors – including the IMF – and eventually regain access to international capital markets. Given the IMF's strength and expertise in designing macroeconomic reforms, it is useful to bring the IMF's unique expertise to bear. Treasury also sees that the IMF's attention to debt sustainability is helping European leaders and institutions come forward with necessary debt relief.

I do not see value in speculating about unlikely future scenarios involving China, but in any case, we would not foresee the IMF as being a junior partner in designing macroeconomic policies for an IMF program.

Representative Randy Hultgren

1. Page 51 of the Treasury Department's June 12 report notes, "The leverage ratio imposes significant capital requirements on initial margin, which is collected to reduce risk on centrally cleared exposures. Because of the low-margin and high-volume nature of the business of providing clients access to central clearing, high leverage ratio capital charges discourage firms from providing such services."[1] Again, I agree with the recommendations made in the report. In fact, I have raised this issue a number of times with Chair Yellen and other banking regulators.

    a. Have you discussed this specific provision of the leverage ratio with the Agencies that have authority to make changes? If so, what feedback have you received?

    Answer: In conducting our study of banks and credit unions, and the regulations to which they are subject, Treasury engaged in a number of discussions with the Federal Reserve and other banking agencies. As you know, we also met with representatives of banks, credit unions, academia, and consumer groups. Our discussions with senior staff at the banking agencies, both before and after issuance of our report, covered a wide array of issues and our proposals to address these issues. The Federal Reserve and other banking agencies discussed with us their prudential rationale for adopting leverage ratios, as well as the prudential basis for the international adoption of leverage ratio capital requirements on customer margin.

    b. How does the Treasury Department plan to pursue amendments to the leverage ratio? In other words, how will you encourage the regulators with rulemaking authority to undertake this important work?

    Answer: We have continued our interagency conversations with the Federal Reserve and other banking agencies after issuance of the Treasury Report. We generally believe that the agencies are continuing to consider whether tailoring the standards based on the size and complexity of banks is appropriate.

Representative David Kustoff

1. On July 23, an article ran in the New York Times entitled: "U.S. Foresaw Better Return in Seizing Fannie and Freddie Profits." To summarize, this article discusses recently unsealed documents revealing that in late-2011, high-level Treasury officials during the Obama Administration knew that Fannie Mae and Freddie Mac would generate far more profits for the U.S. Department of Treasury than were included in the terms of the original bailout. This prompted an abrupt reverse in action by the Obama Administration – a move that many considered "unusual given that the companies still had public

shareholders." The documents discussed in the article show that former Treasury officials knew the two enterprises were on the verge of a "golden age of profitability," and that their motive in enacting the net worth sweep was to bring in more money for the Obama Administration at a time when it simply did not want to negotiate with Congress over government spending and the debt ceiling. Among those newly released documents was an informational memorandum written by Treasury employee Mary John Miller to then-Treasury Secretary Timothy Geithner, outlining "restructuring and transition options" for Fannie Mae and Freddie Mac, stating the need for the changing terms of this bailout to ultimately accommodate for the additional profits the companies were expected to accrue. During this time, this information was not disclosed to the public much less this Committee. This lack of transparency was perpetuated during Secretary Jack Lew's tenure as well.

a. Assuming the facts in this article are correct, what do you believe is the proper adjudication or resolution?

   Answer: Treasury cannot comment due to the pending litigation. The Department of Justice represents Treasury in litigation. Any questions regarding litigation matters should be directed to them.

b. Do you agree with how the previous administration handled this matter?

   Answer: Treasury cannot comment due to the pending litigation. The Department of Justice represents Treasury in litigation. Any questions regarding litigation matters should be directed to them.

c. Have you conferred with the Department of Justice on whether it is ethical to continue to assert this legal defense in the remaining GSE litigation cases?

   Answer: Treasury cannot comment due to the pending litigation. The Department of Justice represents Treasury in litigation. Any questions regarding litigation matters should be directed to them.

d. Does this Committee have your commitment to greater transparency than that of the Obama Administration?

   Answer: Treasury is committed to conducting its business in an open and transparent manner.

Representative Barry Loudermilk

1. Secretary Mnuchin, you stated at the hearing that you feel that the Bank Secrecy Act/ Anti-Money Laundering process should be reviewed. I agree, and many local financial institutions in my district have stated that BSA/ AML compliance is one of the largest regulatory burdens that they face. Particularly, I am concerned about the BSA threshold for currency transaction reports, which requires financial institutions to report when an

individual engages in transactions totaling $10,000 or more in one day. This threshold has not been updated since the BSA was enacted in 1970, and would be approximately $60,000 today if it had been adjusted for inflation. I am concerned that this low threshold may cause financial institutions to report many routine, non-suspicious transactions.

a. Do you feel that this could be an unnecessary compliance burden for financial institutions? If so, do you feel that Congress should consider raising this threshold?

   Answer: No, this is not an unnecessary compliance burden for financial institutions (FI). Being able to monitor/track the flow of cash is critical to providing important transactional information to law enforcement and to understanding financial cash flows of illicit actors. In addition, inflation would not be the ideal metric to determine thresholds given the changing nature of how cash has been used since the BSA's enactment in 1970. For example, terrorist and other illicit actors will often exploit the use of lower dollar cash transactions. In addition, with the increased, almost universal use of ATMs, debit cards, prepaid cards, among other factors a $10,000 cash transaction in 2017 is more unusual than a $10,000 cash transaction in 1970.

   In addition, we are aware that FIs (even smaller ones) have incorporated computer software that automates the filing of Currency Transaction Reports (CTR) which allows CTRs to be submitted automatically to FinCEN's electronic filing systems, thereby significantly reducing burden. The cost to reprogram/reset the FI's reporting system could outweigh the perceived savings.

   Treasury, and FinCEN specifically, is currently in the process of reviewing its BSA data and is working closely with law enforcement officials to determine the effectiveness of how certain BSA reports are retrieved and used. We are also working closely with industry to identify the most resource-intensive aspects, regardless of threshold, related to BSA reporting requirements to determine if other requirements can be alleviated that will not impact law enforcement utility of the data submitted. Until we are able to gather and analyze these specific data points, we urge Congress not to focus its efforts on raising certain thresholds.

b. If this threshold was to be raised, would FinCEN experience difficulties detecting and preventing money laundering?

   Answer: Changing the threshold would impact the U.S. Government's mission of detecting, investigating and prosecuting money laundering and terrorism finance because of the CTR's relationship with Title 31 structuring violations and Suspicious Activity Reports (SARs). Although not every CTR is connected to illicit activity, CTRs can serve as a critical piece of understanding an illicit financial transaction, pattern of transactions, or piece of information that connects a suspect to a wider network. Raising the threshold to $60,000 would dramatically reduce CTR filings. With respect to data from the last 10 full calendar years

(2007-2016), if the reporting threshold were $59,000, FinCEN would have lost roughly 93% of all CTRs reflecting cash-in (and roughly 95% of CTRs reflecting cash-out) transactions.[28]

Representative Dennis Ross

1. The Treasury is a participant in virtually all international discussions on insurance regulatory issues, along with the Federal Reserve Board (FRB) and the States and National Association of Insurance Commissioners (NAIC). Mr. Secretary, what will you do to assure that the U.S. develops consensus positions among all of these players? How will you meaningfully engage the U.S. insurance industry in international insurance regulatory policy development? How will you help assure that international insurance regulatory standards recognize U.S. state-based regulatory standards as one way to comply with international standards so U.S. companies and consumers are not disadvantaged by international standards?

   Answer: Treasury encourages U.S. representatives at the International Association of Insurance Supervisors (IAIS) to advance policy positions that best represent the interests of the U.S. insurance sector, U.S. consumers, the state-based U.S. insurance regulatory system, and the U.S. economy. Treasury believes that the U.S. members of the IAIS will be best-positioned to advance American interests if they coordinate their efforts and harmonize their policy positions at the IAIS. In furtherance of this objective, Treasury recommends that an enhanced interagency process between the U.S. members of the IAIS be established to ensure stronger and more efficient coordination on international prudential insurance matters. Treasury is committed to increased transparency and stakeholder engagement with respect to the international standard setting process.

2. The Financial Stability Board (FSB) and International Association of Insurance Supervisors (IAIS) conduct most of their activities behind closed doors, to the detriment of U.S. companies and consumers affected by their activities. Mr. Secretary, how will you advocate for additional transparency and accountability in those international organizations?

   Answer: In Treasury's reports to the President regarding Executive Order 13772 on Core Principles for Regulating the United States Financial System, Treasury has made recommendations regarding the processes of the FSB, the IAIS, and other international standard setting bodies, with the goal of increasing transparency and accountability. Pursuant to the President's Executive Order, Treasury will also endeavor to improve inter-agency coordination, including coordinating with state insurance regulators and the NAIC, to enable American companies to be more competitive with foreign firms in domestic and foreign markets, and to advance American interests in international financial regulatory negotiations. Treasury will also advocate for increased stakeholder

[28] **Methodology**: Number of CTRs filed (by year) where amount is less than $59,000 (Cash-In/Cash-Out) for records submitted 1 January 2007 through 30 September.

engagement, which will help to ensure that U.S. policy priorities are informed by the views of the U.S. insurance industry and its consumers.

Representative Brad Sherman

1. This Committee recently reported legislation, which I am a cosponsor of, that would withhold 15 percent of appropriated funds for the World Bank's International Development Association (IDA) unless you certify that the World Bank has not approved any assistance in the previous fiscal year to a state sponsor of terrorism, like Iran.

   I have been working on this issue for 20 years. It is U.S. policy to oppose World Bank loans to state sponsors of terrorism, but we do not have a veto and can be outvoted in World Bank decisions. From 2000 to 2005 the World Bank loaned almost $1.4 billion to Iran across 9 loans, despite U.S. objections. I have long advocated that we condition our future contributions to the World Bank on the absence of loans to Iran and am pleased that this bill does just that. If the *World Bank Accountability Act* becomes law, are you committed to fully enforcing this provision to deter the World Bank from providing loans to Iran?

   Answer: Yes.

2. There are only three state sponsors of terrorism, and no bank would lend money to one of these, namely Syria. While Sudan is of interest to some institutions, perhaps, I do know that many of our banks are very interested in lending to Iran. We cannot allow that. I do not want Wall Street lobbying us in Congress on our foreign policy with respect to Iran because they are concerned that we will endanger their loans. I do not want major banks coming to me and saying that they might fail and that they need us to bail them out because you allowed them to put depositor's money at risk. Can you guarantee that as long as you are Secretary of the Treasury you will not license any United States financial institution to operate in Iran? To lend money in Iran or to Iranian entities? To conduct dollar clearing directly or indirectly for Iranian entities?

   Answer: Our domestic trade embargo generally prohibits U.S. persons – including U.S. banks – from directly or indirectly engaging in Iran-related transactions, unless authorized by OFAC. OFAC currently has no general license or licensing policy that would authorize the breadth of activity you reference.

   As the President stated during his public address on October 13, 2017, the United States' new Iran strategy focuses on neutralizing the Government of Iran's destabilizing influence and constraining its aggression, particularly its support for terrorism and militants. As part of the President's comprehensive Iran strategy, the United States Department of the Treasury will continue to use our strong economic authorities to play a vital role in countering Iran's malign activities.

   With respect to requests for specific licenses, OFAC carefully reviews these applications on a case-by-case basis and evaluates whether issuing a license would be consistent with

our broader foreign policy and national security interests, consulting with the Department of State as appropriate. Whether we issue a license depends upon the facts and circumstances of the transaction, including the parties involved, the underlying activities, and consistency with U.S. foreign policy and national security goals – including the Administration's comprehensive Iran strategy.

3. Iran Air may have been removed from the United States list of sanctioned entities (the Specially Designated Nationals or SDN List) pursuant to the Joint Comprehensive Plan of Action (JCPOA), but there is no reason to believe that their material support to the Iran Revolutionary Guard Corps (IRGC) and its expeditionary arm, the Quds Force, has ceased.

   In addition, tracking information shows that Iran Air aircraft have recently traveled between Abadan and Damascus, a route whose principal purpose is to transmit arms and materiel to forces loyal to Syria's president Bashar Assad. The Syrian civil war has killed approximately 500,000 people and has displaced half the country's population. American money should not be financing the planes that bring death to Syria.

   Will you withdraw the recently issued licenses for the sale of aircraft to Iran Air? Will you approve any new licenses for the sale of aircraft to Iran, including to its other carriers?

   Answer: As the President stated during his public address on October 13, 2017, the United States' new Iran strategy focuses on neutralizing the Government of Iran's destabilizing influence and constraining its aggression, particularly its support for terrorism and militants. Iran continues to pursue ballistic missile capabilities in defiance of UN Security Council Resolution 2231, provides a lifeline to the Assad regime as he slaughters his own people, and supports Hizballah, Hamas, and the Taliban, among other militant groups.

   This aid is primarily delivered by Iran's Islamic Revolutionary Guard Corps (IRGC) and its Quds Force. These efforts are supported by entities like U.S.-designated Mahan Air, which carries weapons, fighters, and money to the Assad regime and its supporters like Hizballah in Syria. Given Iranian airlines' historic and ongoing use of commercial aircraft to support these terrorist organizations and regimes, the Treasury Department remains on guard to ensure that commercial aircraft are not used for these purposes.

   The United States' commitment under the JCPOA is to license the export of commercial passenger aircraft and related parts and services on a case-by-case basis exclusively for commercial passenger aviation. Our case-by-case licensing policy is intended to ensure that aircraft licensed to Iranian end users will be used exclusively for commercial passenger aviation. To this end, we continue to carefully review license applications and monitor Iranian activity to guard against possible misuse of licensed goods for other than commercial passenger end-use. We will carefully consider any evidence that calls into question the commercial passenger nature of any end user activity.

Should the United States determine that licensed aircraft, goods, or services have been used for purposes other than exclusively commercial passenger aviation end-use, or have been transferred to persons on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List, the U.S. Government reserves the right to revoke aircraft licenses and to cease performing this licensing commitment in whole or in part, as set forth in section 5.1.1 of Annex II of the JCPOA. We have made this point clear to Iran and the other parties to the JCPOA.

As part of the President's comprehensive Iran strategy, the United States Department of the Treasury will continue to use our strong economic authorities to play a vital role in countering Iran's malign activities. The Treasury Department will likewise continue focusing on Iran's aviation sector—and the abuse of that sector—when considering taking further action.

Representative Maxine Waters

1. The Financial Stability Oversight Council (FSOC), on which you serve as Chairman, has previously published its annual report no later than June the past four years, if not sooner. Please explain FSOC's delay in publishing the annual report required by law this year. When will FSOC publish the report?

   Answer: FSOC's annual report is an important product that provides public transparency regarding FSOC's activities, analyses, and recommendations. FSOC released its annual report on December 14, 2017.

2. FSOC has only met in executive session since you were sworn in as Treasury Secretary. Can you explain why FSOC is not as transparent as it was under your predecessor's leadership? When can we expect FSOC to meet in public?

   Answer: FSOC is committed to conducting its business in an open and transparent manner and held two public meetings in November and December of 2017. As stated in the FSOC's Transparency Policy, the Council opens its meetings to the public whenever possible. At the same time, the central mission of FSOC is to monitor systemic and emerging threats. This requires discussion of supervisory and other market-sensitive data, including information about individual firms, transactions, and markets that may only be obtained if maintained on a confidential basis. Protection of this information will be necessary in order to prevent destabilizing market speculation that could occur if that information were to be disclosed. FSOC agenda items are held in executive session only as contemplated by the Transparency Policy.

3. Does FinCEN typically develop "business rules" in response to particularly prominent matters of national security, for example, in order to more closely monitor suspicious activity reports and other communications related to a particular matter of concern?

   Answer: Yes, FinCEN develops business rules in response to particularly prominent matters of national security.

4. Can you comment on whether FinCEN developed a business rule to screen Bank Secrecy Act data to identify financial transactions involving Russian politically exposed persons, Russian individuals determined to have a high risk of engaging in bribery, corruption or money laundering?

   Answer: FinCEN business rules range in complexity from traditional "watch list" rules designed to identify known illicit actors to complex multi-variable weighted rule sets capable of identifying potential illicit activity. These algorithms search the reporting for key terms, entities, and typologies of interest daily across six priority areas: transnational security threats; cybercrime; transnational organized crime; significant fraud; compromised financial institutions or third party money laundering; and data quality, benchmarking, and anomaly detection. FinCEN does not disclose the details of specific business rules used in support of its mission.

5. Has FinCEN or the Treasury Department provided guidance or otherwise had communication with institutions subject to the Bank Secrecy Act about how to identify transactions that are at higher risk of involving Russian individuals engaged in bribery, corruption or money laundering?

   Answer: FinCEN has a variety of mechanisms available to communicate with financial institutions, as appropriate, about significant money laundering/terrorist financing issues and risks. Longstanding regulations and guidance cover requirements related to private banking, foreign politically exposed persons, and correspondent banking to help financial institutions identify, report, and mitigate such risks, regardless of geography. FinCEN uses its Financial Institution Advisory Program to communicate directly with financial institutions on significant issues and specific money laundering and terrorist financing risks. These advisories provide context, case examples, typologies and red flag indicators which can assist financial institutions in the identification and reporting of specific illicit activity. For example, FinCEN has issued Advisories associated with political corruption in Ukraine associated with the Russian-backed former President Yanukovich. More broadly, FinCEN has also previously issued guidance and red flags on how to identify and report on public corruption associated with senior foreign political figures, which would include Russian political figures and their families and associates. On a regular basis, FinCEN also provides financial institutions a listing of topics found in recent SARs, including potential Russian political corruption.

6. A surprisingly large number of Administration officials have extensive ties to Russian oligarchs and Russian government officials. Your Department has an explicit obligation to combat illicit financial activity. Given this, can you confirm whether your Department is committed to doing so if such illicit financial activity should involve senior members of the Administration?

   Answer: The Department is committed to vigorously enforcing, in a fair and even-handed manner, all laws that are within its responsibility to administer.

7. Deutsche Bank, which has been fined large sums for Russian money laundering and other violations of the law, was willing to lend hundreds of millions of dollars to Trump after his bankruptcies when no other bank would. Given your responsibility for promoting the safety and soundness of the financial system, as well as your responsibility for administering the Bank Secrecy Act, do Deutsche Bank's loans to the President raise red flags in your view?

   Answer: I fully support the role of Federal financial regulators in carrying out supervisory and regulatory actions to promote the safety and soundness of the financial system. That said, determinations regarding individual credit applications are the responsibility of each financial institution.

8. As you know, the Financial Crimes Enforcement Network, known as FinCEN, plays a key role in building bilateral and multilateral cooperation and in exchanging financial information on anti-money laundering and counter terrorist financing matters through the Egmont group as well as pursuant to bilateral information sharing agreements.

   a. Can you comment generally on the type of information that is either shared or obtained by FinCEN through such information sharing arrangements?

      Answer: In its role as Financial Intelligence Unit (FIU) of the United States, FinCEN works with partner FIUs from over 150 jurisdictions around the world, bilaterally, regionally, multilaterally, and as a member of the Five Eyes FIUs and the Egmont Group of Financial Intelligence Units to share reporting and analysis relevant to money laundering and terrorist financing.

      The Egmont Group, in which FinCEN has had a leadership role for many years, has made combating terrorist financing its top priority since 2016. FinCEN supports coordination between the Egmont Group and Financial Action Task Force on FIU-related issues as well as outreach efforts aimed at improving FIU-to-FIU information sharing and the exploitation and analytical capabilities of FIUs around the world. FinCEN is one of the leading FIUs in the Egmont Group in terms of the overall volume of requests received from and disclosures sent to partner FIUs. In 2016, FinCEN received over 1,000 requests for information from Egmont FIU partners and sent over 400 requests for information on behalf of U.S. law enforcement agencies and other U.S. requestors to Egmont partners. FinCEN also disseminated over 1,100 disclosures of information related predominantly to terrorism, including analytic products, link charts, and other reports.

   b. How many information sharing requests does FinCEN make on average each year?

      Answer: On average, FinCEN makes about 400 Egmont requests to foreign FIUs each year. In FY17, we made 413 requests and in FY16, we made 417 requests.

c. To your knowledge, are there any jurisdictions from which FinCEN has sought to acquire information that have been unwilling to be responsive to FinCEN's requests?

Answer: In general, most jurisdictions are responsive to FinCEN's requests for information. There were only two jurisdictions that received at least one request during FY17 that did not respond.

d. At any point under your tenure at the Treasury Department, has FinCEN ever sought to obtain information from Cyprus' Unit for Combatting Money Laundering?

Answer: Yes, we have submitted a number of requests for information to Cyprus. During FY17, we sent 18 requests to the FIU of Cyprus on behalf of law enforcement, and the average response time for requests that we send to Cyprus is 32 days.

9. We are aware that the Treasury Department's Financial Crimes Enforcement Network (FinCEN) has already transmitted a number of records to the House Intelligence and Senate Intelligence Committee related to their ongoing inquiry.

a. Why has FinCEN provided financial intelligence documents to two Congressional committees, but refused to respond to this Committee's May 23rd request for financial intelligence documents?

Answer: Treasury is committed to responding appropriately to congressional requests for information. To this end, as has been publicly reported, Treasury has provided information in response to certain requests from committees in the House and Senate.

10. If a financial institution filed a suspicious activity report related to Trump, his immediate family or his associates, what would FinCEN do with this information?

Answer: FinCEN is committed to carrying out its mission to safeguard the financial system from illicit use, combat money laundering, and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities. To this end, the Department administers information contained in the Bank Secrecy Act database in accordance with applicable law and policy.

a. Would this information go into your database without anyone reviewing it, or has FinCEN developed a "business rule," for example, to identify any Bank Secrecy Act data that references the President, his immediate family, or his associates, given that this is a matter of central concern to our national security?

Answer: FinCEN is committed to carrying out its mission to safeguard the financial system from illicit use, combat money laundering, and promote national

security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities. To this end, the Department administers information contained in the Bank Secrecy Act database in accordance with applicable law and policy.

11. As you may know, earlier this week, Congress passed a broad sanctions package that, among other things, grants the Secretary of the Treasury a permanent seat on the National Security Council. If enacted and you are given this role on the National Security Council, do you believe that matters involving financial leverage over the President, his immediate family members and his associates, should be considered national security concerns?

    Answer: By law, consistent with the direction of the President, the functions of the National Security Council are to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the Armed Forces and other departments and agencies of the U.S. Government to cooperate more effectively in matters involving the national security; assess and appraise the objectives, commitments, and risks of the United States in relation to the actual and potential military power of the United States, and make recommendations thereon to the President; and make recommendations to the President concerning policies on matters of common interest to the departments and agencies of the U.S. Government concerned with the national security. As a statutory member of the National Security Council, I support the Council's consideration of any matter that is appropriate to be brought before it.

    a. Do you believe that questions about whether the Russian government may have leverage over this administration or this President are serious and should be fully explored or do you view these more as partisan concerns?

       Answer: I understand that certain congressional committees, in addition to the Special Counsel, are undertaking an examination. I respect the process being undertaken by these entities.

12. I was pleased to see that shortly after your confirmation as Secretary in February, FinCEN took action to renew the use of an existing tool, called a "Geographical Targeting Order," that temporarily requires U.S. title insurance companies to identify the natural persons behind shell companies. These companies pay "all cash" for high-end residential real estate in certain metropolitan areas. As part of this renewal, FinCEN also indicated that about 30 percent of the transactions covered by the GTOs involve a beneficial owner or purchaser representative that is also the subject of a previous suspicious activity report.

    a. Now that it has been established that 30% of high-end all cash property buyers have had SARs filed on them previously by banks, what is the timeline for proposing a rule to address money laundering in the real estate sector?

       Answer: FinCEN is aware of the threat posed by money laundering and other illicit finance through certain real estate transactions. The initial Geographic Targeting Order (GTO) phases produced information sufficient to corroborate

FinCEN's concerns about a segment of the real estate market in which shell companies are used to purchase luxury properties through "all-cash" transactions. However, additional information gathering efforts and industry outreach are necessary to consider an appropriate regulatory framework that mitigates the threat posed and balances the compliance costs and burdens to an industry that is of vital importance to the U.S. economy.

Accordingly, FinCEN has developed a three-prong strategy to address money laundering through real estate. First, the strategy includes a renewed six-month GTO phase (beginning on September 22, 2017 and ending on March, 20, 2018) that, for the first time, includes wire transactions and the additional geographic region of Honolulu, Hawaii. The expanded GTOs is anticipated to gather significantly more data than prior GTOs and will further assist law enforcement investigations and inform FinCEN's information gathering efforts for targeted property transactions.

Second, FinCEN is engaged in outreach to the industry. FinCEN issued an Advisory to provide regulated financial institutions and the real estate sector with information on money laundering risks associated with certain real estate transactions in order to encourage increased reporting of suspicious activity. FinCEN has also engaged in direct public outreach meetings with key stakeholders. The outreach process will utilize an Advisory to inform the industry of the threat posed by money laundering through real estate, and stakeholder meetings will provide a forum for the industry to respond.

Third, FinCEN anticipates building on the results of the recent GTO and outreach meetings to develop and issue an Advanced Notice of Proposed Rulemaking (ANPRM). The ANPRM would solicit information from the private sector, law enforcement and other key stakeholders on whether and how regulations for the real estate sector under the BSA might be appropriate to help address money laundering concerns. The ANPRM will give such stakeholders the important opportunity to respond with comments or concerns that will further inform and help shape FinCEN's initiative to combat the money laundering risks associated with luxury residential real estate purchases through regulation. After review and consideration of the GTO reports, the result of industry outreach, and the comments received in response to the ANPRM, FinCEN will be positioned to develop an appropriate regulatory response to monitor the real estate industry and protect it from abuse by illicit finance.

13. Your Department's GTO has established that high-end real estate is a sector that is highly vulnerable to money laundering and illicit activity, particularly where such transactions involve a cash purchase by an anonymous shell company. Moreover, an investigation by Senator Levin found that Russian oligarchs routinely used hundreds of U.S. shell companies to launder illicit Russian funds.

a. Given the known use of anonymous shell companies by Russian oligarchs for illicit purposes, and the vulnerabilities in the real estate sector, are you concerned that since clinching the Republican nomination, the number of Trump-owned properties sold to anonymous buyers using shell companies has increased dramatically?

Answer: The President is committed to working on behalf of the American people. I further understand that the President has taken appropriate steps to mitigate potential conflicts and comply with applicable ethics law.

14. Do you agree that real-estate sales to anonymous corporate entities that conceal the identities of the person behind the sale, creates extraordinary potential for foreign interests to try to influence the President?

Answer: The President is committed to working on behalf of the American people. I further understand that the President has taken appropriate steps to mitigate potential conflicts and comply with applicable ethics law.

15. There have been a number of requests from this Committee, as well as from the House and Senate Intelligence Committees, for information from FinCEN. As part of the two requests that you were responsive to, is there information that you are not able to provide because beneficial ownership information isn't being collected?

Answer: I respectfully urge you to work with the other committees should you have questions concerning those committees' investigations.

16. Do you find that the lack of available beneficial ownership information makes it difficult for Treasury to carry out its national security functions, like enforcement of sanctions laws for example?

17.

Answer: Treasury recognizes the vulnerabilities that exist in corporate formation without the disclosure of beneficial ownership information. Bad actors may more easily hide illicit funds and avoid detection through business entities because the true owner is masked. Treasury's ability to detect, deter and disrupt money laundering and terrorist financing would be greatly enhanced through collection of beneficial ownership information at the time of company formation. We look forward to working with Congress to support legislation that addresses this issue.

18. Secretary Mnuchin, you ran OneWest when the bank was aggressively foreclosing on homeowners and robo-signing documents instead of engaging in loss mitigation efforts. In its most recent report to Congress, SIGTARP advocated for clawing back TARP funds when banks engage in abusive practices and mismanagement that results in denying qualified homeowners help to prevent foreclosure under HAMP. This is similar to what took place at OneWest during your tenure. Do you agree with SIGTARP's recommendation, and can you explain to the Committee why OneWest didn't follow the HAMP guidelines to help homeowners?

Answer: CIT acquired OneWest Bank effective August 2015. I resigned from CIT's board of directors in December 2016 and no longer have any relationship with CIT. Accordingly, your question is best directed to CIT.

19. Mr. Mnuchin, how much money did you make, personally, when CIT bought OneWest for $3.4 billion? (the answer should be $380 million) And how many households did the bank foreclose on between 2009 and 2015 when you were the co-owner, chairman and CEO of OneWest Bank? (the answer should be at least 50,000) Do you stand by every one of those foreclosures? Can you confidently tell us today that every one of those foreclosures was carried out fairly and legally, and that to the extent mistakes were made, they have been rectified?

    Answer: I respectfully refer you to my prior congressional testimony on these matters.

20. In your first 6 years running OneWest Bank, its subsidiary, Financial Freedom, was responsible for foreclosing on 16,200 elderly households with reverse mortgages. This represented almost 40 percent of all reverse mortgage foreclosures nationwide between 2009 through late 2014, but Financial Freedom was only responsible for servicing about 17 percent of reverse mortgages. Consumer advocates report that OneWest aggressively pursued these foreclosures, and refused to work with borrowers to establish payment plans. In one instance, a 90-year old woman claimed that Financial Freedom initiated foreclosure when she came up just 27 cents short on an insurance payment due to confusion about how much she owed. You have claimed that it is not in the interest of banks to foreclose on households if there is a way to work out affordable payments but these stories of seniors who suffered from foreclosure proceedings by Financial Freedom seem to contradict that assumption. Can you explain why it would make sense for a bank to initiate foreclosure proceedings against a person who is just 27 cents short on her payment?

    Answer: I respectfully refer you to my prior congressional testimony on these matters.

21. Secretary Mnuchin, instead of a serious review of financial regulations that might focus on promoting consumer protections and strengthening community financial institutions, the bulk of Treasury's recommendations in its de-regulation report would weaken governmental oversight of the largest banks. In response, two articles in *The Wall Street Journal* proclaimed "Jamie Dimon, Treasury's Mnuchin Sing Same Bank Overhaul Song" and "Trump Regulation Plan Makes for Pleasant Reading on Wall Street: Treasury Department's report on bank regulation recommends several changes that would greatly benefit top Wall Street institutions." Is Treasury opposed to protecting consumers? If not, please identify specific legislative proposals that would strengthen, not weaken, consumer protections that Treasury supports.

    Answer: The Treasury Department is supportive of consumer protections that discourage fraud and deception, and empower consumers by expanding consumer access to competitive, transparent and innovative markets. This regulatory framework should strike the right balance between consumer protection and financial access and inclusion. Failure

to strike the right balance can result in consumers being harmed by regulations that were intended to protect them. For example, as highlighted in our banks and credit unions report, regulations have contributed to the rising cost of originating a mortgage, which has increased from approximately $4,400 in 2009 to over $7,500 in 2016. Borrowers bear the cost of these regulations and in some cases are locked out of access to financial products. The Treasury's recommended refinements to mortgage origination and servicing rules are intended to protect consumers and facilitate greater access to these financial products. Further, we support strong cybersecurity and data security practices that protect consumers' sensitive financial information, and look forward to continuing to work with Congress to ensure we have an appropriate regulatory framework.

22. Secretary Mnuchin, it seems that several critical financial reform rules implementing provisions of Dodd-Frank have been dropped by the Trump Administration. For example, Trump-appointed regulators have decided not to finalize Section 956 of Dodd-Frank, related to putting in place safeguards for incentive-based compensation structures. We recently saw how incentive-based compensation directly led to fraud on a massive scale at Wells Fargo. Is it your opinion that the Administration and regulators can simply choose not implement rules mandated by Congress?

    Answer: Section 956 of Dodd Frank requires banking and other financial regulatory agencies to jointly promulgate rules requiring the disclosure of executive incentive compensation arrangements and prohibiting features of such arrangements that the regulators determine encourage inappropriate risks. Treasury was not designated as a rule writing agency by section 956 and I defer to my counterparts at the rule writing agencies to discuss their progress.

23. Secretary Mnuchin, yes or no, did you support cutting the budget for the Special Inspector General for TARP (SIGTARP) – which oversees your work at Treasury and Wall Street banks handling TARP funds, and has sent dozens of corrupt bankers to jail –in half? Do you not recognize the need for serious oversight of your work, or bankers that are ripping off taxpayers?

    Answer: SIGTARP was created to oversee Treasury's administration of the TARP program, which was enacted in response to the 2008 financial crisis. TARP was always intended to be a program of limited duration, and it is winding down. As of September 2017, less than $125 million – or 0.03% -- of the $411.7 billion in investments in bank and other institutions remains outstanding. Of the $37.4 billion obligated for TARP housing programs, to date $26.8 billion has been disbursed and we estimate that an additional $5.8 billion will be disbursed in the future. Meanwhile, SIGTARP's budget has remained constant at roughly $40 million since the beginning of the TARP program.

    Treasury supports SIGTARP's mission of preventing fraud, waste, and abuse in TARP programs, and I am confident that SIGTARP will be able to oversee the wind-down of TARP with an annual budget of $20 million in FY 2018.

24. Mr. Secretary, in the Administration's budget, the proposal notes a plan to unilaterally slash funding for the Office of Financial Research (OFR), the office established by Dodd-Frank to improve data collection and provide independent analysis to FSOC regarding risks that can destabilize the financial system and harm the economy. The plan calls for laying off 84 full-time equivalent employees and reducing OFR's budget from $101 million to $76 million, a deep cut of about 25 percent. What is the status of this downsizing of OFR, and why are you, as the Chair of FSOC, seeking to unilaterally shrink OFR?

    Answer: The President's 2018 Budget included funding estimates for the Office of Financial Research (OFR) consistent with accomplishing the OFR's important mission in an efficient and effective manner. In Treasury's June 2017 review of the regulatory framework for the depository sector, Treasury recommended that Congress reform the structure and mission of the OFR to improve its effectiveness and to ensure greater accountability.

25. Secretary Mnuchin, there are many who are concerned that President Trump has abandoned the promotion of human rights as a central aim of U.S. foreign policy, just as he promised in his Inaugural address when he stated "that it is the right of all nations to put their own interests first. We do not seek to impose our way of life on anyone."

    Moreover, at a speech before U.S. State Department employees earlier this year, Secretary Tillerson made a distinction between U.S. policies and U.S. values, asserting that the promotion of human rights and democratic institutions around the world are often obstacles to the advancement of our national security and economic interests.

    One could even argue that no one has done more to undermine fundamental American values and democratic institutions than President Trump himself—in our own country. Dismissive of the critical role of a free press in a democracy, Trump declared a number of leading journalistic institutions "the enemy of the American people." When a U.S. District court ordered a halt to the President's travel ban, Trump declared the U.S. court system a threat to national security. With respect to freedom of speech, after one senator called Trump's military decision to raid a compound in Yemen a "failure," the president suggested that public criticism of U.S. military actions was tantamount to aiding the enemy. Trump has also repeatedly denigrated America's intelligence agencies, declaring them to be inherently untrustworthy.

    Even more troubling is the President's evident fondness for authoritarian strongmen around the world, including Philippine President Duterte, who has overseen the extrajudicial killings of more than 7,000 alleged drug dealers and users, many of whom were shot dead in the street. President Trump's response was to extend this authoritarian mass murderer an invitation to the White House. Trump also invited the authoritarian leader of Egypt, who has jailed thousands of dissidents, to the White House, praising him as having done a "fantastic job in a very difficult situation."

    Finally, not only has Trump twice defended Russian President Putin against accusations that he murders journalists and dissidents, the president even took Putin's side when

presented with evidence by U.S. intelligence agencies of Russia's interference with the U.S. presidential elections.

Yet, I note, however, that President Trump invoked Cuba's ongoing repression of its people, whose freedoms, he insisted, must be restored, as a justification for rolling back the Obama Administration's loosening of restrictions against Cuba. And earlier this week, the Treasury Department sanctioned a number of Venezuelan officials "for their role in undermining democratic processes and institutions in Venezuela."

It seems to me that the Administration is invoking the principle of respect for human rights and the promotion of democracy in very selective and inconsistent ways, which not only undermines the strength and credibility of the United States, but also these core American values as well.

a. Do you believe the Administration is applying the principle of respect for human rights and democratic institutions as a core, fundamental American value, or are we invoking them selectively, as a means to an end, when needed, in the service particular U.S. geopolitical goals?

   Answer: Support for human rights and democratic institutions is a core U.S. value and an important part of the Administration's approach to international affairs. Support for human rights and democratic institutions abroad is not only consistent with our fundamental values of freedom and human dignity, but also a key component to advancing the security and prosperity of Americans.

   The State Department leads the United States' approach towards human rights and defending democratic principles. Secretary of State Tillerson, speaking at a gathering of ministers of the Community of Democracies in September, said recently, "So despite the challenges of our day, now is not the time to step back from our democratic commitments. Now is the time to strengthen and sustain them. We cannot become complacent. Rather, we must continue our active advocacy and engagement."

   At Treasury, when issues of human rights arise in our engagement with specific countries, such as those mentioned in the question, we coordinate closely with the Department of State. Through our Office of International Affairs, Treasury also supports human rights and democratic institutions in developing countries in other ways. For example,

   - We provide technical assistance to support the sound management of public finances, which in turn supports good governance and economic growth of democratic nations.

   - We helped establish and continue to support the European Bank for Reconstruction and Development (EBRD), which has a particular focus on fostering the transition to a market economy for those countries committed to

multiparty democracy. This unique mandate enables the EBRD to assess candidly the progress its borrowers are making in their commitment to democratic principles. In instances in which a country is backsliding in these areas, the EBRD may reassess its assistance.

- At the Multilateral Development Banks (MDBs), we support projects that promote democratic institutions and the broader development of democracies, and we support strong safeguard policies that prevent human rights violations.

26. Secretary Mnuchin, a number of bank associations, including the Independent Community Bankers of America wrote to Congress earlier this year, saying, "We are gravely concerned that the Administration's forthcoming FY 2018 budget may propose cuts to the CDFI Fund. We strongly urge you to maintain strong funding levels." The letter goes on to say, "During the 2016 Presidential campaign, the need to create jobs and revitalize the economies of disenfranchised rural communities and neglected inner cities was a key theme. CDFI banks work in the exact communities that were the focus of this conversation. Community based financial institutions are uniquely positioned to understand local credit needs which is why there is historic bipartisan support for the CDFI Fund." A number of witnesses have testified to this Committee regarding the importance of the CDFI Fund. And yet, the President's budget would provide no new funding for the CDFI Fund, and House Republicans are following your lead by severely cutting the program by nearly $60 million or 23 percent.[29]

    a. Mr. Secretary, can you explain why the Administration is turning its back on, in the words of the ICBA, the "disenfranchised rural communities and neglected inner cities"?

    Answer: The CDFI Fund will continue to administer non-discretionary programs that provide capital and investment incentives to the communities with the greatest need. CDFI Fund investments are just one source of funding for CDFIs.

    As Treasury reviews the current regulatory environment for financial institutions, we will address this concern and determine solutions that may better enable financial institutions to invest resources in CDFIs and the communities that they serve.

    In addition, the Budget provides funding for several programs that support the provision of credit in economically-distressed communities. For example, the 2018 Budget contains funding for the Small Business Administration and the U.S. Department of Agriculture to operate a number of direct loan and loan guarantee programs to address the difficulty in accessing credit and financing

[29] FY17 funding for CDFI was $248 million, and the FY18 FSGG Appropriations bill provides for $190 million. See http://www.ofn.org/articles/house-fsgg-subcommittee-markups-fy18-appropriations-bill.

community facilities and infrastructure in urban and rural areas.

b. Would you recommend the President veto a bill that fully funds the CDFI Fund?

Answer: The Administration recognizes and appreciates the role CDFIs play, as a vibrant and essential part of the financial services industry, in providing capital and extending credit to underserved communities across the country. Keeping the Nation on a responsible fiscal path, however, required many difficult trade-offs, and the Budget prioritized funding for programs that serve the most critical functions and provide the best return on investment. The Budget maintains funding for administrative expenses to support ongoing CDFI Fund program activities, including the New Markets Tax Credit program and certification of new CDFIs, and proposes to extend and reform the CDFI Bond Guarantee Program, which offers certified CDFIs low-cost, long-term financing at no cost to taxpayers

27. In advance of the release of Treasury's financial regulatory relief report in June 2017, did Dr. Lorraine Cole, the Treasury's Director of the Office of Minority and Women Inclusion, raise any concerns about the impact of the policy recommendations on minority-owned and women-owned businesses? How many times have you met with Dr. Cole?

Answer: As you know, the report focused on identifying redundancy, fragmentation, and inefficiency in our financial regulatory framework. We met with hundreds of stakeholders across the financial ecosystem to develop this report, and considered a wide number of views. The OMWI provides valuable guidance on workforce diversity and on strategies to increase the participation of minority-owned and women-owned businesses in the programs and contracts of Treasury's Departmental Offices.

I have not had an opportunity to meet Dr. Lorraine Cole, who heads Treasury's OMWI office. I do interact daily with the Assistant Secretary for Management Kody Kinsley, who reports to me and manages and briefs me on many management issues and program areas in the Department. Assistant Secretary Kinsley meets regularly with Dr. Cole, who reports to him.

28. Secretary Mnuchin, you recently fined ExxonMobil $2 million for what your Department described as an "egregious" violation of the Ukraine-related Russian sanctions.

I note that OFAC's Enforcement Action was an unusually long one, carefully outlining the facts and chronology of the case. OFAC also states that they thoroughly took into account ExxonMobil's arguments, while also noting the company's "global market and sophistication."

Several sanctions experts with whom I've spoken confirmed that standard market practice at the time was—and continues to be—that companies do not sign contracts with sanctioned individuals. And ExxonMobil would have known that.

I'm confident that Treasury is on solid ground in its enforcement action against ExxonMobil, despite the oil giant's lawsuit against OFAC.

My specific concern here, however, is the actual amount of the fine, which at $2 million is, I understand, the maximum possible fine under the law. But for one of the wealthiest companies in the world, with nearly $200 billion in annual revenue and $16 billion in profit in 2015, it seems to me that a $2 million fine for ExxonMobil represents nothing more than a rounding error, or the cost of doing business.

a. When assessing fines for sanctions violations, do you think we should be taking additional factors into account, such as the size of a company, as measured by revenue, profits, or assets, in order to assess an appropriately punitive fine, one that would also have a deterrent effect?

   Answer: As described in OFAC's Economic Sanctions Enforcement Guidelines (the "Enforcement Guidelines"), which are published in the *Code of Federal Regulations* at 31 C.F.R. Part 501, app. A, OFAC carefully reviews the particular facts and circumstances of the violations and applies the General Factors Affecting Administrative Action (the "General Factors") in determining whether to impose a civil monetary penalty and in determining the amount of any civil monetary penalty or related settlement. Pursuant to General Factor D (Individual Characteristics) of the Enforcement Guidelines, OFAC considers the individual characteristics of the person under investigation, including its commercial sophistication, the size of operations and financial condition, the volume of transactions, and the subject person's history of sanctions violations for the five years preceding the earliest transaction giving rise to the underlying conduct at issue. Here, one of the aggravating factors was OFAC's determination that ExxonMobil was a sophisticated and experienced oil and gas company that has global operations and routinely deals in goods, services, and technology subject to U.S economic sanctions and U.S. export controls. ExxonMobil had not been the subject of an OFAC penalty or finding of violation in the five years preceding OFAC's investigation. Nonetheless, given ExxonMobil's size and sophistication and the egregious nature of the conduct, among other considerations, OFAC imposed the statutory maximum civil penalty of $2,000,000.

29. According to the IMF forecasts released earlier this week, growth in the global economy is gaining momentum, but the outlook for the U.S. economy has weakened. What factors are holding back the United States, as growth in the rest of the global economy grows stronger?
    (IMF, World Economic Outlook Update, July 2017, http://www.imf.org/en/Publications/WEO/Issues/2017/07/07/world-economic-outlook-update-july-2017)

    Answer: We welcome the upturn in global growth and the prospects of accelerating economic activity abroad. In terms of recent performance, the U.S. economy grew at an annual rate of 3.1 percent in the second quarter and has entered into its eighth straight

year of economic expansion. Moreover, since the start of the year, consumer and business confidence has climbed to new highs; business activity and investment has picked up; and labor markets remain strong. For 2018, the IMF still expects the U.S. economy to grow faster than any other G-7 economy. This is despite the fact that the U.S. recovery started earlier than in other countries and that monetary policy has already begun to normalize here. The economy's health is further illustrated by the fact that the current recovery has been led by growth of private demand, which has grown at an average rate of 2.8 percent per quarter, well above the 2.2 average rate of growth in real GDP per quarter.

Despite the economy's steady performance in recent years, the Administration believes that better policy choices could unleash even faster growth by strengthening the economy's longer-term potential. Our agenda for tax reform, infrastructure investment, and regulatory relief is aimed at restoring much needed dynamism to the U.S. economy. In addition, we expect to reap additional growth benefits by expanding free and fair international trade and by ending unfair trade practices that handicap American firms.

Finally, we would note that the IMF's longer-term projections in its latest World Economic Outlook (October 2017), which are based on the July 2017 country report, omit any effects from the pro-growth policies that the Administration is pursuing. They also assume a continuation of sluggish productivity growth, which many forecasters consider too pessimistic. By comparison, the projected growth rate for 2018 among private forecasters has held steady for ten consecutive months at 2.4 percent, a tick above the IMF's prediction. The average of the top ten forecasts for 2018 is 2.8 percent, largely reflecting anticipated policy effects. The long-term growth forecast (average for 2019-23) among the private sector forecasters is also several ticks higher than the IMF's long-term estimate, with the top ten forecasts calling for annual growth of 2.6 percent.

30. It has been almost nine years since Lehman Brothers collapsed in September 2008, triggering the global financial crisis. In your assessment, what are the most serious risks facing the global economy today? What steps should the United States take to ensure stability in the global economy?

Answer: Global and domestic growth is not sufficiently strong, sustained, or balanced. Growth could be stronger, more sustainable, and more balanced if the excess saving in large surplus economies was productively channeled into increased demand, which would help boost imports from other countries and support global trade. We continue to press major surplus countries to boost domestic demand growth and reduce their surpluses. We will also continue to engage bilaterally and multilaterally, including through the International Monetary Fund (IMF), G-20, and the Financial Stability Board (FSB), to promote global growth while also supporting financial stability.

31. Are there any risks or economic trends in the emerging market economies that concern about? What measures are the U.S. Treasury considering to limit potential negative spillover effects to the United States?

    Answer: We are monitoring risks in emerging market economies, particularly the high levels of debt in some emerging markets. We will continue to engage bilaterally and multilaterally, including through the IMF, G-20, and the FSB, to promote policies that will help address these risks to limit potential negative spillover effects to the United States.

32. As a candidate for president, Trump connected very effectively with the anxieties of many Americans who have been left behind -- people who were hurt rather than helped by increased global economic integration and who have not received any of the benefits of the great wealth the U.S. economy has generated over the past several decades. So, President Trump came into office as the putative leader of the middle and lower classes who feel they've been left behind.

    What specific policies do you support to ensure the benefits of increased growth in the U.S. are more broadly shared?

    Answer: We believe that a range of Administration policies will support the middle and lower classes. Tax reform will allow American households to keep more of their hard-earned income. Corporate tax reform will spur business investment, job creation, and productivity growth, all of which will provide long-term support to real wages for working Americans. Deregulation will reduce costs to doing business across the U.S. economy, making it easier for new businesses to off the ground, small businesses to thrive, and larger firms to expand. More assertive enforcement of existing trade rules and efforts to improve terms of trade for U.S. businesses will protect American workers from unfair competition from abroad.

33. The United States has long provided the foundation for the global economic order. Even before World War II ended, political leaders from the 44 Allied countries met in 1944 in Bretton Woods, New Hampshire, to create the institutional framework for the post-World War II economic and monetary order. The Bretton Woods conference gave rise to creation of the International Monetary Fund (IMF) and the World Bank. These two institutions, along with the regional multilateral developments banks, have long provided the foundation of a stable rules-based international order.

    Last week, in the congressionally mandated annual report to Congress by the Secretary of Treasury on U.S. participation in the international financial institutions, you stated that "The United States needs to maintain its leadership position in the international financial institutions if they are to be effective vehicles for supporting U.S. interests and responsive to U.S. calls for reform."

    a. What role do you see the United States playing at the IFIs under the Trump Administration? What are the key U.S. priorities at the IFIs?

Answer: As a large shareholder in both the IMF and the Multilateral Development Banks (MDBs), the United States has an important role to play in the governance of these institutions to help ensure that they advance U.S. interests in supporting strong and balanced growth of the global economy.

At the IMF, a key U.S. priority is for the institution to serve as a more forceful advocate for addressing global imbalances, including through robust analysis and clear policy recommendations on exchange rates. We also strongly support the IMF's efforts to reassess how the institution addresses corruption in member countries.

We continue to focus on how the MDBs can best support growth, U.S. national security, and poverty alleviation. A top priority at the MDBs is strengthening graduation policy in order to direct more resources to the poorest countries, where needs are highest, and away from countries with robust access to capital markets and an ability to mobilize domestic resources. We have placed a heightened priority on projects in fragile and conflict-affected states, which serve economic growth and national security objectives. In order to force MDBs to be more strategic with their interventions, Treasury is asking all MDBs to enhance their tools and processes so that they can better assess ex ante economic impact. Treasury scrutinizes each project for compliance to high standards, which include making sure that operations limit crowding out private investments. MDBs must utilize their existing financial resources for maximum development impact.

The Administration will also press the institutions to identify ways to increase their operational efficiency and budget discipline. This includes efforts to reign in the growth of salaries and benefits, which often exceed public sector salaries in member countries.

b. How do you think the accumulation of U.S. arrears to these institutions affect U.S. credibility, and do you believe they undermine our ability to advance U.S. policy objectives at the institutions?

Answer: This Administration remains concerned by the high level of U.S. unmet commitments generated over many years to the MDBs. We will be examining possible options to address them, but this will need to occur within conversations on broader spending priorities. The 2018 Budget helps address the problem by recalibrating U.S. commitments to the multilateral development banks at levels that are less likely to result in new unmet commitments.

34. We understand that the World Bank is reportedly advising the Trump Administration on its infrastructure plans.

a. Could you please update the committee on the status and content of this advice?

Answer: To my knowledge, Treasury has not been involved in such discussions.

35. In 2016, the IMF Independent Evaluation Unit released a report evaluating the IMF's response to the Eurozone crisis, in order to draw lessons for the future. For example, the report recommended guidelines for cooperating with regional financial arrangements, and clarifying how programs should apply to currency unions.

    a. What are your views on these policy recommendations, and what progress has the IMF made in implementing them?

    Answer: The Treasury Department values the Independent Evaluation Office's role within the IMF and its independent analysis aimed at strengthening the IMF's operations in both normal and crisis times.

    The IEO report on the Eurozone crisis provided a number of useful insights and recommendations that we believe should be applied to the IMF's work going forward. These include the need for: (1) accurate fiscal multipliers to better assess the optimal pace of fiscal adjustment; (2) selective prioritization of macro-relevant structural reforms, and realistic estimates of their impact on growth; (3) fuller analysis and discussion of the impact of bailing in certain bank creditor classes; (4) better integration of multilateral and bilateral surveillance and lending; (5) sharper focus on external imbalances within a currency area; and (6) deeper thinking on how the IMF collaborates with currency unions and regional financing arrangements within shared programs. A number of these recommendations affirm conclusions reached in the IMF's internal reviews of its euro area crisis lending.

    Some of the IEO's findings are troubling, particularly the perception that the IMF treated European borrowers differently and departed from its established rules and policies to make special allowances for certain European countries. Furthermore, the IEO confirmed that the IMF did not review its programs in a timely manner, which weakened its ability to incorporate what may have been useful feedback. Treasury shares the IEO's view that the IMF missed an opportunity to act earlier to develop a framework for lending to euro area countries, and that this contributed to a perception that the IMF's decisions were being dictated by political pressure and external events rather than guided by a framework with well-understood policies. The United States has encouraged the IMF to develop a more robust framework for its engagement with regional financing arrangements such as the European Stability Mechanism and the Chiang Mai Initiative.

    IMF management has committed to take action in the areas for improvement highlighted by the IEO Report and has begun to make progress, though further steps are needed. The IMF has strengthened its technical analysis in recent years, in particular its analysis of fiscal multipliers and fiscal space and imbalances within the euro area. IMF management has begun discussing with the IMF Executive Board possible operational principles for IMF engagement with

regional financing arrangements. The IMF is engaged in a dialogue with regional financing arrangements and conducting test runs to determine problems that could arise in joint financing arrangements. IMF management is also looking at enhancing program design for members of currency unions, such as the euro area. We expect changes in guidelines for program design in currency unions to be approved by the IMF Executive Board later this year.

36. At the end of 2016, the Board of Governors adopted a resolution calling on the Executive Board to work expeditiously on the 15th review of quotas, the financial commitments member countries make to the IMF. What will the U.S. priorities be in the review?

    Answer: The Administration has not yet made any decisions regarding the 15th quota review. It is Treasury's view that the IMF currently has ample resources to fulfill its mission. So as to help ensure that the IMF can fulfill its mandate of promoting global prosperity and economic stability, we intend to prioritize the following objectives in the upcoming review. First, we will ensure that we maintain our veto within the IMF, which will in turn help enable strong U.S. leadership in promoting global growth. Second, we will support adequate IMF resources consistent with U.S. national interest.

37. On July 20, the IMF Executive Board approved a new, $1.8 billion program for Greece "in principle." The program will only become effective after Europeans reach a deal on debt relief for Greece, and Greece's economic program remains on track. An IMF agreement "in principle" is unusual.

    a. What is your view of the program? Do you believe that an agreement "in principle" was the best avenue for IMF involvement in Greece?

       Answer: The IMF can continue to play an important role in working with Greece and the European institutions to implement a policy framework that supports economic growth and sustainability and provides support that allows Greece to repay its creditors – including the IMF – and eventually regain access to international capital markets. Given the IMF's strength and expertise in designing macroeconomic reforms, it is useful to bring the IMF's unique expertise to bear. Treasury also sees that the IMF's attention to debt sustainability is helping European leaders and institutions come forward with necessary debt relief. Therefore, by conditioning the activation of the IMF program on robust Greek reform implementation and sufficient debt relief from Europe under the IMF's sustainability analysis, it keeps up pressure on both Greece to reform and Europe to provide debt relief. Importantly, Europe will continue to provide the bulk of the financial assistance to Greece (€46 billion in European financing remains), and the IMF's third program, if approved, is precautionary in nature since Greece does not anticipate needing additional funding needs from the IMF.

38. More than seven years since the first IMF program for Greece was approved, Greece is still not on a path to recovery. Greece's debt is higher than before the crisis, its economy has contracted by 25%, and one in five Greeks is unemployed.

a. What do think needs to be done in order to place Greece on a sustained path of growth?

Answer: We should acknowledge that Greece has made important progress in the course of the last few years to address its structural weaknesses. In particular:

- Greece has undertaken unprecedented fiscal consolidation -- about 15 percent of GDP on an actual basis.
- In addition, Greece made limited progress in other reform areas, such as product market liberalization.
- Greece also successfully completed the largest private sector debt restructuring in history in 2012, with a 53 percent nominal haircut on nearly €200 billion in bonds.

Nonetheless, Greece's output is down by approximately 25 percent of GDP since the start of the crisis and unemployment remains high. Greece needs to maintain momentum with its reform program to spur a sustainable rebound in growth and Europe needs to provide meaningful debt relief to make Greece's debt sustainable.

39. Underpinning the political and social unrest in Venezuela is an acute and increasingly unstable economic crisis that has taken a severe humanitarian toll.

a. What is your assessment of the economic crisis in Venezuela? What risks, if any, to the broader global economy does the crisis pose?

Answer: Venezuela has been suffering through a self-inflicted crisis for years. Widespread price controls, weak property rights, and strict foreign exchange controls strangled the private sector. The economy was in recession before the decline in global oil prices, and Venezuela's struggles are unique among global oil producers that are not torn by armed conflict. As oil income has declined, the Maduro dictatorship has focused on enriching cronies and repressing dissent, without taking meaningful action to restore even minimally sustainable economic policies. The government is perversely liquidating the country's future by incurring new debt on punishing terms and jettisoning assets in fire sales.

These long-standing policies have largely cut Venezuela off from financial markets and regional supply chains, which limit spillover risks to traditional economic partners. Those who have extended credit to Venezuela were well aware of the risks, and we have taken action to prevent U.S. persons from extending new credit.

Venezuela is a major oil producer, but its self-inflicted wounds have reduced its importance to global markets, which are well supplied and inventories remain at generally high levels. Venezuela faces the greatest risks from declining production, but the sector cannot recover absent a broader shift in economic policy.

Widespread deprivation in Venezuela is reportedly driving large and increasing emigration, in particular to neighboring Colombia and Brazil. These countries have sound economic policies and competent administrations to deal with the inflows, but nonetheless face challenges dealing with the demand on local services. We are monitoring the situation.

40. Many analysts are criticizing the Maduro government as prioritizing debt payments to international creditors over the import of medicine and food.

    a. How do you think the government should balance the needs of its people with its obligations to creditors?

    Answer: Venezuela was a rich country, and it has the resources to be one once again. Shortages are the product of bad policies. The authorities should cease repressing the population and plundering the economy, so that they can meet the needs of the Venezuelan people and satisfy their obligations to creditors on mutually agreed terms.

    The Venezuelan authorities are reportedly seeking new financing to help meet upcoming obligations, while further increasing the burden of debt. U.S. persons cannot provide new financing beyond specified short-term maturities under our recent sanctions.

    b. In May, the investment arm of Goldman Sachs purchased $2.8 billion in Venezuelan bonds. Some analysts argue that buying or holding Venezuelan bonds throws a lifeline to the Maduro government, triggering a debate about the ethics of buying or even holding Venezuelan bonds. Should U.S. financial institutions own or trade Venezuelan bonds?

    Answer: Our sanctions are clear. U.S. persons cannot provide new financing beyond specified short maturities to the Government of Venezuela. OFAC has provided a general license for holding and dealing in Venezuelan sovereign and PdVSA bonds that have been issued previously under New York law, and which have already traded on secondary markets. Licensed secondary market activity would not provide additional financing to the authorities.

    c. Most analysts agree that any Venezuelan economic reform program requires a full-scale restructuring of its debt. Do you believe that Venezuela's New York-law governed sovereign debt can be restructured and if so how?

    Answer: Venezuela does not publish economic and fiscal data comprehensively, accurately, or in a timely manner, and we would decline to speculate on Venezuela's debt sustainability at this time. OFAC sanctions make it extremely unlikely that a debt exchange, or a renegotiation of terms on existing debt, will occur absent any necessary OFAC authorization for U.S. persons to participate.

41. USTR recently released its negotiating objectives for NAFTA. One objective is addressing currency manipulation through an "appropriate mechanism." How is Treasury coordinating with USTR on currency issues in trade negotiations? What type of "appropriate mechanism" is the Administration seeking to address currency in the NAFTA renegotiation?

    Answer: The negotiating objective submitted by the Administration on unfair currency practices reflects the principal negotiating objective on unfair currency practices established under the Trade Promotion Authority. As you know, the Treasury Department is responsible for currency issues and efforts to address exchange rates through our bilateral and international engagements and in the context of our trade agreements. The approach we are formulating is based on principles of high-standard policy commitments, transparency, and accountability. We will consult with USTR as we proceed.

42. The Trump administration recently certified for the second time this year that Iran is meeting the terms of the JCPOA. But senior administration officials also made clear that the certification was grudging. Moreover, during the presidential campaign, Trump repeatedly said that "his number-one priority is to dismantle the disastrous deal with Iran."

    Given how dangerously close Iran was to becoming a nuclear state at the time, a decision was made to negotiate an agreement that focused solely only on Iran's nuclear program, and not on its other destabilizing activities in the region. And as an arms control agreement, by all accounts, it has so far been successful.

    a. If the Administration were to decide to withdraw from the JCPOA, or to otherwise undermine it, how important do you think it will be to have the support of the international community with respect to whatever approach the Administration decides to take in the absence of the nuclear deal?

       Answer: The President received strong support from many members of the international community for his speech setting our Iran policy. We will work with our partners and allies to address deficiencies in the JCPOA and are determined to combat Iran's growing malign behavior at every turn.

    b. How likely do you think it would be to have that kind of support?

       Answer: The Administration believes there is already broad support in the international community, and especially with key allies and partners, for countering Iran's malign and destabilizing activities. UNSCR 2231, for example, enshrines the world's concerns of Iran's ballistic missile activities, while UNSCR 2140 and its successors impose sanctions on destabilizing elements in Yemen, including Iran-backed Houthi commanders. We also continue to work successfully with countries around the world to counter Iran's support for terrorists and proxies such as Hizballah.

43. One of our most senior military commanders in the waning days of the Obama Administration said, "The more I look at North Korea, the more thankful I am for the Iran deal."

    a. If the U.S. were to tear up the Iran accord, what signal do you think that would send to North Korea?

    Answer: We are currently dealing with radically different situations. North Korea just tested its sixth nuclear weapon. They are firing missiles over Japan and threatening to target Guam and Japan. Our actions need to be seen in that context. North Korea isin contravention of multiple UNSCRs.

    At the same time, as Ambassador Haley has noted, we need to ensure that Iran does not become the next North Korea. The current crisis with North Korea demonstrates the need to fix the flaws in the Iran nuclear deal. Without putting more teeth behind restrictions on Iran's program, enforcing them vigorously and monitoring them strictly, addressing the sunset problem, and preventing Iran from getting long-range missiles, Iran might eventually look like North Korea. It's our objective to prevent that, for the good of all.

44. At a recent hearing, we heard from a variety of remittance companies that a proposal pending in Congress and advocated for by President Trump during the campaign to tax remittances to pay for a border wall would have significant adverse impacts on the government's ability to track illicit flows by driving global fund transfers out of the regulated financial sector and underground. Do you have a position on the proposal to tax remittances? Given your responsibilities for curtailing illicit finance, do you agree that policies that drive remittance flows into the shadows are ill advised?

    Answer: Remittances certainly play a critical role in many economies around the world, and Treasury has consistently sought to provide an environment where legitimate businesses following regulatory requirements can offer this service. We also believe that keeping remittances in the regulated economy, where they are subject to our AML/CFT regime, serves the goal of financial transparency as much as it protects financial inclusion. However, we know there is a real risk in this sector, as the examples in our 2015 National Money Laundering Risk Assessment and National Terrorist Financing Risk Assessment demonstrate. Accordingly, Treasury seeks to balance the imperatives of transparency and inclusion by promoting a strong AML/CFT regime which allows for businesses that follow the rules to thrive.

45. President Trump has repeatedly made grandiose claims about the type of economy Americans can expect during his term. For example, he has said that GDP will pick up to an annual rate of four percent, and as many as 25 million new jobs will be created. Can you discuss the policies the President has enacted so far that will make these goals achievable?

    Answer: The Administration has launched a bold program to roll back burdensome regulation, laid out a tax reform package to raise the competitiveness of U.S. companies

and provide tax relief to millions of middle-class households, and focused on reining in discretionary spending by the Federal Government. Over the first nine months of the Administration, labor markets have thrived, with job creation remaining robust even as the unemployment rate has fallen 0.6 percentage point (since October 2016) and labor force participation has increased by 0.3 percentage point. Over this period, consumer and business confidence has surged, and business investment has picked up from its extremely low levels over the past few years. The economy is on track to expand 2.2 percent or more this year (much faster than last year's 1.5 percent), and we expect that rate to climb to 3.0 percent as our pro-growth policies are enacted.

46. In May, President Trump unveiled his budget proposal, revealing a slew of spending cuts in areas that are particularly important for vulnerable populations, such as struggling families, the elderly, and the disabled, while making sure to provide enormous tax benefits to the ultra-wealthy. Can you discuss how this plan will help achieve the president's objective of creating as many as 25 million new jobs and increasing GDP to an annual rate of 4 percent?

    Answer: See above.

47. Trickle-down economics, where the rich get all the tax-breaks, and the poor are expected to reap the gains of a growing economy, has been repeatedly debunked both by economists and in practice in the real world. Can you discuss why you think a return to a trickle-down approach as we've seen with the President's tax plan, will affect households differently this time around?

    Answer: See above.

48. Secretary Mnuchin, you and others in the Trump Administration have indicated that the debt ceiling needs to be raised this fall. In the past, many of my Republican colleagues, including the current OMB Director, have suggested that the Treasury can prioritize payments on the debt. For example, paying debt holders like China and Russia, and not paying our servicemembers, government employees, and retirees on social security.

    a. Is the Treasury making plans to prioritize payments if Congress does not raise the debt ceiling?

    Answer: The Federal Government needs to address our spending and deficit problems. However, failing to raise the debt ceiling, or prioritizing payments, is not the way to do so. Honoring the full faith and credit of the United States is a critical commitment. Prioritization will likely not solve the problem it seeks to solve and could create significant additional problems. Paying just some of the Government's required obligations while delaying or foregoing the payment of other obligations, will likely adversely impact the U.S. credit rating and will certainly increase the Federal Government's litigation risk.

b. Some of my Republican colleagues have also suggested that a default on the US debt would not significantly affect the markets or our ability to borrow. Do you agree with their assertions?

Answer: No. As I have stated before, I believe it would have potentially catastrophic impacts.

c. In your opinion, what would be the effect of a default on the Treasury debt?

Answer: Failing to honor our outstanding debt could result in further downgrades to our credit rating, and increased borrowing costs that would ultimately be borne by the American taxpayer for years to come. It could also cause serious disruption to the American economy, and potentially lead to another recession. Interest rates could increase not only for the U.S. Government, but for all Americans who borrow money, including homeowners, students, and businesses attempting to grow.