

**NOMINATIONS OF GORDON HARTOGENSIS  
AND GAIL S. ENNIS**

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**HEARING**

BEFORE THE

**COMMITTEE ON FINANCE  
UNITED STATES SENATE**

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF

GORDON HARTOGENSIS, TO BE DIRECTOR, PENSION BENEFIT GUARAN-  
TY CORPORATION; AND GAIL S. ENNIS, TO BE INSPECTOR GENERAL,  
SOCIAL SECURITY ADMINISTRATION

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SEPTEMBER 27, 2018  
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TO BE DIRECTOR, PENSION BENEFIT  
GUARANTY CORPORATION; AND  
GAIL S. ENNIS, TO BE INSPECTOR GENERAL,  
SOCIAL SECURITY ADMINISTRATION**

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**THURSDAY, SEPTEMBER 27, 2018**

U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.*

The hearing was convened, pursuant to notice, at 10:06 a.m., in room SD-430, Dirksen Senate Office Building, Hon. Bill Cassidy presiding.

Present: Senators Scott, Wyden, Cantwell, Nelson, Menendez, Carper, Cardin, Brown, Bennet, and McCaskill.

Also present: Republican staff: Jeffrey Wrase, Staff Director and Chief Economist; Becky Cole, Policy Director; Nicholas Wyatt, Tax and Nominations Professional Staff Member; Chris Allen, Senior Advisor for Benefits and Exempt Organizations; and David Timmons, Detailee. Democratic staff: Joshua Sheinkman, Staff Director; Michael Evans, General Counsel; Ian Nicholson, Investigator; Sam Conchuratt, Assistant to the Staff Director; Drew Crouch, Senior Tax and ERISA Counsel; and Tom Klouda, Senior Domestic Policy Advisor.

**OPENING STATEMENT OF HON. BILL CASSIDY,  
A U.S. SENATOR FROM LOUISIANA**

Senator CASSIDY. The Senate Finance Committee will please come to order.

Good morning. I would like to welcome everyone to today's hearing on the nominations of Mr. Gordon Hartogensis to be the Director of the Pension Benefit Guaranty Corporation, and Ms. Gail Ennis to be the Inspector General of the Social Security Administration. I am pleased to chair this hearing on behalf of Senator Hatch who has a conflicting obligation in the Judiciary Committee at this time.

Senator Blumenthal hoped to be here to introduce Mr. Hartogensis. Unfortunately, his schedule did not permit. But he has asked me to submit a statement for the record, and I ask unanimous consent that Senator Blumenthal's statement be printed in the record of this hearing. Without objection.

[The prepared statement of Senator Blumenthal appears in the appendix.]

Senator CASSIDY. After Senator Wyden and I make opening statements, we will proceed with our panel nominees. Each will have 5 minutes to make remarks. After remarks, Senators will each have 5 minutes to ask questions.

I shall begin. Working families are the core of our social fabric and economic success. American workers increasingly feel good about their prospects. Economic optimism is at a 13-year high.

Yet for many a decade, wages and growth were stagnant. Health and education costs skyrocketed. Americans rightly expect more, particularly when it comes to retirement security and our knowing that those benefits will be available to those who truly find themselves no longer able to work due to injury or disability.

Both of our nominees, if confirmed, will play a role in ensuring that promised benefits continue to be available to working families when the time comes or if there is a need. Particularly, we must ensure that programs administered by the Social Security Administration are free of waste, fraud, and abuse.

Mr. Hartogensis, if you are confirmed, you will be serving during one of the most challenging periods in the PBGC history. Created in 1974, the PBGC protects the pension benefits of nearly 40 million Americans in private-sector pension plans. Last year their annual report showed that the deficit in the insurance program for multiemployer plans rose to \$65 billion, up from \$59 billion a year earlier.

Congress recognizes the challenge. In March 2018, Congress created the Joint Select Committee on Solvency of Multiemployer Pension Plans in the bipartisan budget act enacted on a broad bipartisan basis.

This committee was tasked with developing legislative proposals to improve the solvency of multiemployer pension plans and the PBGC. Some of my colleagues on the Finance Committee are also on the joint committee, and we will look forward to their findings and recommendations.

This is a very difficult problem with no easy answers. In fact, concerns about the solvency of multiemployer pension plans are widespread. And some of my constituents have raised this issue with me and my staff.

After you and I met, I believe that you are a strong nominee with outside-the-box thinking and a commitment to solve this very difficult problem. I was a little bit curious that you would even think about it as deeply as you had. But I am very pleased that you have. I feel confident that your management and finance experience will enable you to work with Congress to solve this problem.

You have received support from such organizations as the American Benefits Council, the Associated General Contractors of America, the National Association of Manufacturers, and the U.S. Chamber of Commerce.

Mr. Hartogensis, if confirmed—and I believe you will be—you will have a daunting challenge ahead, but I am confident that you have the experience and fortitude to tackle the looming pension crisis.

Ms. Ennis, you have been nominated to be the Inspector General of the Social Security Administration. If confirmed, you will be responsible for ensuring the programs administered by the SSA are

in compliance with the Office of Inspector General's mission of promoting economy, efficiency, and effectiveness as well as detecting and preventing instances of fraud, waste, and abuse.

Should you be confirmed, you have much work to do. As you know, the SSA continues to face many challenges, including the disabilities backlog, issues with the disabilities case processing system, data security, outdated IT infrastructure, payment accuracy, and fraud and abuse.

I have particular interest in the Disability Insurance benefit determination process with the reinstatement of the reconsideration level of appeal. My State, Louisiana, is one of ten prototype States for which this effort of reconsideration will be affected.

While I recognize that you are not a part of this Social Security administrative action, I raise it today as it will be an ongoing issue in the coming months. I also raise concerns with the Social Security Windfall Elimination Provision, or WEP, and the Government Pension Offset, or GPO.

This is of utmost importance to public-sector workers in Louisiana who may be whipsawed by outdated formulas and uneven application of rules. While a broader formula fix is outside the scope of your responsibilities, I hope you will work with this committee to ensure WEP and GPO determinations are made consistently and fairly for all beneficiaries.

Ms. Ennis, if confirmed, you will be in a position to inform, advise, and make recommendations to the administration and Congress on how to best begin to reform entitlement programs, especially on reforming the Social Security Disability Insurance program. Our meeting a few weeks ago confirmed to me that you are highly qualified for this position and that you will bring a fresh perspective to it, along with your extensive experience in government and independent investigations.

I look forward to hearing your remarks.

And now, Senator Wyden?

**OPENING STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON**

Senator WYDEN. Thank you very much, Mr. Chairman.

As you have noted, the Finance Committee is going to consider two nominations today: Ms. Gail Ennis to serve as Inspector General of the Social Security Administration, and Mr. Gordon Hartogensis to serve as the Director of the Pension Benefit Guaranty Corporation.

I am going to start my brief remarks with the Ennis nomination. The bottom line on why this is such an important post is very simple, and you can state it in a sentence. It is absolutely essential that the Federal Government wring value out of every single last dollar that goes into Social Security. And I have felt this way since the days when I was co-director of the Oregon Gray Panthers, had a full head of hair, and rugged good looks. I thought it then and I continue to feel it now.

The Social Security Inspector General plays a major part in identifying ways that the program can be improved, where there have been missteps, and how the Congress can strengthen it with legis-

lative changes. So that is a big agenda, and my own take is that it ought to be a bipartisan agenda.

Now, it has been more than 2 years since Social Security has had a confirmed Inspector General, far too long by my take. So we are fortunate that we have a nominee finally before the committee.

You come from the world of social insurance. In effect, we come from the same world, because that was my background. And you have a significant background in auditing financial institutions and working with government agencies. In my view, sometimes it is a good idea to bring in somebody with a fresh eye for these kinds of jobs.

Now if confirmed, Ms. Ennis, you are going to have a lot of challenges coming at you right away: certainly the deterioration of service at SSA, to the disability backlog, to IT upgrades. The committee will count on you to work very closely with us to make improvements to the program, and you and your team—in my view—should make it a special priority to listen to whistleblowers. Listen to whistleblowers who have had a real record as it relates to social insurance and coming forward and talking about these problems.

And by the way, I see my colleague, Senator McCaskill, here. She has been one of our go-to champions of whistleblowers in the United States Senate.

Senator McCaskill, I just mentioned the point with Ms. Ennis of whistleblowers at Social Security, and I am sure both of us are going to continue to be very interested in that.

Setting aside the specifics of this nomination for a minute, there is also going to be a challenge for us in the Congress. The Inspector General's office recently put out what is really an eye-popping report about the huge increase in work waiting to be done at these Program Service Centers.

These service centers perform some of the most basic functions at the agency that are essential to maintaining beneficiary records. Notably, the report cited that there were real budget constraints, and said that was a significant part of the problem.

For several years in our annual Views and Estimates letter, the chairman and I—as Chairman Cassidy noted, Chairman Hatch is not able to be here today. We have advocated that the agency get the budget it needs to be able to responsibly tackle these challenges and to get the job done. You cannot have world-class service when the Congress provides a third-class budget.

Now, with respect to Mr. Hartogensis, his nomination is for the Pension Benefit Guaranty Corporation. This agency, as all of our colleagues know, faces serious challenges. Chairman Hatch and Senator Brown have been spending a lot of time on it, and we are all interested in bipartisan solutions.

As many as 1.5 million Americans are enrolled in multiemployer pension plans that could become insolvent in the next few decades. Should that happen, that will bankrupt the PBGC insurance program for all multiemployer pensions, affecting everybody who is enrolled.

So we are not talking about some kind of academic matter that you can ask a bunch of think tanks for their opinions on. This is a question of whether the Congress is going to work with the ad-

ministration so that millions of Americans are going to be able to get by in their older ages.

Mr. Hartogensis has had a successful career in the private sector, but he does not have experience in policy dealing with pensions or retirement security. Certainly, you have the right connections to be a nominee right now for a Senate-confirmed position, but this is a nominee with no record which this committee can draw conclusions about with respect to what he would do as the head of the agency.

Now, Mr. Hartogensis, as I talked about with you in the office, I happen to think it often is a big plus to have somebody come from the private sector for positions like this. I do not have some kind of rule where, gee, if you have not been doing this for 10 years in a variety of other fields, that somehow you are disqualified.

But as we indicated, when somebody does come from the outside and has not worked in the field, the bar gets a bit higher, because we have to be able, as we consider your nomination, to make some judgements about what the heck you might do when you get there, if confirmed. We talked about it some yesterday. We are going to talk about it some more today and focus on how we are going to get a sense of the actual substance with respect to how you attack all of the challenges PBGC faces.

Thank you both for being with us. You are going to have questions from Senators. It, obviously, is a busy day in the Senate.

We look forward to your opening remarks. And we will have questions.

Senator CASSIDY. Thank you, Senator Wyden.

[The prepared statement of Senator Wyden appears in the appendix.]

Senator CASSIDY. And now I will introduce the nominees.

Mr. Gordon Hartogensis, if confirmed, will serve as the Director of the Pension Benefit Guaranty Corporation. Mr. Hartogensis is an entrepreneur, an investor who has launched multiple startups that were eventually acquired by new owners. He is also the co-founder and CEO of Auric Technology, an on-demand customer relationship management software company, among many other career positions. He earned his bachelor's degree from Stanford and his master's degree from Columbia University.

Ms. Gail Ennis is nominated to be the Inspector General of the Social Security Administration. Most recently, Ms. Ennis has worked at Wilmer, Cutler, Pickering, Hale, and Dorr, LLP, where she became partner in 2007. Her practice focused on securities litigation and enforcement and financial institutions.

Ms. Ennis led large teams that included lawyers, forensic accountants, and other staff to investigate issues including financial statement reporting and disclosure errors, accounting irregularities, and misconduct by current or former officers or employees.

Ms. Ennis earned her bachelor's degree from the University of North Carolina, Chapel Hill and a Juris Doctorate from the Brooklyn School of Law.

Mr. Hartogensis, we will start with your remarks.

**STATEMENT OF GORDON HARTOGENSIS, NOMINATED TO BE  
DIRECTOR, PENSION BENEFIT GUARANTY CORPORATION,  
WASHINGTON, DC**

Mr. HARTOGENSIS. First of all, I would like to thank Senator Blumenthal for being willing to give me an introduction. Even though he could not be here today, he submitted it for the record.

Thank you, Chairman Cassidy, Ranking Member Wyden, and distinguished members of the committee. It is an honor to appear before you today as you consider my nomination as Director of the Pension Benefit Guaranty Corporation. I want to thank the President of the United States for nominating me and Secretary Acosta for recommending me. I am here today with my wife Grace and my two daughters, Alexia and Penelope, and I also want to thank them for their support.

My journey to this appointment began when I was a teenager. I grew up in a middle-class family in Rockville, MD and attended Montgomery County public schools. My father served on the Rockville City Council and taught me about the importance and honor in public service. I have fond and proud memories of visiting city hall, attending public events, and watching him solve the city's problems. I hope to have the chance to give my family that same sense of pride.

If confirmed, I would be honored to dedicate myself to work towards the goal of retirement security of more than 40 million Americans. The PBGC is in a difficult financial position today.

While simulations show that the single-employer program is likely to improve during the next decade, the multiemployer program continues to decline and has a net deficit of \$65 billion. Congress tried to address this multiemployer deficit by enacting the Multiemployer Pension Reform Act legislation in 2014. However, it has become clear that MPRA is not enough and further congressional action is necessary.

Additionally, the PBGC has operational issues that must be addressed. The single-employer program manages a trust fund with \$106 billion that must be strategically invested to offset the program's liabilities. The agency also administers single-employer plans and provides financial assistance to insolvent multiemployer plans that together cover millions of Americans who count on these pensions.

Finally, challenges with information technology at the PBGC must be addressed with a particular emphasis on cybersecurity. The PBGC, as a repository for large amounts of personal financial data, must be vigilant in protecting this information that is all too often targeted by hackers seeking financial gain.

Given the large issues facing the agency, I believe that the PBGC would benefit from the perspective of an outsider who can review these issues with fresh eyes and who has a professional track record of addressing problems with technological and financial savvy.

The multiemployer deficit will require a consensus-builder at the head of the PBGC. The various stakeholders involved will all need to be listened to as we attempt to develop solutions to the crisis.

During my days of building Petrolsoft with two friends from Stanford, I worked with stakeholders within major energy compa-

nies to implement our logistics systems. There were many competing objectives that had to be worked out to make our projects successful.

The PBGC will require a strong manager who can lead the various teams within the agency. As an owner of two technology companies, I have managed teams of salespeople, operations staff, financial professionals, call centers, and technology groups. I understand how to motivate and inspire employees as well as listen to and resolve their concerns.

I have finance and investment experience that will be useful in running the PBGC from an early career in finance, from running two companies, and from managing an investment portfolio. As an owner of two companies that were acquired, I built financial models to determine valuation and participated in Q&A sessions with Wall Street analysts. Both companies had retirement plans that I helped to merge into the plans of their acquirers.

The PBGC will benefit from an experienced technology leader at the helm. I have managed teams of developers and applied best practices from industry standards. I have built systems that integrated with other enterprise systems. I have worked to improve data security and to leverage the cost benefits of cloud computing.

If confirmed as Director of the PBGC, I pledge to work with Congress to ensure the pension security of all Americans. The multiemployer plans deficit will require strong action from the Director of this agency. The perspectives of all stakeholders in the system will need to be understood.

The growing crisis that is expected to make the multiemployer program insolvent by 2025 must be handled while, at the same time, our pension insurance system must be made sustainable. This will require an active communication strategy from the Director of the PBGC. Additionally, data must be used effectively to both educate and uncover opportunities.

If confirmed, I would be honored to dedicate myself to work towards the goal of retirement security of more than 40 million Americans. My mother is living on a pension, and I understand the importance of defined benefit pension plans, as they allow so many hard-working Americans to retire with dignity and enjoy the fruits of a lifetime of work. I would like nothing more than to follow in my father's footsteps by giving back and applying the skills I have acquired in service to my country.

Thank you for allowing me to appear today. I am happy to answer any questions.

[The prepared statement of Mr. Hartogensis appears in the appendix.]

Senator CASSIDY. Ms. Ennis?

**STATEMENT OF GAIL S. ENNIS, NOMINATED TO BE INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION, BALTIMORE, MD**

Ms. ENNIS. Good morning, Mr. Chairman, Ranking Member Wyden, and members of the committee. Thank you for the opportunity to appear before you today.

I want to thank the President for nominating me for the position of Inspector General for the Social Security Administration. I am

honored to appear before this committee as you consider my nomination.

My sister traveled from Connecticut to be here today, and I have friends in attendance. My parents and other sister were unable to make the trip from Connecticut, but I am sure they are watching.

I am especially passionate about protecting Social Security benefits for those persons in need. For the last several years, I cared for my husband as his health declined from the effects of dementia. I was thankful that I had the financial means to provide for his care, but came to understand the enormous financial burden on families caring for sick relatives.

A Social Security check may be the only financial relief many of these families receive and may make the difference in their lives and the lives of the people for whom they are caring. I am aware that individuals wait sometimes for years to receive a disability determination, which is unacceptable, and I think we can do better.

I am cognizant of the many challenges facing the Social Security Administration, including disability hearings backlogs, payment accuracy, an aging IT infrastructure, issues with the disability case processing system, data security, improving customer service, and combating fraud.

Should I be confirmed as the Inspector General for the Administration, I will work with Congress and the agency to address these and other challenges; to reduce waste, fraud, and abuse; and to continue to improve SSA's effectiveness and efficiency.

I am also keenly aware that an Inspector General must be, and must be perceived to be, independent of agency management. A strong, ethical, and independent IG performs an invaluable oversight role for the Congress and for the people of the United States.

My professional career has focused on government and independent investigations, including cases related to allegations of accounting fraud and violations of government regulations. I have counseled companies, audit committees, and boards about corporate governance issues, public disclosures, and improving processes, procedures, and internal controls. Many of my representations have involved large teams of lawyers, forensic accountants, IT and discovery professionals, and support staff.

This experience demonstrates that I have the legal, financial, investigative, and management skills to serve as an effective Inspector General of the Social Security Administration.

Social Security pays out almost \$1 trillion in benefits annually to seniors, widows and widowers, children who have lost a parent, and people with disabilities. Supplemental Security Income pays benefits to elderly, blind, or disabled people with limited income.

These programs touch the lives of around 70 million people each year and will touch the lives of most Americans at some point. For millions of beneficiaries, a Social Security check is a vital safety net, allowing them basic necessities: a roof over their heads and food on their tables.

Should I be confirmed as the Inspector General for the Social Security Administration, I will work diligently to provide oversight for the efficient management of the agency and to detect and act on waste, fraud, and abuse so only those who qualify receive benefits and receive them on time and without error. It is imperative

to protect these valuable taxpayer dollars so that the American public continues to trust and count on this safety net.

Thank you again for the opportunity to appear before you.

Senator CASSIDY. Thank you.

[The prepared statement of Ms. Ennis appears in the appendix.]

Senator CASSIDY. Now we will begin with questions.

I am here the whole meeting, so I will defer to my colleagues who may have—well, before I begin with questions by members of the committee, I am obligated to ask four standard questions of our nominees.

First, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. HARTOGENSIS. No.

Ms. ENNIS. No.

Senator CASSIDY. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. HARTOGENSIS. No.

Ms. ENNIS. No.

Senator CASSIDY. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Mr. HARTOGENSIS. Yes.

Ms. ENNIS. Yes.

Senator CASSIDY. Finally, do you commit to provide a prompt response in writing to any question addressed to you by any Senator of this committee?

Mr. HARTOGENSIS. Yes.

Ms. ENNIS. Yes.

Senator CASSIDY. Okay.

And then I think I will now defer to my colleagues.

Senator WYDEN. Thank you, Mr. Chairman.

I think what I am going to do is, because I have a number of colleagues who are interested, I am going to take this one at a time. We will start with you, Mr. Hartogensis, and then, Ms. Ennis, we will keep you for the second round.

Mr. Hartogensis, we met for the first time, and I asked you how you would go about tackling the funding crisis that these multiemployer pensions are up against. As we talked about, this is an extraordinary challenge for the agency you want to lead.

One in 5 million workers is in a plan that may become insolvent in the next 20 years. The insolvency of these plans is going to bankrupt the programs for all multiemployer pension plans.

And as we discussed, I asked you for your thoughts. I appreciate your getting back to me. And for the reason I described in my opening statement—since you do not have background in this field, we want to get a sense of how you would approach it.

Now in response, you have essentially one solution, which essentially is to alter the PBGC premium structure, specifically to broaden the base of who pays premiums. Now, I have to be candid with you. The answer is disappointing, and what you are going to be up

against if that is what you focus on is, you will have opposition from both workers and from companies.

The PBGC guarantee for multiemployer pension plans is very low. So a solution that only involves premium increases is going to lead really, by my take, to significant benefit cuts for hundreds of thousands of retirees in pay status now.

So let us see if we can go beyond that and try some other kinds of areas with respect to how you feel about pension policy. First, who do you believe should be paying PBGC multiemployer premiums who is not paying premiums now?

Mr. HARTOGENSIS. Thank you for the question.

I think the point of that idea is the thought that, other than just the employers, there is a potential to have employers as well as retirees contribute something to increase the premium base, rather than just raising the premium rates on the employers alone.

Senator WYDEN. So you are saying the workers and the unions ought to be paying? I mean, who are we talking about in kind of plain English?

Mr. HARTOGENSIS. Yes. It would be just the employees and the employers, both together. These would be the companies as well as the employees.

Senator WYDEN. Well, multiemployer pension plans today are responsible for paying premiums. But the plans are financed by contributions from workers' wages. So ultimately, it is already the workers who are paying the premiums.

Workers also pay union dues so—and I want to give you a chance to put it in your words. Is your suggestion ultimately that workers should be responsible for increasing the PBGC premium base?

Mr. HARTOGENSIS. Thank you, Senator, for that question.

I just want to give a little bit more context and background for you.

This is a very complicated issue. And, obviously—I have been asked probably in one form or another by every Senator whom I have spoken with on this committee as well as the HELP Committee, “What would you do with the multiemployer pension crisis?”

I have watched the hearings of the Joint Select Committee on Multiemployer Pensions. So I understand what is at stake. I realize that there are employees who risk losing their pension checks that they intend to use for things like food and health care and rent, basic necessities. So it is a critical issue.

At this point, kind of coming from the bubble of being a nominee, I have looked at and studied the different solutions that have been proposed. There have been premium increases—

Senator WYDEN. Let us do this, because my time is short. I would like an answer in writing to the question of whether you believe that ultimately workers should be responsible for increasing the PBGC premium base. You will get back to me in writing on that?

Mr. HARTOGENSIS. I will.

Senator WYDEN. Great.

Okay. Two other quick questions. I know my colleagues are waiting.

Do you believe that defined benefit pensions are good for workers?

Mr. HARTOGENSIS. I do.

Senator WYDEN. Okay.

Do you believe that employers should be encouraged to sponsor defined benefit pension plans?

Mr. HARTOGENSIS. I think it really depends upon the strategy of the company. There are certain companies where the workforce that they hire in certain industries tends to stay for short periods of time, and it makes sense to have defined contribution plans, because those types of companies—the employers want that. That is what they need to attract the workers.

There are other types of businesses where their strategy is to retain workers for decades—20, 30, 40 years. In that case, the best way to attract those workers and keep them for that amount of time is a defined benefit pension plan.

And as far as retirement security goes, there is nothing better. I will stand by that.

Senator WYDEN. Great.

One last question. Obviously a lot of these issues—and your agency does not expressly set policy for unions and collective bargaining—but a lot of the issues really speak to the negotiating process.

As a general proposition, do you believe unions and collective bargaining are good principles for American workers?

Mr. HARTOGENSIS. I do think they are good principles for American workers.

Senator WYDEN. Thank you, Mr. Chairman.

I will have some additional questions for you, Ms. Ennis, after my colleagues get their first round.

And if you could get back to me shortly with respect to that one matter, Mr. Hartogenesis, I would really like your views in writing with respect to that question.

Mr. HARTOGENSIS. Absolutely.

Senator WYDEN. Thank you, Mr. Chairman.

Senator CASSIDY. Senator Carper?

Senator CARPER. Thanks so much.

Welcome to both of you. Ms. Ennis, there is a young lady sitting over your shoulder in the front row. Who is she?

Ms. ENNIS. She is my dear friend Ellen Varn's daughter, Caroline Varn, who wanted to be here today to see government in action.

Senator CARPER. Caroline, you gave up going to school today just to be here? Is that right? God bless you. Welcome.

Mr. Hartogenesis, how are you?

Mr. HARTOGENSIS. Very good. Thank you for asking.

Senator CARPER. Very good.

I used to live in Palo Alto. I understand you spent some time there. We have a son who is going to graduate school out there right now.

I was born in West Virginia. Walking around the Capitol yesterday, I ran into a bunch of mostly guys who were wearing all of these shirts that said, "United Mine Workers of America." Do you know why they were here?

My dad was a coal miner for a very short while early in his life before he went off to serve in World War II. I spent the first 6 or 7 years of my life just outside of Beckley, WV, a coal mining town.

My mom used to drag my sister and me to church a lot there. One of the things that she wanted us to do was to focus on figuring out the right thing to do, not what was easy or expedient, but what was the right thing to do. She was a big golden rule person: treat other people the way we want to be treated.

I spent about 23 years of my life in the Navy, plus another 4 years as a midshipman. Along with the things I learned there was to surround myself with the best people I could find and just rely on people whose judgment I valued in taking on tough challenges.

The other thing I learned in the Navy is, just do not give up. If you know you are right, you are sure you are right, do not give up.

I think we know the right thing to do here is to treat these folks who are in these pension plans the way we would want to be treated. If I were in your shoes, do you know what I would do? I would reach out to other folks who had served in this capacity previously. I would almost, like, pull them together.

I gave the same advice to Robert Lighthizer when he was nominated to be our Trade Ambassador. I said, "If I were you, I would put your predecessors on speed dial, especially the one right before you." And I would urge you to maybe consider doing that.

If I were in your shoes, I would try to build bipartisan support around the common-sense solution. We have 51 Republican Senators here, and 49 caucus with the Democrats. If you are going to get anything done, you have to have bipartisan support. So I would work to create that bipartisan consensus.

A whole lot of research has been done on this in the past—I think special committees or subcommittees, a lot of investigations, a lot of research. This is a big issue. It is not going to go away. And I think it is—what did Einstein used to say?: "In adversity lies opportunity." There is real opportunity here, and there is a lot of adversity.

But I would look at this and say, "How do we put together just a great team and go out there and try to solve this once and for all, and to reach out to people?" These two fellows off to my left, they are pretty good at working across the aisle. I am not too bad either, and I would urge you to take advantage of that as we try to get to some kind of consensus.

In Delaware we have something we call the Delaware way. It revolves around the letter "C." Communicate, compromise, collaborate, and civility in order to get to a fifth "C," consensus, which is what we need here. So you probably do not need that advice, but it was heartfelt. I hope it will be of some value.

Ms. Ennis, what do you know about improper payments?

Ms. ENNIS. I know payment accuracy has been an issue for the Social Security Administration for some time and that the IG's office looks at it on a regular basis. I think that the most recent semi-annual report to Congress from the IG determined that, for the last several years, the agency has not met its own goal of payment accuracy. I think it is 95 percent.

So it is clearly an issue. I think payment accuracy is probably a government-wide issue for many agencies. So, while I believe this

is an issue that the IG's office has looked at regularly and most likely will continue to—and should—I wonder if there is not a way to pull together other IGs and CIGIE and look at this as a systemic issue that maybe others have found ways to deal with that could be effective for the Social Security Administration as well.

Senator CARPER. Okay.

Last year, we were told by GAO that improper payments amounted to about \$144 billion—\$144 billion. I think a little more than half of that can be attributed to improper payments with respect to Medicaid and I think Medicare.

There is something at the Social Security Administration—I used to call it the “master death file.”

Ms. ENNIS. Yes.

Senator CARPER. I just like the sound of that. Then I found out—people said no, it is not. It is really the death master file.

Ms. ENNIS. Right. That is right.

Senator CARPER. And now I have found there is another term for it, but the idea is, it is a list you do not want your name to be on because, if it is, you are dead. [Laughter.]

Ms. ENNIS. Right. Or, if you are on it improperly, it may be difficult to get off of that list. [Laughter.]

Senator CARPER. I am also told—I think we found out that there are like, I want to say 5 million people, maybe, on records at the—of course, I ask Chris Prendergast, who is sitting behind me, to correct me if I am wrong. I seem to recall in disclosure last year, maybe this year, that there are like 5 million people on—I do not know if it is on the master death file, but on some records at the Social Security Administration, where they are at or above the age of 112. That is a lot of people in this country to be over 112. Actually, I think there are maybe 20 if that.

Ms. ENNIS. Right.

Senator CARPER. So that would just beg the question of, can we do better? And I would say, “What do you think?”

Ms. ENNIS. So I understand the importance of the death master file, not just for Social Security, but other government agencies that purchase and use it, and even third parties.

I think it is an issue that the IG has looked at as well over the years. I think there is a tension between the mission of the agency, in terms of how they use the records, and how they are utilized by others. But I understand the importance of the records, and I think that clearly it is an issue that the IG has looked at, and should probably continue to look at. And if there are requests from a member, we would consider the request—

Senator CARPER. Like a member from a small State on the east coast?

Ms. ENNIS. Yes.

Senator CARPER. All right—well, 10 members from small States on the east coast.

Ms. ENNIS. From my home State, yes. [Laughter.]

Senator CARDIN. I am glad to be your neighbor, but we have some size over you. [Laughter.]

Senator CARPER. We like to say in Delaware, we punch above our weight.

All right. If you get confirmed, and my gut tells me that you just might, this is something that we would love to work with you on.

Ms. ENNIS. I would love to work with Congress on many issues.

Senator CARPER. And in adversity lies opportunity. There is adversity here, but also a lot of opportunity for both of you.

Ms. ENNIS. Yes.

Senator CARPER. I will tell you what it says in the Bible. What does it say in the Bible? It says, "In all things, give thanks." So we give thanks for that adversity, because it is going to give you plenty to work on. And maybe, if we are smart, we will work on it together.

Ms. ENNIS. Thank you, Senator.

Senator CARPER. There is an old African proverb. I learned this from Ron Wyden. There is an African proverb that goes something like this. "If you want to go fast, go alone. If you want to go far, go together." So we have to go together.

Senator CASSIDY. Senator Cardin, are you ready?

Senator CARDIN. Mr. Chairman, thank you very much.

Let me welcome both of our nominees. I had a chance to talk with both in the anteroom before the hearing started. And we had a chance to have some conversations before today. So I thank both of you for your willingness to serve in these two very important positions.

I want to start with the challenges at the PBGC. I know you have already been asked questions about the multiemployer pension system, and obviously, we have a taskforce that we hope will come up with some recommendations. It is in crisis. It needs to be dealt with.

You also have a crisis in the single-employer plans, not quite as urgent, but it still needs to be dealt with. And it is affecting the viability of defined benefit plans in this country.

We also have legislation that we are considering here that would deal with the frozen plans so that they have a better chance of remaining in existence for those employees who currently have benefits under those plans.

I asked you that as a preliminary, because Senator Portman and I have been working together for over 15 years on trying to improve retirement security for Americans, recognizing that those covered under defined benefit plans are becoming a smaller percentage of the coverage for retirement security in this country. I think this is also relevant to the role of the Social Security Administration IG, in that Social Security was never intended to be the sole support for a person's retirement income, but it is a life-time guaranteed, inflation-proof annuity.

A defined benefit plan provides a much stronger protection for life-time income than the defined contribution plans that more and more employees are relying upon who have retirement plans in addition to Social Security.

That is a preliminary to the fact that there are many members of this committee, including the members who are here, who are working on retirement recommendations. The House is taking up in the Ways and Means Committee what is known as 2.0. It has some pension reform in that legislation. We have already passed some in this committee.

We need your help in looking at how we can give American employees more security for their retirement, with the reality that what you do at the PBGC affects a significant number. But we need to develop policies that make sense so we can protect more people who may not be in the PBGC world, but are coming out of the PBGC world.

So my question is, are you prepared to work with this committee and members of this committee as we come forward with proposals that may impact PBGC directly or indirectly so that we achieve our ultimate objective, more Americans having secured retirements and having income that will be available as they live longer and longer lives?

Mr. HARTOGENSIS. The short answer is, absolutely. I definitely will work with this committee. I have met many of the staff members. I know there is a lot of pension expertise here. There is a lot of information that can be shared between the PBGC and this committee.

I also plan to work with the HELP Committee, as well as the House committees of jurisdiction, and especially the Joint Select Committee that is focused on the multiemployer pensions.

I do think the pension crisis that you and I talked about in our personal meeting is part of this big picture that you are talking about. It needs a bipartisan solution. And I think one of the things that we came away with was that the sooner that we address it, the better, because the longer we wait, the more expensive it will be to deal with.

Senator CARDIN. What I am trying to get across is that I hope you will look beyond just the tunnel vision of the PBGC and the impact that it has on the PBGC stability, but look also to help us develop policies that achieve the objective of why we had the PBGC, and that is to provide retirement security for Americans.

Mr. HARTOGENSIS. Yes. I realize it is part of the three-legged stool of retirement security. There is personal savings, Social Security, and pensions, and we are certainly part of that. So we would work with you.

Senator CARDIN. Thank you.

Ms. Ennis, I want to ask you one question, if I might. I take particular interest in the Social Security Administration. Its headquarters are located in Baltimore County, MD. I visit it frequently. I meet with the workforce.

I had a chance to meet with Mr. Saul yesterday, who is the nominee to be the Commissioner of the Social Security Administration.

What I said to him, I am going to say to you, and that is, it is critically important that we have respect for the working conditions of the workers, their collective bargaining, their ability to be respected in those negotiations between management and worker. And I think it is important that the Inspector General be able to give independent assessments as to whether those laws are being carried out the way we intended for our workforce to have effective collective bargaining opportunities within the Social Security Administration. Are you prepared to carry out that responsibility?

Ms. ENNIS. Senator, if we were to get a request in the IG's office from your office to look into that—I do not know what the process for intake of requests is right now in the IG's office. I intend to

have a well-documented process that we follow for every request. It certainly sounds like an important issue, and I understand the concern of you and the workers. So I would work with your office, should you make a request, to see what we could do within the scope of our authorization.

Senator CARDIN. Thank you.

Thank you, Mr. Chairman.

Senator CASSIDY. Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Hartogensis, you may be aware that 10 years ago this month much of the American economy was in a freefall. The Great Recession took most if not all of Americans by surprise. As a result, the Federal Government spent trillions of dollars to support the economy so America did not slip into a full-blown depression.

Now we are facing another crisis that is a direct result of the Great Recession—but one that has not come as a surprise is the decline of the multiemployer pension systems. The Federal entity overseeing the Federal pension system, the Pension Benefit Guaranty Corporation, has projected that it will be insolvent by the end of 2025, which would leave hundreds of thousands destitute, many more with little to no retirement security, and thousands of small and medium-sized businesses bankrupt. All of this would surely have ripple effects across the economy and affect many, many more Americans and businesses.

So, Mr. Hartogensis, you have been nominated to be the Director of the PBGC where, as part of your duties, you will oversee the multiemployer pension system and work with Congress to put the PBGC on firmer ground. And as you know, this position is for a term of 5 years. So to say that the next 5 years at the PBGC will be critical is an understatement.

So I have read your bio and I have seen your testimony. I see that you do not have a background in pensions. You are not waiting on a pension to vest, and you have never offered a pension at any of your businesses.

So that concerns me, because your knowledge of pensions and your actions or inactions over the next 5 years, if you are to be confirmed, will have a direct impact on either rescuing the PBGC or contributing to its insolvency.

It is incredibly important to me, as I have thousands of New Jersey constituents participating in critical and declining plans who depend on their pension and now the PBGC for their retirement. And there are many more New Jerseyans in healthy plans that could be adversely impacted if the PBGC were to fail.

So I am fully aware that Congress has a role in fixing this crisis and that the Joint Select Committee is hard at work at that, but I for one believe the Federal Government has a responsibility to the working-class men and women who, through no fault of their own, are facing this crisis. The Federal Government stepped in 10 years ago to prevent one financial crisis from expanding, and it should step in once again.

But the action or inaction of Congress, I believe, does not give you an excuse to be silent or inactive. The Director of the PBGC needs to be an outspoken supporter of the working-class men and women who depend on these pensions.

So I need to hear from you. Will you be a forceful advocate for Americans who have earned and depend upon these pensions? I need to know that you are going to stand up and ensure that this last vestige of the Great Recession does not trigger yet another recession. I need to hear from you that you will come to Congress to adamantly campaign for reforms to protect pensioners and not leave them abandoned.

So, can you give me a simple “yes” or “no”? Will you stand with the working class to protect their pensions?

Mr. HARTOGENSIS. Thank you, Senator, for the question.

So, right off the bat, a simple “yes.” I would like to add to that, that this is an important mission for me. I am coming from the private sector into Washington. And what makes this journey for me meaningful and important is the fact that there is such a crisis and there are people who are extremely vulnerable, 40 million people total in the system and a subset of 10 million in the single-employer system, who are very, very vulnerable to what is going on with the insolvency of the multiemployer system.

So I see myself as a bipartisan problem-solver who is coming in with a background and a track record in building companies and managing companies. I believe that I have other skills than what you have described that make me a good choice for this role, including a background in working with forecasting in my career, working with supply-chain companies. We would forecast in order to replenish gas stations.

I think a lot of what the PBGC does, it forecasts to figure out solvency in both single- and multiemployer systems.

Senator MENENDEZ. So I appreciate your short answer “yes,” and I understand what you are saying. But what I want to understand, as I determine whether or not to support your nomination, is that you can play one of two roles: you can be the caretaker who says, “I am just waiting for Congress to tell me what to do,” or you can play a proactive role that seeks to promote the safety and retirement security of all of those who depend upon this system.

I hope that what you are telling me is that you are going to be the second one, not just the first one.

Mr. HARTOGENSIS. I plan to be the second one. That is my goal.

Senator MENENDEZ. All right.

Thank you very much. I appreciate it.

Senator CASSIDY. Thank you.

Mr. Hartogensis, I apologize for every now and again stumbling over your name.

Mr. HARTOGENSIS. That is okay.

Senator CASSIDY. I like the way you put it. You have been in the bubble of confirmation. So you really do not have the kind of palpable knowledge that would allow you to make more nuanced policy decisions—neither of you does. But I was very impressed with both interviews I had with you.

Senator Wyden mentioned how sometimes coming from a non-government background is beneficial. So let me just ask, what in your background prepares you to head this agency? And share with us how to bring your management expertise—you spoke about, for example, experience merging two different retirement plans.

What in your management background gives you the ability to help this agency go forward in a more positive way?

Mr. HARTOGENSIS. Thank you, Senator, for the question.

First of all, in terms of understanding the retirement needs of employees, I built two different software companies. And like I said before in a previous question, we did our 401(k)s in those.

But between those two companies, I created over 100 jobs and was concerned with the retirement security and the future of those employees. We also had a stock option plan in both of those. As both companies were acquired, those plans were rolled into the plans of the acquirers.

To address your question of what qualifications do I have that will help with running the agency, number one, I think I have a really solid management background in leading these two software companies. And according to a 2013 National Academy of Public Administration report on the PBGC, one of the most important criterion for a Director of the PBGC is just management, because you are managing teams of not just financial professionals that are managing the portfolio, but there is also technology. You have to worry about cybersecurity. There is customer service. You have a whole call center operation.

I have experience real-time managing mission-critical systems doing all of this. One other thing—I will take it a step further. I do plan on becoming an advocate for working people, an advocate for people who are in these plans, especially insolvent multiemployer plans that we are taking a look at now.

To do that, I think my background in consensus-building and working with—in my days with Petrolsoft, we built supply chain systems that impacted lots of parts of the company. We had to get truck drivers, and terminal managers, and dispatchers, and corporate management, and different actors within the company that had different agendas to come together to work towards the goal of making the supply chain more efficient.

I think in the multiemployer scenario—what I see is, there is a very good effort in the Joint Select Committee to find solutions. I think there have been structural problems that have led to this over decades, and I sense there is still some inertia there, and I think I can be a facilitator in helping evaluate different solutions and bringing different sides together.

Senator CASSIDY. Let me ask, what would you say the three most pressing issues are for the Pension Benefit Guaranty Corporation?

Mr. HARTOGENSIS. Thank you.

Well, the first one is obvious: the multiemployer deficit. I would say the second thing, the way I see it, is cybersecurity. I think there is a problem in the urgency, because it stores a lot of personal financial information which would be extremely valuable to hackers, and extremely vulnerable to phishing attacks or attacks where people can come in and impersonate somebody who maybe has not been found by the system and just take their pension—tightening up password policies and trying to improve that.

And then the third, I would say, is just operations of the agency in general. I have read in the past that there have been issues, obviously, that the Directors leading up to me may have been trying to improve—issues with just the call center, the customer service

of the agency, making sure that when people get their pension, it is timely, and if they have a problem, they call a call center, the interaction timeline is minimized, just to make sure that that is as good as it could be.

Senator CASSIDY. Best practices from the private sector, if you will.

Mr. HARTOGENSIS. Yes.

Senator CASSIDY. Feeding back into your answer for the first question.

Senator Brown?

Senator BROWN. Thank you, Mr. Chairman. Ranking Member Wyden, thank you—nice new home, this room.

I appreciate your being here, and thanks for your willingness to serve. I first of all want to thank the staff, the committee staff, Jeff and Rebecca and Chris, for the work they are doing on, sort of, pensions at large.

On our pension committee, we had a good productive meeting today. And Chris joined us at our hearing in Columbus, our field hearing on the pension special committee. What really struck me at that hearing, what struck me all along, is the pleas of pensioners who are seeing, potentially, their pensions cut 40 to 50 percent or more, some of the mine worker widows who were only going to get \$400 or \$500 a month anyway, and that just puts them over the edge.

What struck me about the field hearing we did in Ohio—and Chris and I have talked about this, as has Gideon on my staff—is the look in the eyes of the small businesses, the two companies that were represented there: Nickles Bakery from Navarre, OH and Spangler Candy from Bryan, OH. And they are, I believe, fourth-generation family businesses, very successful, employing hundreds of people. And they have a special duty on their watch as the third or fourth generation family member to keep this company thriving and going.

If we do not solve this pension issue—the people we think most about here are the pensioners, as we should. But these companies and what happens to their employees and what happens to those communities—because some people say, well, people are still going to buy bread. People are still going to buy candy; somebody will make it. But not in those two towns, and not with those employees, and not with those owners. So I think that is important.

I want to just go through, if I could, Mr. Hartogensis, the scope of the multiemployer pension issue to just kind of gauge your interest and knowledge, as you likely are going to be confirmed and taking over the position.

Is it true that 130 multiemployer pension plans are in critical and declining status?

Mr. HARTOGENSIS. That sounds about right.

Senator BROWN. Okay.

Is it true that these 130 plans have 1.3 million participants?

Mr. HARTOGENSIS. That is about the right number as well.

Senator BROWN. Okay.

Is it true that a plan designated as in critical and declining status means that plan will become insolvent in the near future?

Mr. HARTOGENSIS. Yes, it does mean that.

Senator BROWN. Is it true that insolvent plan participants will then claim insurance from the PBGC?

Mr. HARTOGENSIS. It means that the PBGC will offer financial assistance to the multiemployer plan.

Senator BROWN. Okay.

What is the average guarantee the PBGC provides to participants in multiemployer programs? Do you know that?

Mr. HARTOGENSIS. I know the maximum is \$12,870 a year for 30 years of service.

Senator BROWN. And few get the maximum. Well, it will be very few who get the maximum.

Mr. HARTOGENSIS. So the average is probably something less.

Senator BROWN. Considerably less?

Mr. HARTOGENSIS. Probably the average is considerably less.

Senator BROWN. Is it true that the PBGC multiemployer program is running a large deficit?

Mr. HARTOGENSIS. Yes, it is about \$65 billion.

Senator BROWN. It is \$65 billion? That is the net—

Mr. HARTOGENSIS. There is a \$67-billion deficit and then \$2 billion in assets.

Senator BROWN. Right.

When is the PBGC projected to go insolvent?

Mr. HARTOGENSIS. The end of 2025—

Senator BROWN. Okay.

Mr. HARTOGENSIS [continuing]. According to the 2017 report.

Senator BROWN. So we agree if you are confirmed, as you move forward and take this job, that more than 100 plans with 1.3 million participants are on the path to insolvency. We also agree that this will result in steep cuts to pension benefits workers earned and will result in the PBGC multiemployer program failing; correct?

Mr. HARTOGENSIS. That is correct.

Senator BROWN. Is this a crisis? Would you characterize it that way?

Mr. HARTOGENSIS. Actually, in one of the conversations I had with another Senator, he made the comment that this is probably the largest crisis that people do not know about in government. So it is very big.

Senator BROWN. I would actually—even though I have a special interest—

Mr. HARTOGENSIS. That the general public does not know about.

Senator BROWN. I would—and this is not really the place for this—I would argue that there is another public health crisis. This is a public crisis that reaches these proportions that is not well known, and that is the number of homes in every State in America that have highly toxic levels of lead, and we pay no attention to it, and the public does not. But that is not really—

Mr. HARTOGENSIS. I am just quoting some conversation—

Senator BROWN. No, I appreciate it.

I do not mean to undercut my own argument by saying this. [Laughter.]

Mr. HARTOGENSIS. That is big. We agree.

Senator BROWN. Are you asserting that Congress should act immediately?

Mr. HARTOGENSIS. What I am asserting is that the sooner the Congress acts on this, I think the cheaper it will be, the less painful it will be. So I think it is to our benefit to do something sooner rather than later.

Senator BROWN. And would you assert that inaction is not just hurtful to those companies and pensioners, but that it is damaging to the economy?

Mr. HARTOGENSIS. That inaction—I would say it is certainly damaging to the local economies where there are concentrated people within multiemployer plans.

Senator BROWN. Okay. Thank you.

Senator WYDEN. Mr. Chairman, I am beginning my second round, but Senator Brown is the Democrat who represents us on the special committee. Would my colleague like to continue with any additional questions before I go to a second round?

Senator BROWN. I wanted to gauge interest and knowledge and commitment to fix it, and I know that the Hatch committee staff, and I know Ranking Member Wyden's staff on the Democratic side, and my staff are committed to this, and it needs to—I appreciate your comments that if we do not fix it this year, it gets harder and harder and harder. That is why we wrote the bill bipartisanly, four Republicans, four Democrats, each House. We set a deadline on it. It has sort of fast-track qualities, passes out of the committee, does not come to this committee—no offense to my colleagues on this committee—but goes straight to the floor and then to the White House.

The urgency of this is great. I think your comments illustrated that, and that is what I wanted to hear.

Thank you.

Mr. HARTOGENSIS. I appreciate your commitment to the issue.

Senator BROWN. Sure. Thank you.

Senator WYDEN. I thank my colleague, and I also want to note that Senator Brown has made a special effort to try, as we have gone forward on this special committee, to see if we can get to common ground. If we can find a place for a bipartisan bill, we want to take it up as soon as we possibly can, reflecting the urgencies commented on.

Ms. Ennis, let us go to Social Security for a minute. I want to give you my perspective about how I come to this and why it is so important.

I was director of the Oregon Gray Panthers for about 7 years before I came to the Congress. And I ran the legal aid office for the elderly as well. So I was in a lot of Social Security offices during those years. And in fact, in those days, this was the early days, really, of the American consciousness with respect to the challenges faced by older people.

Usually if a town had a meal program for older people and a Social Security office was close, that was considered a big-time, full-fledged network of senior citizen services. I have been in a lot of these offices, and I want to tell you about something that really was eye-opening and I think reflects how serious and urgent some of your work is going to be.

A few weeks ago, I was in a Social Security field office because I had some personal kind of issues I had to take up there. And I

arrived before the office opened—big line stretching all the way around the building. As you know, these lines are quite common.

According to a February Inspector General report, the average wait time increased about 42 percent between fiscal years 2010 and 2016. During the same period, the number of field office visitors who waited longer than an hour doubled. It was a 100-percent increase.

Now, despite these alarming statistics, this program, this VIPr program as it is called, Visitor Intake Process Re-write—only Washington, DC could concoct a name like that—tracks field office visitor data. But it does not really capture the amount of time people wait outside the office while waiting in line. And there are claims that some field offices attempt to kind of manipulate the system by “talking with those who wait in line” and then count that as actually taking care of the older person’s needs.

So we understand what the demographics are. Senator Cassidy and I have been talking about that in the context of health care as well. Ten thousand Americans are turning 65 every day, and that is going to be the case for years and years to come. So more people are going to visit the offices, call the 800 number. We have to have reliable services and customer service data and the like.

So my question is, if you are confirmed, what are you going to do to look at these agency strategies to figure out how to improve the wait times and deal with the 800 number and get us some recommendations on how to fix this so-called VIPr system? I guess it is sort of a viper, because it kind of wraps its neck around you and you do not get your problem solved. But what are you going to do to fix it?

Ms. ENNIS. Senator, I too have been to the field office in my home area and experienced a little bit of outside-the-building wait time as well. So I do know what you are referencing.

I know it is an issue that the IG’s office has looked at, as you have reflected, in prior reports. I can say that I want to get into the office, take a look at what we have looked at, make sure that we are looking at the critical issues that you have expressed here, and then determine whether there are other things that we can and should look at.

Of course, we would work with any Senator’s office that makes a request to see if the request is something that we can accomplish.

Senator WYDEN. What does your gut tell you, Ms. Ennis, about whether you have field people manipulating the system to improve the wait time?

Ms. ENNIS. I cannot comment on that specific area. I do know there have been IG reports about other issues, where there is some allegation of moving caseloads to national offices for disability—I think it was—where the report was done to look at metrics.

So I think it is an interesting question and something that I would be interested in knowing more about, because I do not think it is fair to manipulate metrics.

Senator WYDEN. You do your homework. I am not asking you to announce that you find this is going on in 40 percent of the cases. But you do your homework. You have been to offices. What does your gut tell you is going on?

Ms. ENNIS. I do not want to comment on anything that might come before the IG's office. What I will say is—

Senator WYDEN. Pardon me. You are not talking about national security here.

Ms. ENNIS. Right.

Well that is true. [Laughter.]

Senator WYDEN. We are not giving out secrets. I am on the Intelligence Committee, so I know the difference.

Ms. ENNIS. I think it is important to look at how customer service is measured. And I think there are ways to manipulate numbers to get a metric goal reached that may not be valid. So I think your point is well-taken.

And if it is going on, I would certainly want to know about it, and certainly have my team take a look. I want to understand what we have already done in that area to see if more needs to be done, and I would, again, welcome any requests from your or any other office to look at such an issue.

Delivery of services is critical, and I know the agency is working on alternative delivery methods. But I know that for a certain population now, and perhaps into the future, the field office visit is critical for them because they may not have a computer. They may not be computer-savvy.

So it is important to have customer service. I know that it is a goal of the agency to constantly improve that, and it would be a goal of mine as well.

Senator WYDEN. Mr. Chairman, I am over my time on this round. I have three additional questions. What is your pleasure? Do you want to take your second round and then I will wrap up, or what would you like to do?

Senator CASSIDY. No, I have a hard-stop roughly at 11:20.

Senator WYDEN. What time—I cannot—my eyes are—

Senator CASSIDY. It is about 11:15.

Senator WYDEN. How many questions do you have?

Senator CASSIDY. I just want to really quickly—Ms. Ennis, similar to the question I asked Mr. Hartogenesis, but also related to that which you are saying now, you have had a varied background. You have worked in hospitality. You have worked in—what else did they tell me? You can tell me—advertising—

Ms. ENNIS. Advertising.

Senator CASSIDY. Advertising. And so you speak of that kind of customer experience, if you will, meeting the customer where she is or he is.

Can you just elaborate, as did Mr. Hartogenesis, with regard to how your background you think brings you particular insights into some of the things that Senator Wyden was referring to?

Ms. ENNIS. From my background in hospitality and the advertising industry, understanding the ultimate goal is to have a good customer experience—I am certainly familiar with that.

In terms of the broader mandate of the Inspector General, I have a very strong background. My law firm career focused on internal investigations and government investigations, with a focus in many years on accounting fraud investigations, public disclosure issues, banking, and securities laws. I managed very large teams of law-

yers and other professionals, including accountants and IT professionals dealing with sort of “bet your company” type cases.

I understand how to manage people. I understand strategy, budgets, looking at policies and procedures—whether or not they comply with the law. And basically what our mission always was on these internal and independent investigations was to follow the facts—as a partner of mine always used to say—“without fear or favor” and go where the facts led us. That is how my practice was based, and that is how I would plan to run the IG’s office as well.

Senator CASSIDY. As a physician, I used to always say, “The facts are what matters.” Truth is what matters, not your advocacy point. So that will be a tremendous gift and skillset and perspective to bring to the job.

Again, thank you.

Ms. ENNIS. Yes, thank you.

Senator CASSIDY. Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman. You have been very gracious, Mr. Chairman. I am going to probably go a minute or two after your 11:20 hard-stop, and the Hatch team and our team have said that that is okay with them. And as we all have noted on these Social Security issues, we are very much a bipartisan force.

So, Ms. Ennis, let me ask you now about some of the technology issues, starting with cybersecurity, obviously important to SSA. In 2017, NIST, the National Institute of Standards and Technology, released updated password guidance. And the guidance recommended passwords should only be changed if there is evidence the password has been compromised, not after some arbitrary period.

In November of 2017, I sent the agency a letter to implement NIST’s password guidance to eliminate burdensome, in effect, password change requirements for Americans using—I guess it is called the My Social Security website. Can you say this morning that you will investigate the progress, looking at NIST and other issues relating to the agency’s cybersecurity policy program?

Ms. ENNIS. I think cybersecurity is one of the critical issues facing not just Social Security, but many, many other government agencies. I do not know where the IG office is now with their current plans.

I do think it is a critical issue to look at for this agency. I also think it is important for Inspectors General generally to work across agencies and with CIGIE, because I think this is such a global systemic issue, and I want to make sure that whatever the agency is doing is best practice and will confer with other IGs to make sure that we all have state-of-the-art knowledge and hopefully application within the agency.

Senator WYDEN. Okay.

Let us talk authentication, and particularly two-factor authentication. The agency has taken steps to improve cybersecurity. In 2016, the agency began to offer multi-factor authentication to the My Social Security online accounts. It was an optional security upgrade, and eventually it became mandatory for all of the My Social Security accounts. The agency also adopted DMARC.

In our office, Chris DeGrande is really our point person on attack. And he has spent a lot of time on these DMARC issues. And

DMARC prevents official phishing messages that purport to come from SSA.

Now, to make sure that we are doing everything to protect Americans from phishing and other sophisticated cyber-attacks, I sent a letter to the agency urging them to consider universal second factor, a form of MA that is really resistant to all phishing. And should you and your staff want to go into this further, Chris DeGrande and our tech team can work with you on it.

SSA responded that the agency is looking at a variety of ways to improve online authentication. My question to you is, would you commit this morning to reviewing the cost and benefits of SSA adopting universal second factor on an opt-in basis for all of the My Social Security accounts?

Ms. ENNIS. You know, I think the IG is not just there to look at fraud after the fact and find it once it has already happened. I think it is important for the IG to work closely with the Congress and with the agency to try to prevent issues.

That sounds like a critical issue to me. I do not know what they are doing already, so I certainly would like to work with your staff and with—should I be confirmed—my staff to see what we can do. It is a huge issue, and it is only going to get more important for us to deal with it.

Senator WYDEN. Good.

With the chair's indulgence, my last question is going to be about whistleblowers. I think we all understand that they play an important role in identifying, resolving issues of waste, fraud, and abuse. And of course, coming forward is something that can be pretty perilous. You can face intimidation and retaliation. They are real assets.

And one of the first places whistleblowers go is to the Inspector General. This committee has—to the credit of, particularly Senator Grassley, Senator McCaskill, a bunch of us have joined in this effort to protect whistleblowers. Senator Grassley and I are co-chairs of the caucus, and Senator McCaskill and Senator Carper are members of it. The Congress passed our legislation to permanently reauthorize whistleblower protection with a coordinated position in all of the IG offices.

I want to make sure this will be a special priority for you. Have you had any experience working with whistleblowers?

Ms. ENNIS. I have had experience. Often when a law firm is hired to look at one issue, whistleblowers do reach out to outside counsel with other issues.

I have had a chance to look at policies and procedures that clients employ in dealing with whistleblowers, and to recommend improvements where we think that there may be deficiencies.

I think that whistleblower programs are incredibly important to Inspectors General, and if I should be confirmed, one of my first things will be to look at what the IG's office does now, and what the policies and procedures are for intake, education, and protection of whistleblowers.

Senator WYDEN. I will wrap up with this.

The longer that I have been involved in these whistleblower issues, the more I am convinced that there are kind of two areas. There is the law, and around here we huff and puff that I am

among the Intelligence Committee and I work with my colleagues there, and here we work with our colleagues and the like. But the bigger issue is how the people at the top establish a culture, a culture that makes it clear that coming forward is something you appreciate—it is important to you, you can be on their side, they are going to get a fair shake.

Close with me, if you would, by telling me how you are going to promote a culture that is going to allow agency employees, contractor employees, to say, “Hey, we can make these disclosures without being fearful that we are going to get hammered with retaliation and intimidation and all kinds of other stuff.”

Ms. ENNIS. So I often advise clients, as my law firm did when there were issues that arose, that “tone at the top” is critical. That is what we always called it: “tone at the top.”

If the tone at the top is properly set, it will trickle down throughout the agency.

Senator WYDEN. You are going to set the tone if you are confirmed.

Ms. ENNIS. I am.

Senator WYDEN. You are going to bring them in at the beginning, and you are going to tell them, “Hey, I want everybody to know this is a big deal to me.”

Ms. ENNIS. Absolutely. It is critical to the work of the IG, to all IGs, and if I discover that our program is not state-of-the-art, I plan to work with CIGIE and other Inspectors General to make sure that we are at the top of the class.

Senator WYDEN. Thank you, Mr. Chairman. Thank you for all of the time.

Senator CASSIDY. I like that term, “tone at the top.”

Again, thank you all for your attendance and participation. I, again, thank Mr. Hartogensis and Ms. Ennis for their willingness to serve in these roles.

The committee recognizes and appreciates the new tasks you have before you, should you be confirmed. We trust that you will serve your agencies and our country well.

I ask that members who wish to submit questions for the record please do so by close of business, Thursday, October 4th.

With that, the hearing is adjourned.

[Whereupon, at 11:20 a.m., the hearing was concluded.]

## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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PREPARED STATEMENT OF HON. RICHARD BLUMENTHAL,  
A U.S. SENATOR FROM CONNECTICUT

Chairman Hatch, Ranking Member Wyden, members of this distinguished committee, while my commitments to the Judiciary Committee have prevented me from appearing before you today, I am pleased to offer written remarks on behalf of my friend, constituent, and fellow resident of the great State of Connecticut, Gordon Hartogensis, on his nomination to be the Director of the Pension Benefit Guaranty Corporation (PBGC).

The promise of a stable and sustained retirement is a critical part of the American dream—one that allows dedicated workers to rest easy knowing that they and their loved ones have achieved a secure financial future. The PBGC is responsible for protecting pension benefits for over 40 million hardworking Americans. It also currently pays benefits for about 1.5 million people in failed pension plans when derelict companies cannot meet their obligations.

The need for strong leadership at the helm of the PBGC has never been more important. The system is in crisis. There are more than a hundred multiemployer pension plans on the brink of disastrous failure, and more than 1.3 million workers and retirees across the country—from teamsters to musicians—are all at risk of losing their American dream. The Central States fund alone, which covers nearly half a million truckers, expects to be under water within the next few years. By 2025, the PBGC is expected to be completely insolvent.

I have never questioned Mr. Hartogensis's commitment to his community, or his unwavering desire and focus. Mr. Hartogensis's extensive time working in financial equities will undoubtedly have helped prepare him for the monumental task at hand.

As the PBGC Director, Gordon will have the opportunity to implement innovative solutions to resolve the current multiemployer pension crisis, and I expect he will take this task very seriously. I have high hopes that Gordon will build on the achievements of the current Director, W. Thomas Reeder Jr., who has overseen marked improvements to the single-employer pension program. Today, Mr. Hartogensis must validate this urgent crisis and detail the specific steps that he will take to restore the promise of retirement for millions of Americans.

I thank the committee for the opportunity to submit introductory remarks on behalf of Gordon Hartogensis, and I look forward to helping the Director restore the strength of the multiemployer pension system, and the PBGC.

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PREPARED STATEMENT OF GAIL S. ENNIS, NOMINATED TO BE  
INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION

Good afternoon, Mr. Chairman, Ranking Member Wyden, and members of the committee. Thank you for the opportunity to appear before you today.

I want to thank the President for nominating me for the position of Inspector General for the Social Security Administration. I am honored to appear before this committee as you consider my nomination.

My sister traveled from Connecticut to be here today, and I have friends in attendance. My parents and other sister were unable to make the trip from Connecticut, but I am sure they are watching.

I am especially passionate about protecting Social Security benefits for those persons in need. For the last several years, I cared for my husband as his health declined from the effects of dementia. I was thankful that I had the financial means to provide for his care but came to understand the enormous financial burden on families caring for sick relatives. A Social Security check may be the only financial relief many of these families receive and may make the difference in their lives and the lives of the people for whom they are caring. I am aware that individuals wait sometimes for years to receive a disability determination, which is unacceptable; I think we can do better.

I am cognizant of the many challenges facing the Social Security Administration, including disability hearings backlogs, payment accuracy, an aging IT infrastructure, issues with the disability case processing system, data security, improving customer service, and combating fraud. Should I be confirmed as the Inspector General for the Social Security Administration, I will work with Congress and the agency to address these and other challenges, to reduce waste, fraud, and abuse, and to continue to improve SSA's effectiveness and efficiency.

I am also keenly aware that an Inspector General must be, and must be perceived to be, independent of agency management. A strong, ethical, and independent IG performs an invaluable oversight role for the Congress and for the people of the United States.

My professional career has focused on government and independent investigations, including cases related to allegations of accounting fraud and violations of government regulations. I have counseled companies, audit committees, and boards about corporate governance issues, public disclosures, and improving processes, procedures, and internal controls. Many of my representations have involved large teams of lawyers, forensic accountants, IT and discovery professionals, and support staff. This experience demonstrates that I have the legal, financial, investigative, and management skills to serve as an effective Inspector General of the Social Security Administration.

Social Security pays almost \$1 trillion in benefits annually to seniors, widows and widowers, children who have lost a parent, and people with disabilities. Supplemental Security Income pays benefits to elderly, blind, or disabled people with limited income. These programs touch the lives of around 70 million people each year and will touch the lives of most Americans at some point. For millions of beneficiaries, a Social Security check is a vital safety net, allowing them basic necessities: a roof over their heads and food on their tables.

Should I be confirmed as the Inspector General for the Social Security Administration, I will work diligently to provide oversight for the efficient management of the agency and to detect and act on waste, fraud, and abuse so that only those who qualify receive benefits and receive them on time and without error. It is imperative to protect these valuable taxpayer dollars so that the American public continues to trust and count on this safety net.

Thank you again for the opportunity to appear before you.

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## **SENATE FINANCE COMMITTEE**

### **STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

#### **A. BIOGRAPHICAL INFORMATION**

1. Name (include any former names used): Gail Susan Ennis.
2. Position to which nominated: Inspector General, Social Security Administration.
3. Date of nomination: October 16, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: October 21, 1962, Bridgeport, Connecticut.

6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list secondary and higher education institutions, dates attended, degree received and date degree granted):
  - Frank Scott Bunnell High School, Stratford, CT; attended September 1977 through June 1980.
  - University of North Carolina, Chapel Hill, NC; attended August 1980 through May 1984; degree—B.S., business administration granted May 1986.
  - Brooklyn Law School, Brooklyn, NY; attended August 1994 through May 1998; degree—J.D. granted May 1998.
9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment):
  - Assistant chef, Sheraton Hotel, Durham, NC, 1984 through 1985 (approximate).
  - Assistant chef, NY Hilton, New York, NY, 1985 through 1985 (approximate).
  - Assistant restaurant manager, Trumbull Marriott, Trumbull, CT, 1985 through 1986 (approximate).
  - Media planner, Wells, Rich, Greene, New York, NY, January 1987 through September 1988.
  - Media planner, Levine, Huntley, Schmidt, and Beaver, New York, NY, September 1988 through June 1989.
  - Media supervisor, Lintas, New York, NY, June 1989 through October 1991.
  - LSAT review instructor, Stanley Kaplan, New York, NY, September 1989 through July 1990.
  - Associate media director, Avrett, Free, and Ginsberg, New York, NY, October 1991 through May 1995.
  - Director of media planning, Paragon Media, New York, NY, May 1995 through May 1998.
  - Summer associate, Herrick Feinstein LLP, New York, NY, June 1997 through August 1997.
  - Associate, WilmerHale LLP, Washington, DC, September 1998 through January 2007.
  - Partner, WilmerHale LLP, Washington, DC, January 2007 through present.
10. Government experience (list any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above):
  - N/A.
11. Business relationships (list all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):
  - Partner, WilmerHale LLP.
12. Memberships (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations):
  - Member, Maryland State Bar Association.
  - Member, District of Columbia Bar.
  - Director, Gibson Island Corporation.
  - Director, Gibson Island Club.
  - Vice president, Gibson Island Club.
13. Political affiliations and activities:
  - a. List all public offices for which you have been a candidate.
    - None.

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

Republican Party.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

NRSC: \$250, January 20, 2010.

Bob Ehrlich for Maryland Committee: \$100, August 10, 2010.

Issa for Congress: \$500, May 10, 2011.

Romney for President, Inc.: \$250, October 11, 2011.

Fiscal Responsibility PAC: \$250, December 9, 2011.

Evans for Mayor: \$50, October 2, 2013.

Citizens to Elect Steve Schuh: \$150, January 15, 2014.

Friends of Jason Chaffetz: \$250, February 14, 2017.

Right to Rise: \$1,000, January 29, 2015.

Trump Make America Great Again Committee: \$250 on the 20th of each month from July 2016 through September 2017.

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement):

Dean's Merit Scholar, Brooklyn Law School 1994–1998.

Dean's list, Brooklyn Law School 1994–1997.

Member, Moot Court Honor Society, Brooklyn Law School.

Senior associate, *Journal of Law and Policy*, Brooklyn Law School.

15. Published writings (list the titles, publishers, and dates of all books, articles, reports, or other published materials you have written):

"FCIC Commissioners Issue Preliminary Findings on Crisis Causes," WilmerHale, December 15, 2010 (coauthor).

16. Speeches (list all formal speeches you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated):

N/A.

17. Qualifications (state what, in your opinion, qualifies you to serve in the position to which you have been nominated):

For almost 20 years I have practiced securities and banking law at WilmerHale. My practice has focused on leading large teams of lawyers and accountants in complex internal and government investigations often involving Fortune 100 companies. My representations have related to allegations of accounting fraud, tax fraud, insider trading, violations of various securities and banking statutes, and the adequacy of disclosures and governance issues, among other issues. Every investigation has required my team and me to learn the business of the client, including the structure of the organization and its operations. In alleged accounting fraud cases, my team and I worked side by side with forensic accountants, analyzing books and records, audit plans, and work papers.

I have managed every aspect of these large cases, including case strategy, budgeting, witness interviews, personnel management, oversight of contractors, preparation of internal investigation reports, working with government investigators, and settlement negotiations. As a result of my experience on these complex investigations, I believe I have the legal, financial, investigative, and management skills to serve as an effective Inspector General of the Social Security Administration. It would be my great honor to serve the country and work to eliminate waste, fraud, and abuse in a program upon which so many Americans rely.

### B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.  
Yes.
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.  
No.
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.  
No.
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.  
Yes.

### C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.  
None.
2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.  
None.
3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.  
None.
4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.  
Any potential conflict of interest will be resolved in accordance with the terms of my ethics agreement, which was developed in consultation with ethics officials at the Social Security Administration and the Office of Government Ethics. I understand that my ethics agreement has been provided to the committee. I am not aware of any potential conflict other than those addressed by my ethics agreement.
5. Two copies of written opinions should be provided directly to the committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.  
See item 4.

### D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.  
No.
2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

#### E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

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#### QUESTIONS SUBMITTED FOR THE RECORD TO GAIL S. ENNIS

##### QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

*Question.* According to reports in *The Des Moines Register* and other news outlets, Cristhian Bahena Rivera, an undocumented immigrant who is currently on trial for murder in Iowa, began using a fraudulently obtained Social Security number in 2014 through the time of his arrest this summer. Reports indicate that the SSN he used belonged to an Ohio man, John Budd, and that the same number was receiving wages in three different States all at the same time.

To your knowledge, did the Social Security Administration know that this SSN was being used in three different States at the same time? If you don't know, will you find out?

Answer. I do not know whether the SSA knew that this SSN was being used in different States. If confirmed, I will work with the OIG to determine whether they have looked at this issue and determine if more work is warranted.

*Question.* To your knowledge, did the SSA know that this SSN was being used fraudulently? If you don't know, will you find out?

Answer. I do not know whether the SSA knew that this SSN was being used fraudulently. Improper or fraudulent use of SSNs is a great concern. If confirmed, I will work with the OIG to determine whether they have looked at this issue and determine if more work is warranted.

*Question.* What mechanisms does the SSA have in place to flag when and whether SSNs have been or are being used fraudulently?

Answer. I do not know what mechanisms the SSA may have in place to detect fraudulent use of SSNs. If confirmed, I will work with the OIG to determine if any audits or investigative work have been done in this area and whether the OIG should include any such work in the future.

*Question.* Will you commit to combating SSN fraud, if confirmed to the position of Inspector General?

Answer. Yes. The mission of the Inspector General is to, among other things, combat fraud in the programs of the agency. I consider SSN fraud to be an important issue and combating such fraud to be part of the core mission of the IG.

*Question.* Will you commit to conducting an audit into the effectiveness of the SSA's current fraud detection and prevention measures?

*Answer.* As stated above, I believe that working to eliminate fraud in the programs of the SSA is part of the core mission of the SSA Inspector General. If confirmed as the IG for the SSA, I will work with the OIG to determine what work has been done to look at the SSA's fraud detection and prevention measures, and I will assess with the OIG whether more work should be done.

*Question.* Does the SSA know when an SSN is being used in multiple jurisdictions—even across State lines?

*Answer.* I do not know whether the SSA knows when an SSN is being used in multiple jurisdictions. If confirmed, I will work with the OIG to determine whether the SSA has safeguards in place to detect SSN usage in multiple jurisdictions and whether the OIG should look at this issue.

*Question.* If so, what does the SSA do when that occurs?

*Answer.* As stated above, if confirmed, I will work with the OIG to determine what the SSA does regarding SSN usage and whether the OIG should conduct inquiries into this issue.

*Question.* In 2016, the IRS determined that more than 1 million Americans' SSNs were stolen by undocumented immigrants. On July 11, 2017, I sent a letter to then-IRS Commissioner Koskinen, demanding answers about undocumented immigrants fraudulently using another's SSN to gain employment.

Do you know right now how many Americans' SSNs are being used fraudulently by undocumented immigrant workers?

*Answer.* I do not know.

*Question.* To your knowledge, does the SSA keep an account, or accounting, for all earnings associated with incorrect or fictitious SSNs? This has at times been referred to as the "earnings suspense file."

*Answer.* I do not know whether the SSA maintains an earnings suspense file for this purpose.

*Question.* Do you know what fraction of the earnings suspense file corresponds to the earnings of undocumented immigrants?

*Answer.* I do not know.

*Question.* In the name of transparency, will you commit to alerting Congress and the American people of how many SSNs are currently being used by undocumented immigrants? And will you commit to informing the American people how much money the SSA receives from those undocumented immigrants?

*Answer.* Should I be confirmed, if this request is made by a member of Congress, I will work with the OIG staff and the requesting member to determine if the OIG can provide the requested information, and provide it if at all possible.

*Question.* Is the SSA legally or statutorily barred from sharing information about suspect SSN usage with law enforcement, including Federal immigration authorities? If not, to which section in the U.S. Code, or to which law, would you or the SSA cite for this prohibition of information-sharing?

*Answer.* I have not conducted an analysis of the legality of sharing information about SSNs with law enforcement, but I know that this question is governed, at a minimum, by the Social Security Act, the Internal Revenue Code, and the Privacy Act. Should I be confirmed as the Inspector General of the SSA, if the OIG receives a request about sharing SSN information with law enforcement, I will work with my staff and legal counsel to consider the legal questions presented.

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QUESTIONS SUBMITTED BY HON. JOHN THUNE

*Question.* For fiscal year 2018, I understand that the Office of the Inspector General has identified seven management challenges faced by the Social Security Administration. These challenges are wide in range and include improving customer service, modernizing technology, protecting data, and preventing overpayments, among other things. If confirmed, which of these would you prioritize moving forward, or have you identified other areas you wish to direct your focus on?

*Answer.* If confirmed, my priority will be on IT modernization, because I believe that a robust, modernized IT environment will have implications for many of the other challenges identified by the OIG. For example, data protection will be

strengthened in a modern IT environment, overpayments will be minimized with IT improvements that will negate the need for manual actions that sometimes result in payment inaccuracies, and a modern IT infrastructure will better support the expected increase in demand for online services as baby boomers enter retirement.

*Question.* In 2017, the SSA, OIG, and local partners announced the formation of a Cooperative Disability Investigations Unit in Sioux Falls to fight fraud by investigating suspicious disability claims. It's estimated that the CDI program as a whole has saved Social Security \$3.7 billion since its creation 20 years ago. If confirmed, do you believe it is important to continue dedicating resources to CDIs, and complete the expansion of the program to cover all States by 2022, as required by the Bipartisan Budget Act of 2015?

*Answer.* CDI units work to detect fraud before disability payments are made, which is markedly more cost efficient than "chasing" monies that are paid out on fraudulent claims. In addition to generating billions of dollars in savings for Social Security, the CDI program has also generated billions of dollars of savings for non-SSA programs like Medicare and Medicaid. I believe that the CDI program has been an invaluable tool for the SSA and OIG in detecting and fighting fraud and abuse in the disability program and therefore I support expanding CDI unit coverage to all States by 2022.

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QUESTIONS SUBMITTED BY HON. RON WYDEN

SERVICE DELIVERY

*Question.* Unfortunately, long waits at Social Security offices are a common occurrence. According to a February 2018 SSA Inspector General report, the average wait time increased about 42 percent between Fiscal Years 2010 and 2016 from 19 minutes to 27 minutes. During the same period, the number of field office visitors who waited longer than 1 hour for service ballooned from 2.3 million to 4.8 million, a 109-percent increase.

Despite these alarming statistics, SSA's Visitor Intake Process Re-write (VIPr) system, which tracks field office visitor data, does not fully capture the amount of time people wait outside the offices while waiting in line. Moreover, there are claims that some field offices are attempting to manipulate the system by "talking" with those waiting in line and counting that as taking care of that person's needs. At a time when 10,000 Americans turn 65 each day and more people are visiting Social Security offices or calling the 800 number, SSA needs reliable customer service data.

If confirmed, will you investigate SSA's strategies and tools to improve wait times at field offices and on the 800 number, and make recommendations about how to improve the VIPr system to provide a more accurate depiction of the total wait time?

*Answer.* Accurate customer service data is necessary for the SSA and Congress to understand how the agency is meeting the needs of the public. If confirmed, I will work with the OIG and Congress to assess any request to investigate SSA wait time issues and the VIPr system.

*Question.* If confirmed, will you commit to investigate SSA's VIPr system and determine whether SSA field office staff are manipulating the system to improve the field office's overall average wait time?

*Answer.* Transparency is critical when evaluating the delivery of services to the public, and any allegation of manipulating the system to improve data is troubling. If confirmed, I will work with the OIG and the Congress to assess any request to investigate the VIPr system and allegations related to average wait time.

*Question.* In Fiscal Year 2017, SSA's 1,200 field offices served about 42 million visitors, completed over 5.6 million new benefit applications and replaced about 10 million Social Security cards. As millions of Americans become eligible for benefits from SSA, the agency has been of closing field offices around the country.

Will you evaluate SSA's process for determining when a field office should be relocated, consolidated, or closed?

*Answer.* I understand that many current or prospective Social Security beneficiaries prefer using field offices to conduct transactions with the SSA rather than using on-line or other service delivery methods. I understand from reviewing the SSA OIG materials that the OIG has conducted reviews related to the recent clos-

ings of certain field offices. If confirmed, I will work with the OIG staff to determine the scope of the reviews, whether there is ongoing work, and whether additional work is warranted.

#### IT MODERNIZATION

*Question.* Despite the use of electronic health records, SSA mails paper notices to doctors' offices requesting medical records. SSA requires DDS adjudicators to only follow up with a doctor's office once. It seems that these two practices may hamper the ability of SSA to obtain the medical records needed to make an accurate disability determination.

If confirmed, will you commit to investigate the efficacy of SSA's current system to obtain medical evidence and make suggestions for improvement?

*Answer.* Timeliness and accuracy in the disability process are critical to serving the needs of people applying for disability. Electronic health records aid in the ability of the DDS adjudicators to evaluate a disability claim more quickly and accurately. The OIG regularly reviews issues related to the disability process. If confirmed, I will work with the OIG to assess the work that has been conducted related to obtaining medical information and whether additional work is warranted.

*Question.* In June 2017, the National Institute of Standards and Technology (NIST) released updated password guidance. The guidance recommends that passwords should only be changed if there is evidence that a password has been compromised, not after some arbitrary period. In November 2017, I sent a letter urging SSA to implement NIST's password guidance to eliminate burdensome and ineffective password change requirements for Americans using the "My Social Security" website.

Will you investigate SSA's progress implementing the NIST guidelines and other efforts to bolster the agency's cybersecurity policies?

*Answer.* Users of "My Social Security" must have confidence that SSA is doing all it can to protect their private information and at the same time should not be required to face burdensome and ineffective barriers to use of the SSA's website. I believe that the OIG regularly reviews SSA cybersecurity issues. If confirmed, I will work with the OIG to assess any request to review SSA's progress in implementing the NIST guidelines and other cybersecurity issues.

*Question.* SSA has taken important steps to improve cybersecurity. In 2016, SSA began to offer multi-factor authentication, or MFA, to the "My Social Security" online accounts as an optional security upgrade, later making it mandatory for all "My Social Security" accounts. SSA also adopted DMARC which prevents "official-looking" phishing email messages that purport to come from SSA.

In the interest of protecting Americans from phishing and other sophisticated cyber-attacks, I sent a letter to SSA urging them to consider adding Universal Second Factor, or U2F, a form of MFA resistant to all phishing. SSA responded that the agency is looking at a variety of ways to improve on-line authentication.

Will you commit to review the cost and benefits of SSA adopting Universal Second Factor on an opt-in basis for all "My Social Security" accounts?

*Answer.* If confirmed, I will work with the agency to determine if any review of the adoption of U2F has been conducted and will work with the OIG to assess whether it should undertake a review.

*Question.* In 2017, the General Services Administration (GSA) released *login.gov*, a new online portal for the general public and the private sector to use as a single sign-on solution to access government services or to conduct business with the government. The portal is available to all Federal agencies on an opt-in basis. So far, the Department of Homeland Security's Global Entry Program and *USAJobs.gov* site are currently using the *login.gov* portal. *Login.gov* employs security and privacy measures put forward by the National Institute of Standards and Technology (NIST). GSA recently announced that *login.gov* will now accept Universal Second Factor security keys for users to access its portal in addition to its existing multi-factor authentication security measures.

In my previous question, I discussed SSA's internal online portal and the agency's efforts to protect users' identity while using their portal. However, switching to GSA's *login.gov* may provide SSA more time and resources to dedicate to its other IT modernization priorities.

Will you investigate SSA's evaluation of *login.gov* as a viable security option and provide a cost-benefit analysis of SSA switching to *login.gov*?

Answer. I believe that cybersecurity issues have government-wide implications and that agencies should work together to develop state-of-the-art protocols and systems. If confirmed, I will work with SSA to determine if they have evaluated *login.gov* as a viable security option and whether that evaluation included a cost-benefit analysis of SSA switching to *login.gov*. I will also work with the OIG to assess whether it should undertake an evaluation of *login.gov* and a cost-benefit analysis of SSA switching to *login.gov*.

#### WHISTLEBLOWER PROTECTION

*Question.* Whistleblowers play an essential role in helping the government identify and resolve issues of waste, fraud, and abuse. They do this under the threat of intimidation and retaliation. Whistleblowers are assets and can help us enhance government efficiency and transparency and save taxpayers billions of dollars. One of the first places that whistleblowers go to blow the whistle is the Office of Inspector General.

Supporting and protecting whistleblowers should not be a partisan issue. My committee colleague, Senator Grassley, and I are co-chairs of the Senate Whistleblower Protection Caucus, and two of our Finance Committee colleagues—Senators McCaskill and Carper—are members as well. In June, Congress passed our legislation to permanently reauthorize the Whistleblower Protection Coordinator position in all of the Inspector Generals' offices.

In your previous work, what experience have you had working with whistleblowers?

Answer. In my work as a lawyer conducting government and internal investigations, my firm and I have reviewed and investigated whistleblower complaints. As part of that work, we reviewed client whistleblower policies and procedures and the outcome of the complaints. We also recommended changes to strengthen whistleblower policies and procedures where appropriate.

*Question.* If confirmed, how do you plan to promote a culture that will allow SSA and contractor employees to make disclosures while protecting them from any intimidation, retaliation, or prohibited personnel practices?

Answer. Whistleblowers are critical to the work of the IG. I believe that SSA and the SSA OIG must make whistleblowers comfortable that they will not suffer adverse treatment or retaliation by setting the appropriate tone at the top. If confirmed, I will analyze past claims of retaliation to look for systemic issues. I will also review training and communications programs to ensure they clearly explain the protections for whistleblowers. Finally, I will make sure that the OIG has comprehensive, written policies and procedures for the intake and investigation of whistleblower complaints that conform to "best practices" and include guidance on communications with whistleblowers and protection of their identity.

#### ROLE OF INSPECTOR GENERAL

*Question.* Looking at your background and work history, you do not have any experience with Social Security or social insurance. That is not necessarily bad: a fresh set of eyes can provide a new perspective or see opportunities that insiders might miss.

Please tell me how your background, training, and experience make you the right person to be the Inspector General of Social Security.

Answer. For almost 20 years, I practiced securities and banking law with a focus on government and independent investigations, including cases related to allegations of accounting fraud and violations of government regulations. Many of the investigations involved large, multi-national corporations or financial institutions and were often comprised of large teams of attorneys, forensic accountants, IT and discovery professional, and support staff. In alleged accounting fraud cases, my team and I worked side by side with forensic accountants, analyzing books and records, audit plans, and work papers. I have also counseled clients on improving processes and procedures, and internal controls to avoid future violations or to comply with settlement terms or changes in law or regulations. As a result, I believe I have the legal, financial, investigative, and management skills to serve as an effective Inspector General of the Social Security Administration.

*Question.* Establishing and maintaining independence is a critical issue for IGs. IGs must maintain a working relationship with the agency head to successfully perform their duties while simultaneously remaining independent and accountable to Congress.

If confirmed, what strategies will you use to balance a working relationship with the Commissioner of Social Security while maintaining independence?

*Answer.* I believe that independence is at the core of the IG mission, particularly as it relates to the accountability of the agency. I also believe that there are many issues on which agency leadership and the OIG can and should partner to advance the interest of the SSA, taxpayers, and beneficiaries. For example, the agency and the OIG should work closely on combating fraud and abuse in SSA programs and operations and on strengthening data security. To that end, I believe it is important that the SSA Commissioner and the IG have a strong working relationship. If confirmed, I will set a strong example of independence through transparency and objective and fair audits and investigations. I will also have regular communications and meetings with the Commissioner and executive staff, and I will look into setting up a working group with participants from the OIG and the SSA to identify issues where the OIG and the SSA can share information, data, and expertise to fulfill the agency and OIG missions.

#### OIG INVESTIGATIONS

*Question.* As you may be aware, a former Social Security disability lawyer, Eric Conn, pleaded guilty to 18 counts of conspiracy, mail and wire fraud, false statements, money laundering, and other related offenses in connection with a \$550-million Social Security disability fraud scheme. Between 2004 and 2012, Mr. Conn submitted false and fraudulent medical documentation in more than 2,000 cases to SSA in order to have SSA pay claimants' retroactive disability benefits, continue to pay claimants' disability benefits in the future, award Medicare and Medicaid benefits to claimants, and pay Conn's attorney fees. While we are grateful for the efforts of SSA-OIG and the Department of Justice for apprehending him and his conspirators, his over 2,000 former clients will face a redetermination hearing and may ultimately lose their benefits.

What information or assistance can the Office of Inspector General provide to individuals who are the victims of fraud like those hurt by Eric Conn?

*Answer.* The OIG plays a role in educating the public about fraudulent schemes through fraud alerts posted on the OIG website. The OIG also works with the SSA to detect fraudulent schemes and works to ensure that the SSA has strong controls to prevent fraud in the SSA's programs. The OIG may also refer potential cases of fraud to the Department of Justice for prosecution. During an OIG investigation, the OIG does not have direct communications with potential victims of fraud.

#### DDS STAFF ATTRITION RATE

*Question.* In FY 2017, State Disability Determination Services (DDS) adjudicated over 2.5 million initial claims, about 600,000 reconsideration claims, and processed about 800,000 continuing disability reviews (CDRs). Several years of increasing caseloads without sufficient resources have led to high staff turnover at many DDSs. In FY 2017, State DDSs lost 1,623 employees, including 1,238 adjudicators. The attrition rate for FY 2018 is expected to be the same. It takes approximately two to 3 years for a disability adjudicator to become fully proficient in SSA's rules.

Will you commit to investigate the impact of DDS staff turnover on quality of disability benefit determinations?

*Answer.* Employee turnover is an issue at both SSA and DDS offices. Loss of institutional knowledge can cause inefficiencies and errors. I understand that the OIG regularly reviews the disability process. If confirmed, I will review the work the OIG has done to assess DDS staff turnover issues and whether more work in this area is warranted.

*Question.* According to September 2017 testimony from the National Association of Disability Examiners (NADE), the high attrition rate has forced DDS offices to shift staff and resources from "training, quality assurance, professional relations, and even supervision and management and direct all their resources to claims processing." NADE also stated that despite critical updates to SSA's medical listings of impairments, many DDSs were unable to undertake proper staff training about changes. Will you commit to investigate whether DDS staff have sufficient training to conduct disability determinations efficiently and according to SSA policy?

Answer. I understand the importance of a thorough training program to ensure that DDS staff can conduct disability determinations efficiently and according to SSA policy. If confirmed, I will work with OIG staff to consider any request for a review of DDS training.

EVALUATION OF MEDICAL EVIDENCE

*Question.* Last year, SSA published a final rule regarding the evaluation of medical evidence (82 FR 5844). Most notably, under the new rule, SSA adjudicators will give no significant weight to the medical evidence from the claimant's treating physician. This rule would give equal weight to medical evidence from one-time Consultative Examinations arranged by SSA or paper file reviews by SSA consultants. I am concerned this rule devalues evidence from the claimant's treating physician or specialist, who generally has an ongoing relationship with the claimant and is likely to provide a detailed, longitudinal picture of the claimant's impairment(s).

Will you commit to investigate how this rule changed the evaluation of medical evidence and whether the change resulted in inaccurate SSDI/SSI initial claim determinations or a higher reversal rate at the hearing level?

Answer. I understand that the OIG regularly reviews the disability process. If confirmed, I will work with the OIG to determine whether it has investigated issues related to the evaluation of medical evidence and whether more work in this area is warranted.

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QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

*Question.* As you know, Administrative Law Judges (ALJs) perform essential adjudication of Social Security appeals to determine benefits. In July, the President issued an executive order to reclassify ALJs so they can be selected based on their political views—threatening their impartiality through the current “competitive service” system.

If confirmed, will you commit to respecting the independence of ALJs at the Social Security Administration?

Answer. I believe it is important that the public have confidence that decisions made by ALJs are fair and based on an objective review of the facts of the case. I also believe that the Inspector General and the OIG must be, and must be perceived to be, independent. If confirmed, I will be objective and independent and will respect the independence of ALJs.

*Question.* Would you use your role as Inspector General to produce objective program audits if the administration continues trying to politicize ALJs?

Answer. I believe that impartiality and non-partisanship form the core of the IG mission. If confirmed, all program audits and investigations conducted by the OIG will be impartial, non-partisan, objective, and independent. Should I be confirmed as the Inspector General of the SSA, if a member requests that the OIG review the SSA ALJ program, I will work with the OIG staff to consider the request.

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QUESTIONS SUBMITTED BY HON. BENJAMIN L. CARDIN

*Question.* This August, SSA was slow to comply with Judge Ketanji Brown Jackson's decision to reverse the executive orders relating to union collective bargaining agreements. Additionally, SSA had been particularly harsh among Federal agencies in its enforcement of these executive orders, having reduced official time, confiscated union equipment, and locked union members from their spaces.

Should you be confirmed, how will you ensure that SSA will be fair and balanced in its relations with its Federal employee unions?

Answer. Agency compliance with Federal labor laws and regulations is essential. If a member requests that the OIG review whether the agency is in compliance with Federal labor laws, regulations or court orders, if confirmed, I will work with the OIG staff and the requesting member to consider the request.

*Question.* What actions will you take to ensure that the next collective bargaining agreement is in compliance with Judge Jackson's ruling?

*Answer.* If a member requests that the OIG review whether a collective bargaining agreement is in compliance with laws, regulations, or court orders, if confirmed, I will work with the OIG staff and the requesting member to consider the request.

*Question.* Telework is a well-established and accepted practice within the Federal Government. SSA management has used telework to discipline SAA employees by threatening to take away employees' right to telework.

If confirmed, will you review SSA telework practices and strive to stop the current practice of using the ability to telework as a way to discipline employees?

*Answer.* If requested by a member to review telework practices, if confirmed I will work with the OIG and the requesting member to consider the request.

*Question.* I have been paying close attention to the issue of field office closures, and particularly that of the Baltimore North office which occurred in June 2018. SSA has planned to consolidate its employees and workloads from both the Baltimore North as well as its Arlington field offices into others in the area. Many beneficiaries are, however, in a poor physical or mental condition for traveling long distances, do not possess vehicles, and/or live alone without any family, friends, or caretakers to assist them.

If confirmed, how would you analyze the impact of each field office closure?

*Answer.* I understand that many beneficiaries find it difficult when their local field office closes and they must travel farther to visit another field office. I understand from reviewing the SSA OIG materials that the OIG has conducted reviews related to the recent closings of certain field offices. If confirmed, I will work with the OIG staff to determine the scope of the reviews, whether there is on-going work, and whether additional work is warranted.

*Question.* What steps would you take to ensure that SSA does not overburden certain field offices that have to now double their workloads due to closures?

*Answer.* Should I be confirmed, if a member requests a review of the workloads at field offices, I will work with the OIG and the member to consider the request.

*Question.* How would you ensure that beneficiaries receive sufficient notice of any closure or disruption to field office service, as well as recommendations from SSA?

*Answer.* It is the responsibility of the agency to notify beneficiaries of any closures or disruptions to field office services. I understand that the SSA OIG has reviewed whether SSA followed its own policies and procedures related to field office closures and whether notifications were properly provided pursuant to those policies and procedures. If confirmed, I will work with the OIG staff to determine whether additional work is warranted related to notifications of field office closings.

*Question.* How would you ensure that program beneficiaries who may not be able to travel longer distances to other offices receive the support and service they need?

*Answer.* I believe that IT modernization is an important part of ensuring the efficiency, effectiveness, and safety of alternative delivery systems for SSA services. I understand that the SSA OIG regularly reviews SSA's IT modernization programs and if confirmed, I will continue to review issues related to IT modernization.

*Question.* SSA has emphasized its vision for expanded online services, perhaps as a substitute for field offices. Polling consistently shows that program beneficiaries, who are often not technologically savvy, prefer applying for benefits and raising questions and claims at field offices with staff representatives, or by voice over the phone. The amount of people entering field offices in 2018 is at a level similar to that of 2000, suggesting that field offices continue to provide essential services to the public.

What steps would you take to balance SSA's need for IT modernization and an improved online presence with its field office activities?

*Answer.* In order to promote effectiveness and efficiency, I believe the SSA OIG can work with the agency to develop short-, medium-, and long-term goals and strategies related to balancing the need for IT modernization and an improved online presence with field office activities. I believe the long-term view is that there will be an increased demand for online and other alternative delivery services, and therefore visits to field offices may decline. However, in the short and medium term the balance may be weighted more toward field office visits, and, if confirmed, I

would work with the agency to identify improvement that can be made in the services provided by field offices.

*Question.* The Social Security Administration has endured years of budget cuts and freezes that have taken their toll on the agency's service capabilities. Since 2010, the staff has been reduced by 12 percent, approximately 70 field offices have been shuttered, hours of public operation have been reduced, and there is a record high backlog in disability appeals. SSA's service delivery has also dipped in quality. A significant number of callers to SSA's national 1-800 number do not get their questions resolved. As hold times have risen, nearly half of callers hang up before connecting and a growing number get busy signals. Meanwhile, the average wait for a disability appeal has stretched to 20 months. Further cuts would force the agency to freeze hiring, furlough employees, shutter more field offices, or further restrict field office hours, causing yet longer wait times for taxpayers and beneficiaries. Although the agency received a notable increase in its budget in FY18, much of those funds went to IT improvement and reducing the backlog, not front-line service.

How would you prioritize service at field offices and teleservice centers to ensure that SSA is able to respond to the needs of a growing beneficiary population?

*Answer.* Should I be confirmed, if a member requests that the SSA OIG review agency plans regarding how to best serve beneficiaries, I will work with the OIG staff and the requesting member to consider the request.

*Question.* How do you plan to ensure the levels of staffing needed for quality service?

*Answer.* While the agency is responsible for developing staffing models, if I am confirmed and a request is made, I will work with the OIG staff to consider a request to review staffing models and service projections.

*Question.* What budgetary needs do you anticipate SSA requiring in your term? Further, what steps would you take to secure those needs?

*Answer.* The SSA OIG's budget has been static for a number of years, causing a reduction in the number of investigators and auditors as costs for salaries and benefits, which account for approximately 86 percent of the OIG's budget, increase. If confirmed, I will work to use the OIG's budget as efficiently as possible by maximizing the collection and analysis of data. I will also work with the SSA to try to increase the OIG's budget in order to ensure adequate staffing levels.

*Question.* Earlier this summer, President Trump signed an executive order that removed Administrative Law Judges (ALJs) from the competitive civil service, to be selected by agency leadership rather than being independently vetted by the Office of Personnel Management.

How will you ensure that the independence and integrity of SSA's ALJs are protected and free from any political influence?

*Answer.* I understand that the public must have confidence that ALJ decisions are objective and fair and the ALJs are impartial arbiters. If confirmed, should a member request that the OIG review ALJ hiring practices and decisions to determine if they are objective, I will work with OIG staff to consider the request.

*Question.* I am very concerned about the disability backlog and the de facto SSA quota of 500-700 cases per year per ALJ. A judge handling 500 cases per year would take approximately 2.5 hours to adjudicate a case—2.5 hours to read a file, hold a hearing, make a decision, and then draft the decision. The ALJs have done the only case time study we are aware of, and that study indicates it takes an ALJ an average of 7.5 hours to decide a case. My concern is SSA is putting quantity ahead of quality.

If confirmed, will you work with Congress and other stakeholders to determine the time required for an SSA ALJ to adjudicate a case and abandon arbitrary quotas?

*Answer.* While the SSA OIG does not set quotas, if I am confirmed and a member requests that the OIG review the time required for an SSA AJ to adjudicate a case, I will work with the OIG and the member to consider the request.

*Question.* The Social Security Act created the SSA as an independent agency within the Federal Government charged with providing critical benefits to recipients. Projected solvency and trust fund issues have prompted many to advocate for privatization, reduction of benefits, and delayed eligibility.

What does the independence of the agency mean to you?

*Answer.* Independence is at the core of the IG mission. I believe that tone at the top is critical to this mission and intend to set a strong example of personal independence for the SSA OIG. I plan to ensure organizational independence by maintaining the appropriate professional rapport with the Commissioner and agency officials while making it clear that the IG's office must not be, or be perceived to be, under management's control. I will ensure that the SSA OIG performs all audits and investigations in compliance with applicable standards.

*Question.* How do you envision your responsibilities with regards to Congress?

*Answer.* I understand the important oversight role of Congress and believe that timeliness and transparency between the OIG and Congress is key to helping Congress fulfill its oversight function. My highest priority if I am confirmed as Inspector General of SSA will be to ensure that Congress continues to have confidence in the integrity and independence of the OIG. I will have regular communications with Congresspersons and their staff, through meetings, telephone calls, and other written communications.

*Question.* Can you commit to not taking any actions that, while within the scope of your authority, would seek to build a case for privatization and similar policies?

*Answer.* The Inspector General does not take policy positions and is non-partisan. Therefore, I can commit that I will not take any position related to privatization or similar policies.

*Question.* While provisions in specific retirement security bills do not always impact the SSA's mission, I believe that we need to consider retirement policy holistically. Social Security is a critical pillar of many American's financial security in retirement. It's my hope that we will be able to agree on helpful changes to retirement policy both in this Congress and going forward.

Should you be confirmed, will you commit to working with Congress to help provide expertise and move bipartisan retirement security legislation?

*Answer.* If confirmed, I commit to providing expertise to Congress if requested. While the OIG does not take policy positions, the OIG is required to review existing and proposed legislation and regulations for their impact on the economy and efficiency of the SSA's programs and operations and the prevention of fraud and abuse. If confirmed, the SSA OIG and I will perform that reviewing function diligently and comprehensively.

*Question.* Federal law requires agencies to bargain in good faith with the unions representing their workforce—an obligation that the President cannot overturn by executive order. If confirmed, the Senate expects you to follow the law.

Will you hold SSA to honor its collective bargaining agreements by rescinding the unilateral changes SSA has made, and not make further unilateral changes?

*Answer.* To my knowledge, the SSA OIG was not involved in the agency's decisions regarding the collective bargaining agreement or any changes made. If a member requests that the OIG review whether the agency is in compliance with Federal labor laws, regulations, or court orders, if confirmed, I will work with the OIG staff and the requesting member to consider the request.

*Question.* Will you hold SSA to honor the terms of expired collective bargaining agreements until reaching a new agreement, by rescinding unilateral changes and not making further unilateral changes?

*Answer.* To my knowledge, the SSA OIG does not get involved in issues related to the negotiation of collective bargaining agreements. If a member requests that the OIG review whether the agency is in compliance with Federal labor laws, regulations, or court orders, if confirmed, I will work with the OIG staff and the requesting member to consider the request.

*Question.* If SSA and its workforce seek to negotiate a new collective bargaining agreement, will you commit to bargaining in good faith with the unions representing SSA's workforce, and do everything in your power to reach an agreement without resorting to the Federal Service Impasses Panel to impose terms?

*Answer.* It is my understanding that the SSA OIG does not get involved in negotiations related to collective bargaining agreements. If a member requests that the OIG review whether the agency is in compliance with Federal labor laws, regula-

tions, or court orders, if confirmed, I will work with the OIG staff and the requesting member to consider the request.

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QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

*Question.* SSA collects sensitive data on nearly every U.S. citizen, and improper or unauthorized disclosure of this data has the potential to negatively affect hundreds of millions of Americans.

Do you believe the OIG has the requisite skills and expertise to perform the assigned tasks related to cybersecurity and information technology?

*Answer.* I do not have enough information to know whether the OIG has the requisite skills and expertise to effectively audit or investigate cybersecurity and information technology issues at SSA. If confirmed, I will work to assess the OIG's capabilities in this area as I believe IT and cybersecurity at SSA are critical issues facing the agency and the OIG must work with the agency to make improvements in these areas.

*Question.* Do you view it as part of the IG's responsibilities to ensure SSA's networks and data are adequately protected against theft or breach, or merely to evaluate information security policies?

*Answer.* While the IG does not have the power to implement changes at the SSA related to network and data protection, I view the IG's role as more than merely evaluating security policies. I believe the IG should assess the strengths and weaknesses of the IT infrastructure to determine whether data is adequately protected, along with reviewing data protection policies and procedures and compliance with them.

*Question.* In your view, is the IG the individual or organization best suited to evaluate SSA's information security programs and practices and recommend improvements to the agency, or to conduct annual Federal Information Security Modernization Act (FISMA) audits?

*Answer.* I don't have enough information to assess the OIG's ability to evaluate SSA's information security programs and practices. If confirmed, I will work to determine if the OIG has the requisite skillset to review information security programs and practices and the annual FISMA audits. In order to make such a determination, I will work with the CIGIE Information Technology Committee and work with other IGs to evaluate best practices and necessary skillsets.

*Question.* Would these tasks be more effectively performed by an outside organization that specialized in information technology and cybersecurity?

*Answer.* If confirmed, I will assess whether an outside organization would have more expertise related to evaluating SSA's information security programs and practices. I will also evaluate what other IGs are doing in this area. Because information security is a government-wide issue, I would also want to consult with CIGIE's Information Technology Committee and GAO regarding best practices.

*Question.* Recent FISMA audit reports have found that "inadequate access controls allowed programmers to have unmonitored access to various systems functions, while other users had inappropriate access to software."

Do you view correction of these shortcomings as a responsibility of OIG, or simply of SSA's leadership?

*Answer.* The OIG has responsibility to evaluate important issues like this one and report on its findings. Ultimately, agency leadership has the power and responsibility to implement changes in policy and operations where warranted.

*Question.* How will you ensure that shortcomings identified in past FISMA audits are rectified or mitigated?

*Answer.* The OIG can press agency management on making the corrections. The OIG can continue to evaluate the issues and publish reports to hold agency management accountable. The OIG can also bring these issues to the attention of Congress to enable it to make appropriate inquiries of agency management.

PREPARED STATEMENT OF GORDON HARTOGENSIS, NOMINATED TO BE  
DIRECTOR, PENSION BENEFIT GUARANTY CORPORATION

Thank you, Chairman Hatch, Ranking Member Wyden, and distinguished members of the committee. It is an honor to appear before you today as you consider my nomination to be Director of the Pension Benefit Guaranty Corporation (PBGC).

I want to thank the President of the United States for nominating me and Secretary Acosta for recommending me. I am here today with my wife Grace and my two daughters Alexia and Penelope, and I also want to thank them for their support.

My journey to this appointment began when I was a teenager. I grew up in a middle-class family in Rockville, MD and attended Montgomery County public schools. My father served on the Rockville City Council and taught me about the importance and honor in public service. I have fond and proud memories of visiting city hall, attending public events, and watching him solve the city's problems. I hope to have the chance to give my family that same sense of pride.

If confirmed, I would be honored to dedicate myself to work towards the goal of retirement security of more than 40 million Americans. The PBGC is in a difficult financial position today. While simulations show that the single-employer program is likely to improve during the next decade, the multiemployer program continues to decline and has a net deficit of \$65 billion. Congress tried to address this multi-employer deficit by enacting the Multiemployer Pension Reform Act (MPRA) legislation in 2014. However, it has become clear that MPRA is not enough and further congressional action is necessary.

Additionally, the PBGC has operational issues that must be addressed. The single-employer program manages a trust fund with \$106 billion that must be strategically invested to offset the program's liabilities. The agency also administers single-employer plans and provides financial assistance to insolvent multiemployer plans that together cover millions of Americans who count on these pensions. Finally, challenges with information technology at the PBGC must be addressed, with a particular emphasis on cybersecurity. The PBGC, as a repository for large amounts of personal financial data, must be vigilant in protecting this information that is all too often targeted by hackers seeking financial gain.

Given the large issues facing the agency, I believe that the PBGC would benefit from the perspective of an outsider who can review these issues with fresh eyes and who has a professional track record of addressing problems with technological and financial savvy.

The multiemployer deficit will require a consensus-builder at the head of the PBGC. The various stakeholders involved—employees, retirees, unions, employers, Congress, and taxpayers—will all need to be listened to as we attempt to develop solutions to the crisis. During my days of building Petrolsoft with two friends from Stanford, I worked with stakeholders within major energy companies to implement our logistics systems. These included bringing together truck drivers, dispatchers, terminal managers, franchisees, IT professionals, and corporate management. There were many competing objectives that had to be worked out to make our projects successful.

The PBGC will require a strong manager who can lead the various teams within the agency. As an owner of two technology companies, I have managed teams of salespeople, operations staff, financial professionals, call centers, and technology groups. I understand how to motivate and inspire employees as well as listen to and resolve their concerns.

I have finance and investment experience that will be useful in running the PBGC from an early career on Wall Street, from running two companies, and from managing a private equity and angel investment portfolio. At Credit Suisse, I learned how financial markets work. As an owner of two companies that were acquired, I built financial models to determine valuation and participated in Q&A sessions with Wall Street analysts. Both companies had retirement plans that I helped to merge into the plans of their acquirers. Managing an investment portfolio, I evaluated growing companies for investment worthiness and advised many on raising money or improving operations.

The PBGC will benefit from an experienced technology leader at the helm. I have managed teams of developers and applied best practices from industry standards. I have built systems that integrated with other enterprise systems. I have worked to improve data security and to leverage the cost benefits of cloud computing.

If confirmed as Director of the PBGC, I pledge to work with Congress to ensure the pension security of all Americans. The multiemployer plans deficit will require strong action from the Director of this agency. The perspectives of all stakeholders in the system will need to be understood. The growing crisis that is expected to make the multiemployer program insolvent by 2025 must be handled while, at the same time, our pension insurance system must be made sustainable. This will require an active communication strategy from the Director of the PBGC. Additionally, data must be used effectively to both educate and uncover opportunities.

If confirmed, I would be honored to dedicate myself to work towards the goal of retirement security of more than 40 million Americans. My mother is living on a pension, and I understand the importance of defined benefit pension plans, as they allow so many hard-working Americans to retire with dignity and enjoy the fruits of a lifetime of work. I would like nothing more than to follow in my father's footsteps by giving back and applying the skills I have acquired in service to my country.

Thank you for allowing me to appear today. I am happy to answer any questions.

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## SENATE FINANCE COMMITTEE

### STATEMENT OF INFORMATION REQUESTED OF NOMINEE

#### A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Gordon Hartogenesisis.
2. Position to which nominated: Director, Pension Benefit Guaranty Corporation.
3. Date of nomination: May 14, 2018.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: June 17, 1970; Washington, DC.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):
  - Thomas S. Wootton High School, September 1984–June 1988; high school diploma.
  - Stanford University, September 1988–June 1992; BS computer science, April 1993.
  - Columbia University, September 2014–December 2015; MS technology management, February 2016.
9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment for each job):
  - Hartogenesisis Family Trust, Greenwich, CT.  
Trustee, September 2011–present.  
Managed assets, VC, angel investments.
  - Auric Technology, New York, NY.  
CEO and co-founder, January 2004–August 2011.  
Ran CRM software company.
  - Aspen Technology, Del Mar, CA.  
Divisional vice president, June 2000–June 2002.  
Managed Petrolsoft product line.
  - Petrolsoft Corporation, Del Mar, CA.  
COO and principal, August 1993–June 2000.  
Built supply chain software for oil companies.

Credit Suisse, New York, NY.  
FX trader, July 1992–July 1993.  
Traded USD/Yen.

10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):  
N/A.
11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.*, limited partners, non-voting, etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):  
N/A.
12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):  
Belle Haven Land Company Homeowners Association, Greenwich, CT.  
President, June 2013–June 2018 (term ends June 4, 2018).  
Council on Foreign Relations, New York, NY.  
Term member, June 2004–June 2009.
13. Political affiliations and activities:
  - a. List all public offices for which you have been a candidate dating back to the age of 18.  
N/A.
  - b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.  
N/A.
  - c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years prior to the date of your nomination.
    - Georgians for Isakson (Senator Johnny Isakson) \$2,700 2015.
    - Georgians for Isakson (Senator Johnny Isakson) \$2,700 2015.
    - Republican Party of Kentucky \$10,000 2014.
    - Republican Party of Kentucky \$10,000 2013.
    - Connecticut Republican SCC \$250 2013.
    - McConnell Senate Committee '14 \$2,500 2012.
    - McConnell Senate Committee '14 \$2,500 2012.
    - Meek for Congress \$2,250 2012.
    - Meek for Congress \$250 2012.
    - Meek for Congress \$250 2012.
    - Congressional Trust 2010 \$2,000 2010.
    - Connecticut Republican SCC \$1,000 2010.
    - Portman for Senate Committee \$2,400 2010.
    - Tom Foley for Senate \$1,000 2009.
    - Republican Party for Kentucky \$10,000 2008.
    - Republican Party for Kentucky \$10,000 2007.
    - McConnell Majority Committee \$4,600 2007.
14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 18):  
Thomas S. Wootton High School valedictorian 1988.

15. Published writings (list the titles, publishers, dates, and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published materials you have written):  
N/A.
16. Speeches (list all formal speeches and presentations (*e.g.*, PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates):  
N/A.
17. Qualifications (state what, in your opinion, qualifies you to serve in the position to which you have been nominated):  
For 25 years I have been engaged in business activities that have included finance management, risk evaluation, problem-solving, negotiation, foreign exchange, and responsibility for the management of large investment portfolios. I have started up successful companies and sold companies. I have done consensus- and team-building and worked with large organizations. I believe this experience provides the necessary background to lead the PBGC, a position that requires sound financial decision-making and the ability to work with corporate leaders to provide for the pension security of American workers.

#### **B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.  
Yes.
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.  
No.
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.  
No.
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.  
Yes.

#### **C. POTENTIAL CONFLICTS OF INTEREST**

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could involve potential conflicts of interest in the position to which you have been nominated.  
Please see my ethics agreement accompanying my financial disclosure report.
2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years (prior to the date of your nomination), whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.  
N/A.
3. Describe any activity during the past 10 years (prior to the date of your nomination) in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.  
N/A.
4. Explain how you will resolve any potential conflict of interest, including any that are disclosed by your responses to the above items.

Please see my ethics agreement accompanying my financial disclosure report. In the event a potential conflict of interest arises, I would seek out and follow the advice of the agency ethics counsel.

5. Two copies of written opinions should be provided directly to the committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

See item 4.

#### D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (*e.g.*, an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

N/A.

#### E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

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#### QUESTIONS SUBMITTED FOR THE RECORD TO GORDON HARTOGENSIS

##### QUESTIONS SUBMITTED BY HON. RON WYDEN

*Question.* Do you believe that broadening the PBGC's premium base or other policies that solely seek to ensure the solvency of the PBGC's insurance program for multiemployer pension plans by raising premiums are a complete solution to the solvency crisis that some multiemployer pension plans—and the workers and retirees who participate in those plans—are facing?

*Answer.* I have not proposed a comprehensive solution. There is no easy solution to insolvent multiemployer plans. Congress has a critical role to play in the solution to the multiemployer funding crisis. There are many options that need to be examined. If confirmed, I look forward to working with the Joint Select Committee on Solvency of Multiemployer Pension Plans, Congress, and the President as solutions are proposed. Further, if I am confirmed, I look forward to fully and faithfully im-

plementing any solution that Congress enacts that is within the jurisdiction of the PBGC.

*Question.* Do you believe that workers and retirees currently bear the economic burden of PBGC premiums? Please explain your answer.

*Answer.* Under ERISA sections 4006 and 4007, plans covered by title IV must pay premiums to PBGC. Premium rates are set by law. If confirmed, I look forward to working with the Joint Select Committee on Solvency of Multiemployer Pension Plans, Congress, and the President on proposals regarding PBGC premiums.

*Question.* If you are confirmed, do you pledge to make PBGC technical staff available to members of Congress and their staff (regardless of the political affiliation) for the purpose of formulating and evaluating pension proposals?

*Answer.* Yes. If confirmed, I will make PBGC technical staff available to members of Congress and their staff (regardless of the political affiliation). PBGC staff have great knowledge, and their technical expertise will be helpful to members and staff.

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QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

*Question.* The next Director of the Pension Benefit Guaranty Corporation (PBGC) will be coming into a dire situation. More than 100 multiemployer plans are in critical status and expected to become insolvent within the next 20 years. To make matters worse, the PBGC multiple employer insurance program is projected to be insolvent by 2025. In such a scenario, many retirees, including many in my home State, could hope at best to receive pennies on the dollar in terms of a PBGC benefit should their pension plan fail. No one wants to see this happen. As PBGC Director, how would you see your role in assisting Congress in developing solutions to address troubled plans and strengthen the PBGC multiemployer pension program? Are there any particular experiences or insights you think you will bring to the job that will be beneficial to this discussion?

*Answer.* If confirmed, I will work with the professionals at the PBGC, the Joint Select Committee on Solvency of Multiemployer Pension Plans, Congress, the President, the board of directors, and the diverse array of stakeholders, such as labor unions, employers, and pension managers, as solutions are proposed. The PBGC's Pension Insurance Modeling System (PIMS) can produce simulations that can assist the Joint Select Committee on Solvency of Multiemployer Pension Plans to evaluate proposals both in isolation and in combination. Ideas can be evaluated based on cost and sustainability and the data analytics capability of the PBGC can bring some objectivity to the process. I will fully and faithfully work to ensure that the PBGC provides any technical assistance requested.

*Question.* One plan put forward and supported by many retirees is the Butch Lewis Act. This plan would provide a combination of low-interest loans and financial assistance to troubled plans. Some of the proponents of this plan have suggested it could be implemented at less cost than shoring up the PBGC's multiemployer pension benefit program directly. Is your understanding that passage of a proposal like the Butch Lewis Act would solve the PBGC's solvency issues or would the PBGC's multiemployer program still require additional funds to remain solvent over the long term?

*Answer.* If confirmed, I look forward to being briefed on the legislation, consulting with PBGC staff, and reviewing the data analytics to know if this proposal would be sufficient to address the solvency problem. If confirmed, one of my top priorities would be to provide objective data to Congress on the cost and sustainability of all proposed solutions to the multiemployer crisis.

*Question.* Oversight of pension plans and enforcement of the Employee Retirement Income Security Act (ERISA) is shared between multiple agencies and departments, including the PBGC. What is your understanding of PBGC's role in ensuring pension plan assets are not put at risk by decisions of an employer sponsor or plan administrator that may not be in the best interest of the beneficiaries?

*Answer.* A key tenet of the PBGC's mission is to support defined benefit pension plans on behalf of the beneficiaries. As an insurer, the PBGC evaluates decisions by employer sponsors or plan administrators according to how such decisions impact its overall liabilities. The PBGC has a responsibility to look after the interests of the plan beneficiaries regardless of how its liabilities are impacted and should work

with all other regulating agencies and departments to ensure that workers and retirees are protected.

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QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

MULTIEMPLOYER PLANS

*Question.* Today, the PBGC insures more than 10 million people who are covered in more than 1,400 multiemployer pension plans. As economic conditions have improved, the overall health of these plans has also improved. However, about 10 percent of plans, with about 1 million participants, are in “critical and declining” status.

This includes several multiemployer pension plans with Washington participants or retirees:

- The Bakery and Confectionery Union Pension Fund,
- The Western States Office and Professional Employees,
- Boilermaker-Blacksmith National Pension Trust, and
- International Association of Machinists and Aerospace workers.

The PBGC currently provides financial assistance to 72 multiemployer plans covering over 63,000 participants currently receiving benefits, with a maximum benefit of \$12,870 per year. This often amounts to a cut for retirees, compared to their earned pension benefits.

The PBGC’s multiemployer program is likely to run out of money by the end of fiscal year 2025.

What is your plan to help ensure the solvency of these multiemployer pension plans and protect the earned retirement benefits for these workers and retirees?

*Answer.* Unfortunately, there is no easy solution to insolvent multiemployer plans. Workers have worked hard for pensions that they reasonably expect upon retirement. Congress plays a critical role in reaching a solution. If confirmed, I look forward to working with the Joint Select Committee on Solvency of Multiemployer Pension Plans and Congress to provide technical support as requested. If confirmed, I will fully and faithfully implement any solution enacted by Congress within the jurisdiction of my leadership.

Please see continuation of answer below.

*Question.* What is your plan for addressing the financing challenges faced by the PBGC multiemployer pension program?

*Answer.* There are many facets to the problems confronting defined benefit pension plans. Congress plays a critical role in addressing the financing challenges faced by the PBGC multiemployer pension program. If confirmed, I intend to provide technical assistance, as requested, to the Joint Select Committee on Solvency of Multiemployer Pension Plans and Congress, as Congress works to solve issues regarding critical and declining plans, and those involving the structural problems of orphan liabilities and withdrawal liability.

*Question.* What are the different challenges facing the PBGC multiemployer pension program compared to the PBGC single-employer program?

*Answer.* The PBGC multiemployer program faces many structural challenges that don’t exist within the single-employer program. For example, the problems of orphan liabilities and withdrawal liabilities only exist within the multiemployer program. Individual company bankruptcies impact other companies connected through multiemployer plans and can create what is called a “contagion effect.” Similarly, downturns in one industry can cause instability in other related industries. Therefore, solutions to structural problems in the multiemployer space must be holistic and comprehensive.

PBGC LONG-TERM SOLVENCY

*Question.* At the end of Fiscal Year 2017, PBGC had a total deficit of \$76.0 billion. The single-employer program contributes \$10.9 billion to the deficit, and the multi-employer program contributes \$65.1 billion to the deficit. The PBGC multiemployer

pension program is projected to run out of money by 2025. The single-employer plan is projected to remain solvent over the next 10 years.

Some have suggested raising premiums on employers and cutting retirement benefits for current and future retirees as a way to address the multiemployer insolvency issue. Raising premiums on employers will result in reduced retirement benefits for current employees and retirees—many of whom may not be able to go back to work and make up the lost income from the pension benefit cuts. I believe we should protect earned pension benefits for our workers and retirees.

Given the structural deficits facing the PBGC, what are your plans for restoring the PBGC to long-term structural solvency?

Answer. Unfortunately, there is no easy solution to insolvent multiemployer plans. Workers have worked hard for pensions that they reasonably expect upon retirement. Congress plays a critical role in reaching a solution. If confirmed, I look forward to working with the Joint Select Committee on Solvency of Multiemployer Pension Plans and Congress to provide technical support as requested. If confirmed, I will fully and faithfully implement any solution enacted by Congress within the jurisdiction of my leadership.

*Question.* What other strategies could we use to address the long-term solvency of our Nation's multiemployer plans and of the PBGC?

Answer. Beyond addressing the structural deficit, I believe we could look for opportunities to improve the robustness of the data analytics within the PIMS system.

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QUESTIONS SUBMITTED BY HON. JOHN THUNE

*Question.* You stated in your testimony that the MPRA is insufficient to address the impending multiemployer pension crisis. What changes would you support, or what direction should the Joint Select Committee on Solvency of Multiemployer Pension Plans take?

Answer. Proposals to address these problems should be fully evaluated using appropriate economic modeling and data analysis. I do not believe there is one easy fix. It is possible that the solution to this pension crisis will be a combination of things. I also believe this should be a collaborative process. If confirmed, I will work closely with the Joint Select Committee on Solvency of Multiemployer Pension Plans as well as with Congress, the President, and stakeholders.

*Question.* You correctly identify the obligation of the PBGC to protect the financial data of tens of millions of Americans. Can you expand on your experience with ensuring cybersecurity in the private sector and how you would apply that if confirmed?

Answer. I have had significant experience in the technology sector, as an owner of two software companies and as a senior level manager in a NASDAQ-traded technology firm. In all cases, I had significant responsibility in overseeing information technology operations. Cybersecurity was always a critical issue. The PBGC, as in all other Federal agencies dealing with large amounts of personal data, must be constantly attuned to cyber-threats as well as to ways to prevent breaches.

If confirmed, my approach to ensuring proper cybersecurity procedures at the PBGC would be to first meet with the Chief Information Officer, the Risk Management Officer, and the PBGC Inspector General, to better understand the PBGC's specific challenges. There are other weaknesses that are commonly found across large organizations. For example, I would ask to review the policies of password protection and software maintenance. Weak password policies are often the source of security breaches and can be strengthened by measures such as requiring two factor authentication, regular password updates, and strong password character requirements. If it is not already implemented, it is worth exploring cybersecurity strategies that are classified by the name "active defense." These are dynamic strategies that work to significantly raise costs and level of difficulty for hackers and cyber-adversaries. Software maintenance is also extremely important since known security flaws in software that are not patched in a timely manner can often provide easy access for hackers. Finally, I would make sure that phishing schemes and impersonation scams are properly anticipated. It is especially true in the older demographic populations that hackers and criminals will attempt to gather personal information via falsified emails or fake phone calls which can be used to withdraw money or

to gain access to online accounts. It often requires a proactive communications strategy as well as a well-conceived plan for authentication to prevent such attacks.

*Question.* The MPRA classifies multiemployer plans into four funding status categories ranging from the “deep red” critical and declining status to “green” status. Are these categories and the data used to determine them sufficient for PBGC’s considerations?

*Answer.* The accuracy and usefulness of the four categories depends largely upon the criteria used in the classification. Two factors in particular have an especially large impact—time horizon and discount rate. As a general principle, I am a strong proponent of transparency and believe that the models should reflect reality as closely as possible. However, changes to these variables will impact funding requirements, and sudden shocks could destabilize a very fragile multiemployer pension system. Therefore, if confirmed, I would recommend moves toward greater transparency in the warning systems but also advise that any changes be made prudently.

*Question.* How might you apply your background in data analytics to uncover new solutions to address the growing number of plans facing insolvency?

*Answer.* If confirmed, I would hope to leverage the PIMS forecasting system to evaluate the current proposals from the Joint Select Committee on Solvency of Multiemployer Pension Plans based on cost and sustainability. Also, I would look for ways to evaluate ideas in combination so that they could be viewed along with existing proposals.

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QUESTIONS SUBMITTED BY HON. TIM SCOTT

CREDIT RATING AGENCIES

*Question.* There is little dispute that the lack of due diligence by the major credit ratings firms, Standard and Poor’s, Moody’s, and Fitch, exacerbated the 2008 financial crisis. One of the few provisions of the Dodd-Frank Act that had broad bipartisan support was section 939A, which required all Federal agencies to remove credit rating agency use requirements in their regulations. Many State insurance regulators have since followed suit.

Unfortunately, there are many large pension funds that continue to require credit ratings by specific ratings firms by name as a threshold for fixed-income securities purchases in their investment guidelines. In some of the more absurd situations, major pension funds were suing a certain ratings firm for its negligence during the financial crisis and still requiring the use of ratings from the same firm.

It would seem that when there is better research by a ratings firm around a specific potential securities offering than that provided by another named ratings firm, the PBGC should want the pension funds it guarantees to use the better research and not just check the box with the firm named in its investor guidelines.

Please answer the following with specificity.

As the guarantor of last resort for the largest pension funds, shouldn’t the PBGC be using all of the authority it has to ensure that they are operated in a safe and sound manner when it comes to the use of credit rating agencies?

*Answer.* If confirmed, I look forward to a briefing regarding PBGC’s authority over the use of credit rating agencies. I agree that PBGC should be using all of its authority to ensure that pension funds are being operated in a safe and sound manner.

*Question.* Will you explore your authority to direct pension funds to open their investor guidelines to allow investments with ratings from any SEC-approved Nationally Recognized Statistical Ratings Organizations?

*Answer.* Yes. If confirmed, I look forward to a briefing regarding the PBGC’s authority on investor guidelines.

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QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

*Question.* The Multiemployer Pension Reform Act allows the trustees of underfunded multiemployer plans to propose cutting retiree benefits as a way to restore

the long-term solvency of these plans. I am very concerned about efforts to cut retiree benefits as a way to stabilize pension plans. Retirees have planned for their futures based on these benefits, and maintaining them seems to me to be a matter of simple fairness. Do you agree with policies like those in MPRA that allow plans to cut retiree benefits?

Answer. It is important to support the ability of retirement plans to honor commitments made to working Americans. I believe early warning systems to correct funding levels and maintain long-term solvency before a plan reaches such a dire stage should be in place or improved if they are failing to prevent the need for benefit cuts.

*Question.* In your opening statement, you said that the Multiemployer Pension Reform Act “is not enough and further congressional action is necessary.” Do you believe further congressional action should include allowing pension plans more flexible authority to cut retiree benefits, or should this authority be rolled back and replaced with other stabilizing measures? If the latter, what types of authorities would you like to see Congress allow?

Answer. It is important to support the ability of retirement plans to honor commitments made to working Americans. A number of options should be examined, and their impacts thoroughly considered, especially the effect on retirees. The best solution may be a combination of ideas rather than only an extension of current policy.

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PREPARED STATEMENT OF HON. ORRIN G. HATCH,  
A U.S. SENATOR FROM UTAH

WASHINGTON—Senate Finance Committee Chairman Orrin Hatch (R-Utah) offered the following opening statement at a hearing to consider Gail Ennis to be Social Security Administration (SSA) Inspector General and Gordon Hartogensis to be Director of the Pension Benefit Guaranty Corporation (PBGC).

This morning we are meeting to discuss the nomination of Gordon Hartogensis to be the director of the Pension Benefit Guaranty Corporation and Gail Ennis to be the Inspector General for the Social Security Administration or the SSA.

Mr. Hartogensis, if confirmed, you will serve during one of the most challenging periods the PBGC has ever faced. The Congressional Budget Office projects that the PBGC’s multiemployer insurance system will exceed resources available to pay claims by \$45 billion. CBO also projects that, under current law, the PBGC multiemployer program will become insolvent by 2025. These sobering statistics clearly understate the challenges the PBGC faces, particularly in regards to multiemployer pension plans.

Analyzing pension plans and challenges faced by various plans, including those that the PBGC deals with or may deal with in the future, involves often-complicated computational and forecasting abilities, understanding, and skills. It pleases me to learn that Mr. Hartogensis has a deep background in many complex analytical skills that will be useful in the analyses he will, should he be confirmed, have to review and assess. My understanding is that Mr. Hartogensis, in his work in the private sector, successfully made use of his analytical skill set in analyzing industry and economic trends, as well as industry-specific projections of future possible economic and industry outcomes. As well, his skill set includes, as I understand it, abilities to characterize, estimate, and assess uncertainties surrounding projections of future outcomes. Those skills are critical for the types of analyses performed in the pension space generally, performed at the PBGC, and assessed at the PBGC.

Once again, this is a sobering moment for the pension system, especially multiemployer pensions. Working to help ensure promises of lifetime retirement income and security in general is challenging, and those challenges are certainly present at the PBGC.

I have confidence that the analytical skill set possessed by Mr. Hartogensis will, should he be confirmed, be of high value at the PBGC in helping ensure secure retirements for a large number of hardworking Americans.

Ms. Ennis, as I’m sure you know, the Office of the Inspector General at the Social Security Administration has several responsibilities, all aimed at promoting economy, efficiency, and effectiveness within the administration of SSA programs and

operations. The Office of Inspector General is also responsible for preventing and detecting instances of fraud, waste, and abuse in these programs.

Moving forward, should Ms. Ennis be confirmed, there will be plenty of work to do. The SSA continues to struggle in its efforts to modernize its information technology, including a high-cost, multi-year attempt to update its disability case processing system. And, under the Obama administration, in apparent attempts to pressure congressional appropriators, political appointees put forward budget numbers which neither I nor SSA itself have been able to corroborate, despite years of trying.

To clarify, that means budget numbers were apparently deliberately massaged to influence congressional funding decisions. And, until recently, SSA's responsiveness to Republicans in the Senate left a lot to be desired. To this day, we still have not received field office waiting time data from the agency. It sure is hard to have an informed discussion about how SSA is doing without even knowing how long people are waiting at SSA offices in Eugene, in Salt Lake City, or anywhere else for that matter. These, among other issues, require an effective Inspector General, and I believe that Ms. Ennis is well-equipped to be just that. Perhaps most relevant to this committee, the Inspector General is required to inform both SSA and Congress about agency problems and deficiencies. Once identified, the Inspector General also recommends corrective action in order to further improve the efficiency of the agency.

Ms. Ennis's legal skills that she has built over her career directly relate to the Inspector General position she has been nominated for. Her experience managing large teams, finding fraud, building reporting structures, and more will help assist her in this new role. I believe you will remain committed to acting closely with both the administration and the Justice Department, but also acting independently when needed. Thank you for your willingness to serve.

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PREPARED STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON

The Finance Committee meets this morning to consider two nominations: Gail Ennis to serve as Inspector General of the Social Security Administration, and Gordon Hartogensis to serve as the Director of the Pension Benefit Guaranty Corporation.

Let me start my remarks with Ms. Ennis's nomination. Here's the bottom line on why Social Security's Inspector General is such an important role: it is absolutely essential that the Federal Government wring value out of every last dollar that goes into Social Security. The Social Security Inspector General plays a major part in identifying ways that the program can be improved, where it has misstepped, and how the Congress can strengthen it with legislative changes. That, in my view, ought to be a bipartisan cause.

It has been over 2 years since Social Security has had a confirmed IG—which is too long, in my book. So we're fortunate to have a nominee before the committee today.

Ms. Ennis comes from outside the world of social insurance, but she has a significant background in auditing financial institutions and working with government agencies. In my view, sometimes it's a good idea to bring in somebody with a fresh eye to administration jobs like this one.

If confirmed, Ms. Ennis will face a lot of challenging issues, from the deterioration of service at SSA, to the disability backlog, to IT upgrades. This committee will count on her to work with us as we continue to make improvements to the program, and she and her team will need to listen closely to whistleblowers who come forward with information about where problems have come up.

But setting aside the specifics of this nomination for a moment, there's also going to be a challenge for the Congress in the months and years ahead. The IG's office recently put out an eye-opening report about the huge increase in work waiting to be done at SSA's Program Service Centers. Those centers perform some of the most basic functions at SSA that are essential to maintaining beneficiary records. Notably, the IG's report cited budget constraints as part of the problem. For several years in our annual Views and Estimates letter, the chairman and I have advocated that SSA receive the budget it needs to get the job done. We can't expect world-class service when the Congress provides a third-class budget.

Next, Mr. Hartogensis's nomination to lead the PBGC. In short, the PBGC is facing serious challenges. This is an issue that Chairman Hatch and Senator Brown know very well, and they're hard at work on solutions on a bipartisan basis.

As many as 1.5 million Americans are enrolled in multiemployer pension plans that could become insolvent in the next few decades. If that happens, it'll bankrupt the PBGC's insurance program for *all* multiemployer pensions, affecting all who are enrolled. So this crisis is not some academic matter—it's a question of whether millions of Americans will be able to get by in old age.

Mr. Hartogensis has had a successful career in the private sector, but he doesn't have experience in policy dealing with pensions or retirement security. He's got the right political connections to be a nominee in this particular Senate, but he has no record from which this committee can draw conclusions about what he'd do as the head of PBGC.

Again, I don't necessarily believe nominees ought to be disqualified just because they come to administration positions from the outside. However, Mr. Hartogensis will need to provide answers today with actual substance about how he wants to tackle the challenges PBGC is facing.

Let me thank Ms. Ennis and Mr. Hartogensis for joining the committee today. I'll have questions for both on a variety of issues, and I look forward to hearing their answers.

