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NOMINATIONS OF THOMAS PETER FEDDO, NAZAK NIKAKHTAR, IAN PAUL STEFF, MICHELLE BOWMAN, PAUL SHMOTOLOKHA, AND ALLISON HERREN LEE

HEARING

BEFORE THE

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

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

ON

NOMINATIONS OF:

THOMAS PETER FEDDO, OF VIRGINIA, TO BE ASSISTANT SECRETARY, TREASURY FOR INVESTMENT SECURITY

NAZAK NIKAKHTAR, OF MARYLAND, TO BE UNDER SECRETARY, COMMERCE FOR INDUSTRY AND SECURITY

IAN PAUL STEFF, OF INDIANA, TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL, UNITED STATES AND FOREIGN COMMERCIAL SERVICE

MICHELLE BOWMAN, OF KANSAS, TO BE A MEMBER, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PAUL SHMOTOLOKHA, OF WASHINGTON, TO BE FIRST VICE PRESIDENT, EXPORT–IMPORT BANK OF THE UNITED STATES

ALLISON HERREN LEE, OF COLORADO, TO BE A MEMBER, SECURITIES AND EXCHANGE COMMISSION

JUNE 5, 2019

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NOMINATIONS OF THOMAS PETER FEDDO, NAZAK NIKAKHTAR, IAN PAUL STEFF, MICHELLE BOWMAN, PAUL SHMOTOLOKHA, AND ALLISON HERREN LEE

WEDNESDAY, JUNE 5, 2019

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

The Committee met at 9:52 a.m., in room SD–538, Dirksen Senate Office Building, Hon. Michael Crapo, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN MIKE CRAPO

Chairman CRAPO. This hearing will come to order.

First of all, I want to thank our six nominees who are here to serve in five different agencies. As you are well aware, we have had votes scheduled today at eleven o'clock. So we are trying to adjust how we move along, and we have changed the instructions to you several times this morning.

Let me tell you how we will proceed. At one point, we had asked you to just forego your opening statements to give us more time for Senators to ask questions. The Senators have indicated that they would like to have you make your opening statements, if you would like to make one, and so any of you who would like to—and I invite you to—can make your opening statements.

We will then proceed normally from there. We are going to ask everybody here to help us move along quickly with answers and questions, and hopefully, we will get through this with no difficulty.

With that, this morning, we have first Mr. Thomas Peter Feddo. He is nominated to be the Assistant Secretary of Treasury for Investment Security.

Next, the Honorable Nazak Nikakhtar. Did I get it right? Where are you? There you are.

Then next, Mr. Ian Paul Steff.

By the way, Nazak is to be the Under Secretary of Commerce for Industry and Security.

Next, Mr. Ian Paul Staff to be the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

Then we have the Honorable Michelle Bowman to be a member of the Board of Governors of the Federal Reserve System.

We next have Mr. Shmotolokha—I got it pretty close—who has been nominated to serve as the First Vice President and Vice Chairman of the Export–Import Bank of the United States.

And, finally, we have Ms. Allison Lee, who is nominated to serve as a Member of the Securities and Exchange Commission.

I welcome all of you to the hearing today.

I see friends and family behind you, and I welcome you to introduce them, if you would like to do so as well, when we turn the time over to you.

At this point, I am going to forego any further statement of my own so that we can move on more quickly.

Senator Brown does have a statement, and let me turn to you, Senator Brown.

OPENING STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Chairman Crapo, and thanks to all of you, and welcome to your families.

I know even though this hearing may be truncated, we do not want that to happen. So I want you to do whatever you want to say in your opening statements, and do not feel pressured in time in terms of answering questions or anything else.

Your family is here. It is a big moment for them. It is a big moment for you. If for reasons of votes—and the Chairman and I have talked. He has not agreed to this, but if we do need to bring you back for questions, if Members do not get a chance to ask questions because of the floor votes—I would also just mention the frustration on this side of the aisle that all this Senate seems to be doing is the Majority Leader just wants to jam through as many possible judges as possible as he can get through the Senate. That is why we have many of these votes today, especially considering the number of judges that the Majority Leader blocked in the Obama administration and now is trying to fill all these with very young judges.

So it is a power move from the Majority Leader. My relationship with the Chairman has been great, and we will continue to work together. We disagree on some of the bigger picture issues. We want to move on all of you, if we can. Some of you, I am happier with than others, as your public records and all.

But I want to just speak and with my opening statement give some thoughts, and then we will move forward. But these are all really important jobs, all six of you, and I do not think it is fair to you or to Members in both parties to get anything but a chance to do full questioning. Just the fact that there are six of you here is frankly too many—that is our decision, not yours—to bring you all together, considering the importance of your jobs and considering that all of us have questions, multiple questions for many of you, far beyond our 5 minutes. That is why it is rare to do six together and why I am not wild about doing six together. I understand the crunch of time, but that crunch of time is often artificially squeezed.

Let me say a few things. Mr. Feddo, thank you for joining us, first nominee to be Assistant Secretary of the Treasury for Investment Security, a position we created under the Foreign Investment

Risk Review Modernization Act of 2018, the bipartisan legislation that came out of this Committee. We are thrilled you are here.

We created this new position because of the critical role that CFIUS plays promoting U.S. national security from increasing threats from certain foreign investments. Yesterday we heard about how China has adopted new tactics to acquire American technology in sectors vital to our national security. It is why we passed this bill. It is why your job is so, so important.

Mr. Feddo currently serves as Deputy Assistant Secretary for Investment Security. He has played a key role in formulating the reforms last year and is now working to carry out the technical and structural changes under FIRRMA, including finishing the rulemaking to expand CFIUS's scope.

If confirmed, Mr. Feddo, you will need to continue this critical work. I know you have made progress. I look forward to hearing from you about next steps.

Ms. Nikakhtar, welcome. Nice that you are here. You have been nominated to serve as Under Secretary of Commerce for Industry and Security, responsible for a set of key U.S. national security, foreign policy, and economic objectives through application of effective U.S. and multilateral export controls and treaty compliance. Although Ms. Nikakhtar has extensive experience in international trade, she has more limited experience in national security and export control matters. If confirmed, she will be responsible for administering critical U.S. export control laws and regulations that cover all kinds of sensitive technology.

I hope you will work with your colleagues to navigate, Ms. Nikakhtar, the complex national security and political concerns that surround the export of sophisticated U.S. technology.

Mr. Steff is nominated to be Assistant Secretary of Commerce for Global markets and Director General of the U.S. and Foreign Commercial Service. Welcome. He will be responsible in that role for the ITA's work to advance U.S. business overseas and promote U.S. exports and fair trade rules. His current experience as Deputy Secretary for Manufacturing at Commerce and his prior experience working on economic development, providing an understanding of how to strengthen the competitiveness of U.S. industry. We count on you for that.

Ms. Bowman, welcome. Good to see you again. She is nominated to be a member of the Board of Governors for a full 14-year term, expiring in 2034. As a former State bank commissioner, she serves in the role designated for a Fed Governor with community bank experience.

At her first nomination hearing, I was concerned that Ms. Bowman would be a rubber stamp for Wall Street. I think I was right to be concerned about that. This Administration looks like a retreat for Wall Street executives. Far too many people with Wall Street connections and Wall Street bias have been nominated by this Administration to key regulatory positions.

I know you possess a deep understanding of community banks and are being nominated for a full 14-year term. I am concerned that you have too often taken the side on the Fed, the side of big banks and Wall Street, doing favors for Wall Street by relaxing capital standards and weakening stress tests and other postcrisis

safeguards. That Federal Reserve and the Trump nominees seem to have a collective amnesia about what happened in this country 10 years ago and the number of people that lost savings, lost lifetime savings, lost their jobs, lost their home.

I hope you will do, if confirmed, all that you can to ensure the regulatory system works for community banks, but for our financial system and protecting all consumers. So far, you have fallen short. I am hoping you will do better.

Mr. Shmotolokha is the nominee to be First Vice President of the EXIM Bank.

For 4 years, I have pushed EXIM to be fully reopened. The Vice President, apparently, and a handful of Republicans on this Committee have blocked the Export–Import Bank, costing thousands of manufacturing jobs in my State and tens of thousands, maybe hundreds of thousands of jobs around the United States because they have blocked—they have not seen fit to do what this Congress used to do bipartisanly, almost unanimously to support the Export–Import Bank.

We are counting on you to push back when they try to slow it and stop it and cripple that agency. Your work is especially important as the final nominee to the bank's board to be before this Committee.

Ms. Lee, welcome. She has been nominated to be Commissioner of SEC. If confirmed, she would return to the SEC at a critical time. I expect Ms. Lee to draw on her SEC enforcement experience while considering rules that would affect investor rights and remedies against wrongdoers and when weighing penalties in misconduct cases.

Your work is especially important in light of what I said earlier that this Administration has such a strong bias toward the most privileged in this country, whether it is Wall Street, whether it is corporations that ship jobs overseas, whether it is special interests that take advantage of people. We really count on you, Ms. Lee, in that job.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you, Senator Brown.

I know I said I was not going to make an opening statement, but I do need to respond to two things that you said.

Senator Brown and I do have an excellent working relationship. I just want to make it clear that there is plenty of precedent, both in this Committee as well as others, to have six nominees before us. Frankly, especially, I do not know of any significant controversy about any of the nominees before us today.

Second, with regard to the comments you made about us being jammed by unreasonable pressure to push votes on the floor for nominations of judges, I guess this is one where we are just going to have to continue to disagree. I think that the reason we are having these kinds of extensive votes is because we have been stopped from having votes in what I consider to be a reasonably and orderly process for the last 2½ years, and we are now moving forward with more votes because we have been in a battle, if you will, on the floor the Senate over getting two votes.

So, anyway, we have had this debate for many months and will continue to have it.

With that, before we proceed to the nominees, I do need to administer the oath to you. So would each of you please rise and raise your right hands.

Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FEDDO. I do.

Ms. NIKAKHTAR. I do.

Mr. STAFF. I do.

Ms. BOWMAN. I do.

Mr. SHMOTOLOKHA. I do.

Ms. LEE. I do.

Chairman CRAPO. And do you agree to appear and testify before any duly constituted committee of the Senate?

Mr. FEDDO. I do.

Ms. NIKAKHTAR. I do.

Mr. STAFF. I do.

Ms. BOWMAN. I do.

Mr. SHMOTOLOKHA. I do.

Ms. LEE. I do.

Chairman CRAPO. All right. Thank you. You may sit down.

With that, we will proceed in the order that I introduced you earlier, and so, Mr. Feddo, please make any remarks or introductions you would like to make.

TESTIMONY OF THOMAS PETER FEDDO, OF VIRGINIA, TO BE ASSISTANT SECRETARY, TREASURY FOR INVESTMENT SECURITY

Mr. FEDDO. Chairman Crapo, Ranking Member Brown, and distinguished Members of the Committee, I am honored to appear before you today. I am humbled to be nominated by the President to serve as Assistant Secretary of the Treasury for Investment Security, a new position created by the Foreign Investment Risk Review Modernization Act of 2018.

Last August, FIRRMA was enacted with overwhelming bipartisan support from this Committee, both houses of Congress, and the Administration. In creating this position, specifically through an amendment by Chairman Crapo, the statute recognizes the need for dedicated, accountable leadership of the critical national security function executed by the Committee on Foreign Investment in the United States. I am confident that my professional background affords me the experience and knowledge to lead CFIUS and to effectively and faithfully implement FIRRMA over the coming months.

I grew up with two younger sisters and attended public school near Buffalo, New York. We had a full-time mom and a dad who served in the Marine Corps and then worked for the local electric company for nearly 25 years. My dad worked long hours to make sure that our family had all that we needed and a little more than he had as a child. He suddenly passed away just months after seeing me graduate college, but I know that he would be pleased were he here today. My mom dedicated herself to building a warm and loving home for us, and she is watching the hearing from Buffalo. I am deeply grateful to my parents for laying the foundation that

has brought me to this point. By example, they instilled the virtues in my sisters and me, and we came to know the value of hard work, loyalty, and family.

I would not be here today without my extraordinary wife, Muffet. She has been an unwavering source of support and encouragement, while selflessly devoting her many talents to raising our three wonderful children, who are dispersed through the crowd, Emma, Kay, and Gus.

Early in high school, I decided that I would serve our Nation in the military and sought to attend the Naval Academy, and I am honored to have my two Academy roommates in attendance today. Since taking the oath of office at Annapolis 33 years ago, it has been my privilege to spend literally half of my life in public service, including first as a lieutenant on a nuclear submarine and then with the Naval Criminal Investigative Service.

After law school, I served as a counsel with the House Energy and Commerce Committee, before stints as an attorney at the Pentagon, and a civil servant at the Treasury Department. I have served in all three branches of the Federal Government, with nearly 20 years in a national security-related capacity.

In the private sector, I practiced law as a patent and trademark litigator and most recently as a partner in a large firm's international trade group.

By virtue of these professional experiences, I understand the importance of protecting American innovators' intellectual property, our Nation's vital economic engine.

And as a Navy submariner, educated and trained as an engineer, I experienced firsthand how America's superior technology ensures our warfighting edge.

As an attorney representing global businesses, large and small, I have gained a true appreciation for the importance of foreign investment to our strong and vibrant economy, as well as the benefits of regulatory certainty to business transactions.

If I am confirmed, you have my unqualified commitment that I will work closely with this Committee and Congress as a whole to continue what I have been doing over the last year as Deputy Assistant Secretary, faithfully and transparently implementing FIRRMA, ensuring our national security is protected while foreign investment is fostered, and serving with humility and a deep and abiding respect for our dedicated and talented career professionals at Treasury and across the Government who diligently execute the CFIUS mission.

Thank you again for the privilege and opportunity to appear before you today. I am happy to answer any questions that you may have.

Chairman CRAPO. Thank you, Mr. Feddo.

Ms. Nikakhtar.

TESTIMONY OF NAZAK NIKAKHTAR, OF MARYLAND, TO BE UNDER SECRETARY, COMMERCE FOR INDUSTRY AND SECURITY

Ms. NIKAKHTAR. Mr. Chairman, Ranking Member Brown, and Members of the Committee, thank you for the opportunity to appear before you today.

In 2018, I was honored to be confirmed as the Assistant Secretary for Industry and Analysis at the Department of Commerce, and today I am extremely honored to be nominated for the position of Under Secretary for Industry and Security.

With me today are my husband, Gene Degnan, and my mother, Dr. Manijeh Nikakhtar. My father Bijan Nikakhtar passed away several months ago, but he would have been beaming with pride if he were here today, as an amateur political historian and one of the greatest American patriots I have ever known. I am proud to say that my parents and my husband have served our Government as Federal employees for many years.

My husband served for over a decade at the Department of Commerce, and my parents served for over 40 years collectively as physicians at the VA hospital, taking care of our Nation's veterans.

My brother, Nersi Nikakhtar, also a physician at the VA hospital, had work obligations today.

I am proud to be part of a family that honors Government service.

I immigrated to America with my family 39 years ago. I can remember from a very young age how proud I was to be an American and how I marveled at American innovation and ingenuity. I knew at an early age that I wanted to be part of the narrative of American growth.

This is what prompted me to study law and economics after college. I obtained my Juris Doctor and Master's in Economics from Syracuse University, and in 2002, I began my career at the Commerce Department, first at the Bureau of Industry and Security and subsequently at the International Trade Administration.

At the Department, I worked with and learned from incredibly smart and talented civil servants. Many of those dedicated professionals are still there today, and they are the pillars that shape our Government from Administration to Administration. I have great respect for them, and I am privileged to work with them again.

I joined the private sector several years later as a trade and export control lawyer, representing industries in aerospace and steel sectors, in aquaculture, high-tech goods, chemicals, and minerals.

In private practice, I worked to level the playing field for U.S. industries, and on exports, I conducted internal investigations to enforce clients' compliance agreements with the U.S. Government to address U.S. national security concerns.

My training and experience, both as a lawyer and an economist, have given me the expertise to protect U.S. national security and simultaneously advance the economic interests of U.S. industries.

Today national security no longer begins and ends with military strength. It is a fact in today's world that national security is dependent on our economic strength and our technological leadership. Yet advancements in technology and the interconnectedness of our economies make our national security challenges more complex than ever before.

Economic integration has emboldened some foreign Nations to behave in ways that undermine our national security, expecting that the threats of economic retaliation will weaken our resolve to act. They have increased illicit procurement of items to build weap-

ons of mass destruction and transshipped those items to terrorist organizations and regimes.

We are witnessing illegal acquisitions of sensitive technologies to weaponize dual-use items and oppress millions of innocent citizens, and we have seen for years how rampant intellectual property theft has displaced U.S. industries, stifled innovation, and enabled the advancement of strategic competitors.

The key to our success is maintaining U.S. technological superiority and economic interests through multilateral coordination that is more forward leaning, better use of intelligence analytics, robust enforcement of our laws, and tightly coordinated whole-of-Government approach that includes more proactive engagement with Congress.

Time is of the essence, and during my 3½ months at the Bureau, I have been leading the Department's efforts to update our regulations to incorporate ECRA reforms and address global threats.

We are engaging with industry to identify emerging technologies that undermine our national security.

I have begun an initiative to work with like-minded allies on better export control coordination and wider end-use checks. It is imperative that we better coordinate multilateral policies on sensitive technology so U.S. companies can compete globally while Governments prevent technologies from being misused by adversaries.

At the Bureau, I challenge my colleagues every day to rethink how we can modernize policies to stay ahead of new threats, and I have made it a priority to seek industry input, as today's complex challenges cannot be solved without close engagement with U.S. businesses. Our policies must advance America's technological and economic leadership.

My parents immigrated to America knowing that this is the greatest country in the world, and as an American, it is my responsibility and honor to preserve this Nation's security for future generations.

I thank you again for the opportunity to be here in front of this Committee, and I look forward to your questions.

Chairman CRAPO. Thank you, Ms. Nikakhtar.

Mr. Steff.

TESTIMONY OF IAN PAUL STEFF, OF INDIANA, TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL, UNITED STATES AND FOREIGN COMMERCIAL SERVICE

Mr. STEFF. Chairman Crapo, Ranking Member Brown, Members of the Committee, it is the greatest of honors to sit before you today.

If confirmed, it would be my privilege to serve as the Assistant Secretary of Commerce for Global Markets and Director General of the U.S. and Foreign Commercial Service.

I thank President Trump for this nomination. So, too, I am grateful for the continued support of Vice President Pence, both in my former capacities in Indiana and now in Washington, DC.

Speaking of Hoosiers, I am proud to be joined by my wife, Brittany. I remain forever grateful for your incredible encouragement, compassion, and flexibility as we serve the Nation we love and raise our two little stars, Daniel and Owen.

I am also joined by my parents, Wayne and Lisa. Our childhood home was filled with love, faith, respect, hard work, and an enduring sense of service to one's country. Thank you, Mom, Dad, Gram, Aunt Lori, Aaron, and to all those family members, friends, and teachers who helped me along the way.

My story started under a few feet of snow, 30 miles south of Buffalo, New York, on my grandparents' dairy farm. My two younger brothers, Eric and Levi, often reflect on the comradery we developed shoveling that never-ending lake-effect byproduct, raising our pet ducks, and commiserating over our beloved Buffalo Bills. Childhood summers encompassed exploring the pastures and woods, working on our neighbor's berry and plant farm, and waiting for the rumble of Dad's cycle as he returned home from his job in highway maintenance. This is a glimpse of our small slice of country and my upbringing in rural America.

Rural? Yes. Encouraged to dream big? Every step of the way, and dream we did. I devoted nearly every penny earned on the farm to my stamp and coin collection. Years later, as I arrived at American University to begin my academic career in international affairs, I knew unequivocally that my future involved fostering relations with foreign markets and the people personified in that postage and currency I had accumulated. That dream and future continue here today.

If confirmed, I would be incredibly honored to lead a world-class team of professionals providing export counseling to small- and medium-sized businesses, while identifying new foreign markets for their products and services; advocate on behalf of U.S. companies competing for foreign Government procurements; attract foreign direct investment, while working to grow the U.S. manufacturing base; and reduce, remove, and prevent foreign trade barriers that impede market access for U.S. goods in a free, fair, and reciprocal fashion.

As the Deputy Assistant Secretary of Commerce for Manufacturing since June of 2017, I have seen the impact the Global Markets team has on U.S. manufacturers and service providers. This vast network of more than 1,300 trade and investment specialists in headquarters and the U.S. field, combined with the presence of the Foreign Commercial Service in over 70 markets deliver daily. Simply put, I have come to know the Global Markets team as a team that works, a team that chooses to compete, and a team that delivers. These professionals deliver one deal at a time and have a tremendous impact measured at over $120 billion in fiscal year 2018 in the areas I outlined.

In my former professional capacities, I accrued experience in economic development, executive leadership, and trade policy. In my past economic development roles, I worked successfully to attract foreign direct investment.

SelectUSA, which would be under my purview, if confirmed, is a valued economic development partner to many States.

Likewise, during my time in the semiconductor industry, I witnessed the contributions of the Commerce Department to ensure foreign market access. I regularly engaged with the Commerce team while managing the leading chip industry association's international engagements and technology programs for a decade. I

have seen the challenges posed by unfair foreign trade measures and massive market-distorting practices that have crippled companies looking to compete internationally.

Earlier in my professional career, I worked on the Trade Subcommittee of the House Ways and Means Committee. I have a profound appreciation for the vital role of Congress when it comes to ensuring the global competitiveness of U.S. industry.

While my stamp and coin collection are now the responsibility of my two young Hoosiers, I have no doubt that they and our country have a limitless and prosperous future based on the unparalleled accomplishments of the Global Markets team at Commerce. I aspire to help this team continue to achieve its mission. If confirmed, I will devote every working moment to its success on behalf of our Nation's exporters.

Distinguished Members of the Committee, thank you for your consideration.

Chairman CRAPO. Thank you, Mr. Steff.

Ms. Bowman.

TESTIMONY OF MICHELLE BOWMAN, OF KANSAS, TO BE A MEMBER, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Ms. BOWMAN. Chairman Crapo, Ranking Member Brown, and Members of the Committee, it has been just over a year since this Committee first recommended my nomination as a Federal Reserve Board Governor.

While I am not the first community banker to serve on the Board, I am humbled by the opportunity you gave me to serve as the first Governor to fill the role Congress designated for someone with community banking experience on the Federal Reserve Board.

I am deeply honored the President has renominated me to serve in that capacity. Thank you for the honor of this hearing today.

I am also grateful to my family for their continued support. My husband, Wes, and our children, Jack and Audrey, are here with me today. The rest of my family are watching from home in Kansas.

Since my confirmation last year, I have worked to fulfill my unique role on the Board by traveling widely and listening closely to community bankers, to consumers, small business owners, and community leaders. I have visited with farmers, workers, and business leaders from across the country to discuss the economy. I am making sure these unique perspectives are represented in the Federal Reserve's deliberations and decision making on both monetary policy and regulatory matters.

During my time at the Board, I have also drawn on my experience as a community banker and regulator to ensure that our work is guided by a deep understanding of the practical realities confronting bankers and the communities they serve across the country. The work done after the crisis to address the weaknesses of the U.S. financial system and ensure its future resilience was essential.

However, during my time in my family's community bank, I saw firsthand how the regulatory changes created in the aftermath of the crisis impacted community financial institutions. Small, solid institutions like this one are essential to so many of our citizens

and communities. As regulators, we need to ensure that we are not imposing unnecessary burdens on community banks. That is why one of my priorities as a Governor has been to appropriately tailor our supervision and regulation to the size, complexity, capacity, and risks posed by an institution.

To further this effort, I recently formed a working group of experts from across the Federal Reserve System to launch a comprehensive review of our supervisory work with smaller regional and community banks. While serving as the Kansas State Bank Commissioner, I was committed to treating every consumer and institution fairly and respectfully and fostering open communication. This working group will follow those same principles. We are looking for ways to optimize our supervision and regulation to ensure it adapts to the on-the-ground realities of an evolving industry and changing consumer expectations while maintaining the safety and soundness of our banking system.

Let me close by saying a few words about monetary policy and the Federal Reserve's dual mandate. As a community banker, it was my job to support local businesses and consumers. I draw upon this experience often when thinking about monetary policy because it has given me a personal and practical understanding of how the Federal Reserve's goals of fostering maximum employment and stable prices directly affects individuals as well as the broader financial system and economy.

The Congress has given the Federal Reserve independence to pursue these goals because our work is critical to our economy, to businesses, to families, and to communities, and I am deeply committed to fulfilling this mandate.

If confirmed by the Senate, I will continue the important work I have begun and be committed to accountability, transparency, and clear communication in all of my responsibilities at the Federal Reserve.

Thank you for the honor of this hearing, and I look forward to answering the Committee's questions

Chairman CRAPO. Thank you, Ms. Bowman.

Mr. Shmotolokha.

TESTIMONY OF PAUL SHMOTOLOKHA, OF WASHINGTON, TO BE FIRST VICE PRESIDENT, EXPORT–IMPORT BANK OF THE UNITED STATES

Mr. SHMOTOLOKHA. Chairman Crapo, Ranking Member Brown, and distinguished Members of the Committee, thank you for considering my nomination to serve as First Vice President of the Export–Import Bank of the United States.

I am deeply thankful to President Trump for selecting me and humbled by the obligations that this role brings to American workers and taxpayers.

I would like to introduce some family members who are with me today; first, my parents, Stephen and Christine, who made the trip from California. They came to America as child refugees of World War II, and I am always inspired by their contributions to our country.

My father worked as an engineer in the defense industry for more than 40 years, and my mother served tirelessly as a nurse.

I am also joined by my wife and best friend, Dania, who guided the family through multiple international moves and extensive overseas travels, and Max, my son, who is entering his senior year in college.

My brother Adrian and many of my friends, family, and coworkers from around the world are also watching online.

I sit before you as somebody who has spent the past 16 years in the front lines of global trade, with a strong record in growing American exports. I also bear the battle scars of leadership in a time of unparalleled competition in global markets.

I am here out of a sense of duty, honor, and the wish to use my experience to serve a wider grouping of American businesses to grow their exports, and I am also paying back a debt for all this country has given to my family.

It is not simple for any manufacturer to export. They must overcome political risks, economic hazards, and many nontariff barriers. Sometimes they also need extra financial support, especially when there are over 100 export credit agencies that are upping the ante and creating new incentives for the end customer.

I have experienced firsthand the circumstances requiring an ECA like EXIM to finance deals in a timely and relevant fashion when the private sector cannot.

My deep commitment and my international experience on both the buying and the selling side of international trade over the last 30 years will allow me to contribute strongly to the team at EXIM.

EXIM's mission is to help support and create jobs. I have experienced firsthand the thrill of walking assembly lines in Georgia and in Washington State and meeting the newest workers putting together products for export, thanks to deals that my team closed. These are some of my best experiences. My legacy and value as a business person comes from the people that I mentor and the jobs that I help create.

By working with the president of the Bank, my fellow board members, and the talented staff at EXIM, I believe I can best serve America to multiply the job creation effects of EXIM.

Having served on numerous private-sector boards in various capacities, I understand board responsibilities of proper corporate governance, the need for transparency, and how good strategic guidance and a positive leadership attitude can enable organizations to realize their full productive potential.

The EXIM board needs to make sure it does not lose sight of its role as an important source for small businesses. Many of its financial products in this area resonate with those who are looking to expand to new markets.

As an entrepreneur, I have worked in small companies and faced the pressure of making payroll. Speed to market and effective financing can make or break these companies. I built a significant export business in a medium-sized U.S. manufacturer that, while a very successful domestic business, had yet to find its legs overseas.

All companies—small, medium, and large—need help at times in leveling the playing field in today's global economy.

If confirmed, I will bring a fresh perspective and a fiercely competitive mindset to the Bank. My experience as an officer in the

United States Army taught me to lead from the front, and I will work tirelessly to support the Made in America brand that we all share and support. I will ensure that American companies have full access to and understanding of the programs authorized by Congress to maximize their global reach and competitiveness.

To this end, I would paraphrase Vince Lombardi. Winning is not everything; it is the only thing for American business and American workers. And I pledge to bring a can-do winning attitude and to win responsibly for the American taxpayer.

Thank you for your consideration. I would be pleased to answer any questions.

Chairman CRAPO. Thank you, Mr. Shmotolokha.

Ms. Lee.

TESTIMONY OF ALLISON HERREN LEE, OF COLORADO, TO BE A MEMBER, SECURITIES AND EXCHANGE COMMISSION

Ms. LEE. Chairman Crapo, Ranking Member Brown, and distinguished Members of the Committee, it is a tremendous privilege to appear before you today and to be considered for the position of Commissioner at the Securities and Exchange Commission, an agency in whose mission and dedicated staff I believe deeply.

I am very fortunate today to be supported by a large contingent of family. I would like to introduce them: my husband, Jay Brown; four of the five children in our blended family, Tess, Beth, Josh, and Zoey. Also our granddaughter, Emerson, is here, and our son-in-law Colin, my sister Laurie, my brother Wil, my niece Emily, and my brothers-in-law, Jeff and Chris. Unfortunately, my mother could not be here today, but I know she will be watching.

I have spent the bulk of my legal career at the SEC for a very simple reason. The SEC has a mission that is vital to the economic well-being of Americans and American businesses. It navigates the critical intersection between these two—between everyday Americans striving to build savings to buy a home, to send children to college, and eventually retire, and American businesses that need capital to grow and prosper. This reciprocal relationship must be nourished from both sides.

We are a Nation of investors, both retail and institutional, and it is the SEC's job to protect them. This is especially important as we continue the shift away from employer pensions toward individual plans in which people must fund and select their own retirement assets and, importantly, manage their own risk.

The SEC works to ensure that investors are taking the kinds of risk they sign up for, business and economic risk, not the risk of fraud and not the risk of poorly structured or opaque markets that may disadvantage investors. This instills confidence which in turn promotes capital formation.

Beyond instilling investor confidence, the SEC works to ensure that American businesses of all sizes can access the capital they need to grow their businesses and thus create the kinds of opportunities that investors want and need. These businesses deserve thoroughly researched, well-tailored, and clear rules.

I have seen, experienced, and understood this interdependence between investors and business from nearly every angle. I have worked in the oil business at both private and public companies.

I have owned and run my own small business. Since law school, I have worked for over two decades as a securities lawyer, first in private practice as a litigator and partner, and then I was privileged to work on the staff of the SEC.

Like many Americans, I have worn a lot of hats and juggled a lot of priorities, working my way through college and eventually through law school, raising children, paying the bills, and investing my savings for retirement. If I have the honor of being confirmed, I will bring all of these perspectives to bear in my role as commissioner, and I will reach out and listen to all constituencies served by the SEC to further its critical mission.

Thank you for the opportunity to appear before you today, and I am happy to answer questions.

Chairman CRAPO. Thank you, Ms. Lee.

And in the interest of time, I am going to forego my questions. We will go immediately to Senator Brown.

Senator BROWN. Thanks, Mr. Chairman.

Mr. Shmotolokha, thank you. Thanks for sharing your story and your experience with us.

Explain why U.S. companies in the technology and telecommunications sector look to EXIM to expand their sales abroad, and as you answer that, if you would also answer if EXIM is unavailable, assistance is unavailable, are companies able to complete foreign sales.

Mr. SHMOTOLOKHA. If I could touch on the second one first?

Senator BROWN. Sure.

Mr. SHMOTOLOKHA. In my own experiences, self-financing is the first thing any company looks for. It is the easiest, the quickest, and when you are doing a deal with somebody, you are looking to see if you can consummate it in the speediest of fashions and receive your payables.

But next, I turn to private sector, and when you look to EXIM, that is largely when you start really expanding your business. You are looking at countries that have a higher degree of political risk or economic risk or legal systems in which you cannot recuperate your receivables.

Probably the biggest challenge, though, that we face today is the fact that other ECAs or ECA-like institutions in several countries, specifically in the BRICS that are non-OECD countries, are using additional finance vehicles, especially long-term ones. So where we came up against this was in the telecommunications industry. Certain global vendors today create extremely attractive medium- to long-term financing situations for the same clients for which we are competing. Sometimes those clients do not have to even make a payment the first 2 years. They get extremely low interest rates, and it makes it very attractive for them just simply from a capital perspective where quality, trust, and good customer service sometimes are overcome.

So, at that point, being able to seek institutions that can help bring about medium- to longer-term financing when sometimes private-sector institutions are not comfortable in many of those locations. I would add that today a lot of the game or a lot of the opportunities are actually in emerging markets. There are tremendous infrastructure builds going on in those markets. So to compete in

the first-world markets, it can be relatively level, but today the opportunities are in Latin America, Africa, and parts of Asia. So that makes it a real challenge.

And then having sort of the sense of approval of EXIM behind you makes many in those countries extra comfortable with a vendor.

Senator BROWN. Right.

Mr. SHMOTOLOKHA. So that combination of public and private with those loan guarantees that EXIM does is sometimes very useful.

Senator BROWN. Thank you very much.

Ms. Bowman, thank you for your service in Kansas and at the Federal Reserve.

You have said that community banks, quote, "were significantly affected by the global financial crisis, a crisis they did not cause." I think every member of this Committee on both sides would agree with that.

Recently, though, the Fed has issues many rules that would weaken requirements for the largest U.S. and foreign banks, the same Wall Street banks that made risky bets and crushed the economy.

I have a couple of yes or no questions. Have you voted against any of the Fed's proposals that weaken the rules for the largest Wall Street banks?

Ms. BOWMAN. I would not characterize them as necessarily weakening the rules. I voted in favor of those proposals, but I would disagree with your characterization that they have weakened the requirements for banks.

Senator BROWN. They have scaled back the requirements. You would not disagree with that?

Ms. BOWMAN. I would say that we have targeted the requirements more to the risk of the banks as they pose them.

Senator BROWN. This is another yes or no question. Does weakening rules for Wall Street banks help community banks? Putting aside how you voted, does actually weakening the rules, scaling back rules for Wall Street banks, does that help community banks?

Ms. BOWMAN. I think with respect to community banks, it is important that we understand the risks that they pose to the system and target the regulations and rules that they are required to abide by to their risks that they pose, the size, the complexity, and the risks that they pose to the system. They are a separate category of banks from Wall Street banks, the largest of——

Senator BROWN. We are not arguing that the community banks pose—even in the aggregate pose much risk. It is the larger banks where this Fed and the FDIC have weakened rules. It is not the community banks that we focus on.

Let me ask you another question. You said community banks are a priority, but the Fed's actions weakening the rules for Wall Street, opening the door for shadow banks and for Silicon Valley. The Fed is also considering a merger between two regional banks, each with over $200 billion in assets. They say it is too difficult for them to compete with the biggest banks' investment in technology.

I hear from community bankers, some of your friends, I am sure, in my State and across the country that this leads to more consolidation making it harder for small banks to compete.

So my question is, Do you believe that consolidation of the banking industry has an adverse effect on community banks?

Ms. BOWMAN. As consolidation applies in the community banking space, my concern is more that the investment in the local communities are distributed instead of located where the charter was originally held, so as branches are acquired in rural communities that home investment in the community tends to be dissipated.

Senator BROWN. Real quick, Mr. Chairman.

Yes or no. Will you support Fed actions and the FDIC votes in this too, such as approval of BB&T and SunTrust merger? Would you vote for that?

Ms. BOWMAN. It would depend on how the outcome of the review of the application is. We have several statutory factors that we must consider as we are reviewing that application.

If the statutory factors are met and a recommendation is for approval, I would certainly consider that, as I would cast a vote.

Senator BROWN. OK. Thanks.

Chairman CRAPO. Thank you.

Senator Toomey.

Senator TOOMEY. Thank you very much, Mr. Chairman. I appreciate this hearing, and I want to thank our witnesses for testifying today and coming before us.

Ms. Nikakhtar, am I pronouncing that right?

Ms. NIKAKHTAR. Yes, Senator.

Senator TOOMEY. Thank you.

I would like to start with you. My understanding is in your recent position as Assistant Secretary for Industry and Analysis at Commerce, you played a lead role in the Commerce Department's investigation into whether auto and auto part imports threaten U.S. national security.

As you no doubt know, that report is still being kept a secret from the American public, but we now know that it contained an affirmative finding that foreign car imports and part imports were deemed to be a national security threat.

First of all, it is highly objectionable to me that this report has not been disclosed to Congress and the American public.

If Toyotas and Volkswagens really pose a national security threat to the United States so great that we have to tax my constituents when they purchase one, I think the American people ought to know why.

So my first question to you, Ms. Nikakhtar, are you aware that Federal law and regulations actually require that the auto 232 report be made public?

Ms. NIKAKHTAR. Yes, Senator. It is in the statute.

Senator TOOMEY. Yes. So do you know why it has not been made public?

Ms. NIKAKHTAR. Senator, when we completed the report and we delivered it to the Secretary and then to the President, it sits with the White House right now, and per the statute, it is up to the President to determine when he wants to release it and when the timing for that.

Senator TOOMEY. Well, let me just say the post to which you have been nominated obviously has a very significant national security component. Your signature recent effort in this space is that report, and it is hard for me to understand how Senators can properly judge your qualifications without being able to read that report.

I understand that is not in your direct control, but it is important.

The President's May 29th proclamation repeatedly states that—and I quote this phrase—"American-owned producers," end quote, must be able to increase R&D spending in order to, quote, "developing cutting-edge technologies that are critical to the defense industry." And, as such, the proclamation reaches the conclusion that, quote, "Domestic conditions of competition must be improved by reducing imports."

So the conclusion that Toyotas and Volkswagens are a threat to our national security seems to be premised on the notion that the sales of those vehicles precludes sales that would otherwise occur at American-owned producers, which would then lead to additional, presumably sufficient R&D investment.

So let me ask a factual question here. So despite the fact that foreign-headquartered auto companies have invested hundreds of billions of dollars in the U.S., building plants, hiring tens of thousands—hundreds of thousands of American workers, is it true that auto report considers, quote, "American-owned" to include only GM, Ford, and Tesla?

Ms. NIKAKHTAR. Senator, I should put that in a little bit more context.

Yes, American-owned is GM, Ford, and Tesla.

Senator TOOMEY. OK. I am going to run out of time here. So you are confirming that it is only those three.

So for the purpose of considering the R&D investment of American-owned companies, did you include in your analysis the investment made by companies like Google and Apple and Uber into the space, into especially automation of vehicles? Was that included in your analysis?

Ms. NIKAKHTAR. Yes, Senator. A large part of our research did include that.

Senator TOOMEY. Thank you.

It would be nice to be able to see that.

This very narrow definition of "American-owned", even accepting that definition for this purpose, between Tesla, GM, and Ford, my understanding is in 2017, they spent a combined investment of $17 billion in R&D alone. NASA's budget, by way of comparison, is about $16 billion. If the $17 billion is inadequate, what is the correct number? What do the people at the Defense Department tell you they need American-owned car companies to invest in R&D in order to be able to defend America adequately?

Ms. NIKAKHTAR. Senator, what I was trying to get at earlier was the fact that the—to your point about the investments that foreign-made auto—foreign-headquartered automakers have made in the United States, without question, those contributions are significant.

But because we allow for an open-investment climate, which we absolutely encourage—and we have the SelectUSA Summit forthcoming at the Department of Commerce—that is not the point. The point is the excessive imports have basically—the closed U.S. market now is being shared by American-owned and foreign-owned producers, and that is fine. We have lost market share here, but we have been unable to make up those lost sales in foreign markets when less than 1 percent of autos sold in Japan, for example, are from the United States, let alone American-owned.

Senator TOOMEY. OK, OK. But we——

Ms. NIKAKHTAR. That is the focus, and that is the R&D, erosion of the R&D that the report——

Senator TOOMEY. But the R&D is at a record level. It is $17 billion, and my question is, What did the Defense Department folks tell you they need for American-owned car producers to invest in R&D in order to be able to safeguard the United States?

Ms. NIKAKHTAR. The Defense Department did not provide us a number. We looked at our shrinking share of R&D vis-a-vis Europe and Japan and our global competitors, and based on that, the Secretary's assessment was that we needed to increase R&D.

And I should incidentally note that all of the surveys that we issued to all automakers and armored vehicle producers had inquired about their levels of R&D, and we took all of that information into account.

Senator TOOMEY. Thank you, Mr. Chairman.

Chairman CRAPO. Senator Tester.

Senator TESTER. Thank you, Mr. Chairman, Ranking Member, and I want to thank all the folks who are here today on the panel. I appreciate it very much.

I am going to start with you, Ms. Bowman. The 2018 farm bill decriminalized hemp and took it from the Controlled Substances List. It is now as legal as soybeans or wheat to be able to grow on the farms.

Producers in Montana are hitting the fields. Some has been planted. It is kind of wet. Some has yet to be planted. The problem is they still face barriers to access the financial system, and not only the farms themselves who grow the hemp, but also input suppliers are facing barriers if they supply inputs for the growing of hemp as well as equipment dealers.

I understand that FinCEN will have to update their guidelines, and I sent a letter to Director Blanco to tell him to get moving on it.

As the primary regulators of our financial institutions, can you give me an update on what you are telling banks and credit unions today that will help them be able to do business in the hemp sector?

Ms. BOWMAN. Senator, this is an important issue that when I meet with bankers from across the country, many States have engaged heavily in this crop for growth, and when we visit with them and speak with them about the treatment by the prudential regulators, the Federal Reserve, in particular, we refer them to BSA/AML guidance to ensure that they are understanding the risks of the customers that they face, and that those decisions about who

they are working with or who they choose to serve as customers are appropriately vetted according to their business.

Senator TESTER. So are you telling them they can bank them, or are you telling them to go ahead, but you might end up upside-down?

Ms. BOWMAN. No, we absolutely tell them that it is not our job or our role to tell them who their customers should be, and that they should understand what their business strategies and risks are with respect to any customer that they have.

We do recognize that this is a challenging regulatory environment based on the relationship with——

Senator TESTER. When the Montana bankers were in a month-and-a-half ago, they said that they could not bank them because the regulators told them they could not bank them. Have you told them they could bank?

Ms. BOWMAN. We have not told them that they cannot bank them. We have told them that there are regulations in place.

Senator TESTER. Let us be proactive about it because we decriminalized it in the farm bill. And this is not pot; this is hemp. Why not just tell them they can do it? Because, quite frankly, I would just tell you prices are in the tank. These tariffs are killing production of agriculture. I am not saying hemp is going to bail anybody out, because it is not, but it gives them another option.

But they are not going to do it. I would not do it. If you cannot get the dough, you are not going to do it, and this economic time for production in ag, they need the banks, so——

Ms. BOWMAN. I would agree with you, and we would not discourage banks from banking these types of customers.

Senator TESTER. OK. Well, maybe we are saying the same thing, but I am not sure bankers are hearing the same thing, OK?

Ms. BOWMAN. We will try to clarify that. Hemp is not an illegal crop.

Senator TESTER. Right. That is what I wanted to hear.

Thank you very, very much.

Mr. Feddo, good to have you here. Under the current structure of CFIUS, you have been able to review—or the body has been able to review several large agribusiness transactions in recent years, including a biggie when Bayer acquired Monsanto. And I would just tell you, unequivocally, this company plays a huge role in production of agriculture across this country. I believe that food security is equivalent to national security. I do not think there is any debate about that.

So do you believe CFIUS currently does enough to protect our food systems here in the U.S.

Mr. FEDDO. Senator Tester, I do. With respect to any transaction that implicates national security, we bring in the appropriate member agencies to assist us in that analysis.

Senator TESTER. So do you agree that food security and national security go hand-in-hand?

Mr. FEDDO. It can. It depends on the facts and circumstances. Yes.

Senator TESTER. So if you have got people starving to death, do you think that is good for national security? If you have got people starving to death, do you think that is good for national security?

Mr. FEDDO. Sir, we take a look at who the investor is.

Senator TESTER. Yeah, yeah, yeah. That is not the question.

If you do not have adequate food supply, it is my contention that you have turned your national security on its ear. That is why these mergers are so critically important.

And let me give you a statistic. Currently, with the merger, Bayer, Monsanto, whatever you want to call them, controls 25 percent of the seed supply, which if you control the seed, you control the food, and 23 percent of the chemicals.

The question, does CFIUS think about this stuff? And then I will kick it back, but does CFIUS think about this stuff? Because it is real, and if for a second that I thought we were offshoring our food security to a foreign country, that is what it appears to me.

Now, in retrospect, they may have offshored a lot of liability, but the truth is when it happened, we did not know that.

Mr. FEDDO. We do think about that. It is part of our risk-based analysis. We look at the threat from the actor, from the investor. That is the intent and capacity to exploit a weakness in our national security as well as the vulnerability of the U.S. business. So we look at both of those factors to determine the risk to national security.

Senator TESTER. Well, I would just say I think 25 percent is a lot. I mean, we are talking the whole shebang here, and so I would just ask for you to specifically ask some tough questions to the folks on that, OK?

Thank you very, very much.

Mr. FEDDO. I will.

Chairman CRAPO. Senator Tillis.

Senator TILLIS. Thank you, Mr. Chairman.

Mr. Feddo, I am going to—first off, I share some of Senator Tester's concerns. I am not going to ask you questions.

I am going to do a couple of questions for the record for you specifically around U.S.–controlled private funds, particularly when they are controlled by U.S. persons, because I have a concern about some scoping and focus there, but we will do that for the record.

Mr. Steff, in your opening statement, you said you had pet ducks and a coin collection. I had a pet rooster named Pete and a coin collection. So I am glad to see we share—in the rural areas, so I am glad we share a common bound there.

Ms. Bowman, I am going to spend most of my time talking with you, and some of this is—I do not normally speak from notes, but this is something important for us to get on the record because it is a priority that I hope I can get your commitment, and it has to do with interaffiliate margins.

Number one, I think that we are out of step with the European Union, Japan, and most other G–20 jurisdictions. Number two, I think that we have a record across Administrations on the issue. In 2013, we had the CFTC chair provide an exemption. In 2015, we had the CFTC chair provide an exemption. And now we have a situation where the Fed has not provided an exemption from the initial margin from the 2016 rules, and I think as a result, U.S. banking entities collected nearly $50 billion in initial margin from their own affiliates. That is capital that could be deployed that right now is sitting on the sidelines.

In 2017, the Treasury noted that this rule puts U.S. firms at a disadvantage, both domestically and internationally, recommending that your agencies provide an exemption consistent with the margin requirements of the CFTC.

Do you agree that an initial exemption—an exemption from initial margin is appropriate for interaffiliate transactions?

Ms. BOWMAN. Senator Tillis, we are very aware of this issue and aware of your concern with respect to this issue.

We are actively reviewing the application of margin requirements for interaffiliate transactions.

Senator TILLIS. I would like to get—and we can follow up and maybe give you an opportunity to respond to a question for the record, but I would like to get a commitment to prioritize the rule, to provide an exemption. And I think that it can be done expeditiously. I do not think it has to necessarily be done with Regulation W rewrite, which can take a couple of years. I think it is something that can be done relatively quickly.

For the record, we will go through mechanically how we think we can get it done, and I would like to get your specific response. We have been talking about this for a while. We have met with a lot of the other Fed regulators. Everybody seems to think it is a good idea. It has been a policy that has transcended Administrations. So I do not think it is politically volatile, and I would like to figure out a way to expeditiously move and not have this be a 2- or 3-year matter. I think putting $50 billion back into play is something that is helpful and will let us continue our economic growth.

The last thing I want to talk with you about has to do with the Fed payments proposal. It is another area where, again, I am going to honor the time commitment. It is another area where we will probably just submit context for the record, but I do not believe that we need two systems. I think that we have emerging opportunities that are in play with the private sector. I think it is something that the Fed should think seriously about not spending their time and resources on.

And I have gotten mixed responses. It feels like when you go to a public hearing and you talk to some of the regulators, they say, "Thank you very much for your input," and move on, but it gives me a sense that they are going to move in that direction. And I think they should step back and really decide if that is a good use of their resources.

I will give you a few minutes to respond, and then we will put that as a question for the record for a more fulsome response.

Ms. BOWMAN. Senator, this is an issue that has been active within the Federal Reserve since 2014 when we had a working group focused on this issue.

The Fed has had historically a strong role in payments since its inception. This is something that we think is very important, and we issued questions last fall so that we could consider the comments back from the public regarding the appropriate place and structure for this type of initiative.

We are continuing to review the work of the working group and the comments that we have received through that publication, and at this point, no decision has been made, but I would be happy to answer your question for the record.

Senator TILLIS. Thank you.

This is something our office will spend a significant amount of time on.

Thank you all very much. I look forward to supporting all of your confirmations.

Chairman CRAPO. Thank you.

Senator Jones.

Senator JONES. Thank you, Mr. Chairman, and thank you to all the witnesses that are here today. And thank you for your service.

Mr. Feddo, I would like to talk to you a little bit about CFIUS. I think Congress last year passed FIRRMA because of some concerns, especially the rise of the way China has been doing business in this country. I think Ms. Nikakhtar—and I apologize for bumbling that—talked about that in her role.

I want to raise a transaction that occurred last year and ask you about this, and when I do this, I am not making—casting any aspersions, but something that troubles me because it has an impact on Alabama and also I think national security implications.

2018, a Chinese steel company formed a joint venture with an American company that is known for its supply of highly specialized stainless steel, which is used across defense and aerospace sectors.

Now, stainless steel is a very technology-sensitive industry. There are a lot of different recipes, and there was no question that China was lacking in their ability to produce high-quality stainless steel.

Given everything that we know about the Chinese practices, it seems pretty clear that at least some portion of this transaction was done simply to acquire manufacturing technology and know how by the Chinese, but there is no evidence whatsoever that CFIUS reviewed this transaction before it was closed.

Again, I am not casting aspersions, but it seems—even though this deal was slightly before FIRRMA passed, can you confirm that this is actually the same kind of joint venture deal that CFIUS had the authority to review for whatever reason, resources or something did not? But this seems like the exact kind of thing that they had the authority to review. Can you confirm that for me?

Mr. FEDDO. Senator, so as you alluded to, I cannot comment in this venue on a particular transaction or whether a review occurred or a pending review is under way.

I can talk about accomplished or completed reviews with you in a closed setting with classified information as well.

But more to your point, though, it is important to protect America's critical technology.

On the joint venture front, CFIUS can and does look at joint ventures when there is a U.S. business involved. We have the ability to look at investments in U.S. businesses engaged in interstate commerce. This is something that was talked about a great deal during the build-out of FIRRMA with respect to outbound joint ventures and where CFIUS might have a gap.

Senator JONES. Can we do a look-back? If, for instance—and I can talk to you in a different setting. If CFIUS did not review this, can we do a look-back and review something that occurred last year if it now comes to your attention?

Mr. FEDDO. As a general matter, we do have the opportunity and ability to look back at transactions that have already been consummated and were not reviewed by the Committee. We call those "non-notifieds", and we certainly do that often.

The one point I would make is that some joint ventures that do not contribute a U.S. business are more appropriately tackled through the export controls process, but I am happy to continue——

Senator JONES. Well, I will get with you on that.

Ms. Nikakhtar, I want to follow up on Senator Toomey's questions because I am exactly where he is on this automobile tariff stuff. My State is sitting on edge right now, waiting to determine whether or not the 60,000 jobs in Alabama are going to go away because of these tariffs.

And did I understand your testimony earlier that with regard to national security, the Commerce Department did not contact or ask the Defense Department anything about the security implications for foreign automobiles and foreign auto parts?

Ms. NIKAKHTAR. No, Senator. Well, thank you for that question.

The response only was in terms of the quantitative level of R&D that we actually had a lot of proprietary information from survey results. So we did not need to ask them about that, but we have worked very closely, hand in glove, with the Department of Defense all past summer for months and months, and we had a really wonderful working relationship with them to understand the interconnectedness between the commercial and the defense needs for innovation.

Senator JONES. Did the Defense Department believe that these foreign automobiles, the Volkswagens and the Mercedes-Benzes and the Toyotas, posed a national security threat?

Ms. NIKAKHTAR. The Secretary of Defense submitted a letter to the Secretary of Commerce noting the importance of the commercial auto sector and the innovations they provide for the defense sector.

Senator JONES. All right. Well, it sounded to me, with all due respect—and I agree with Senator Toomey that without having seen that in the analysis that went through that, it seems to me—because a lot of your answer was purely market driven. I mean, a lot of the answer that you gave Senator Toomey was about the markets, and I do not know how many foreign—I do not know how many American automobiles it would take in Japan to make it not a national security threat.

But, with all due respect, it sounded to me in your answer that somebody said, "We need to use this as leverage to get our market share up, and so let us find a way to make this national security." I hope I am wrong about that, and I hope I get to look at that report. I would love to be able to look at that report before your nomination comes to the vote here or certainly before the Senate, and I would encourage you to talk to the Secretary of Commerce and the President of United States to release that report to us, even in a closed setting that we can look at it before your nomination.

Ms. NIKAKHTAR. And, Senator, I just wanted to assure you that trade leverage, none of that constituted any of our thinking when we were drafting the report. We used publicly available data, and

all of that was corroborated by confidential survey information we received.

Senator JONES. All right. Well, thank you.

Thanks, Mr. Chairman.

Chairman CRAPO. Senator McSally.

Senator MCSALLY. Thank you, Mr. Chairman. Thanks for holding this hearing today to consider these nominations for many critical positions at a number of agencies.

I do want to specifically focus on Governor Bowman's renomination to continue to be a member of the Federal Reserve Board. You are off to a good start representing community banks and being a voice to them, and I really appreciate that.

Community banks are really vital for us in Arizona. By extending credit and other services to especially small businesses, they really reach a lot of rural and underserved populations that are just critical for our economy and continuing to support people that I represent.

And we really feel the presence along the border of the importance of community banks, and when they close, the impact is severe. And the financial services that they provide are just very critical for us in Arizona. So I am pleased that you are providing that voice at the Federal Reserve Board with your perspective, and I hope you will continue to do so.

Can you walk me through some problems you see that community banks are currently facing, even with some of the reforms that we have made and adjustments, and what the Federal Reserve is doing to make sure that regulations are properly tailored?

Ms. BOWMAN. Senator McSally, thank you for that. Community banks are clearly important to our community, to our businesses, our families, and our communities.

Let me first say that one of the first priorities for the Federal Reserve is to implement the provisions of S. 2155. So through my chairmanship of the Smaller Regional Bank and Community Bank Subcommittee at the Federal Reserve, we are working very diligently to finalize the CBLR, the Community Banking Leverage Ratio proposal, which simplifies capital requirements for community banks.

We have revisited that proposal, reengaged our State bank supervisors for their input and participation in that process as well since I came on board.

That proposal was issued prior to my joining the Board of Governors, so it is something that we are taking another close look at.

We are also looking closely at the call report reduction, the burden for call report reduction and reduction of those burdens. That is a priority for our subcommittee as well.

So there are many things that we are looking at. One thing that is probably important to your community banks is the BSA and AML procedure. So that is something that is on our agenda as well to look at examination procedures and see where we can find some efficiencies.

Senator MCSALLY. Great. Thank you.

When Chairman Powell testified before our Committee, we spent a lot of time talking about the rural–urban divide and what is going on economically in the country. Again, I represent a lot of

rural communities. So from your perspective, what does access to banking—or are there other factors that you think are really causation for that divide and the challenges for rural communities?

Ms. BOWMAN. The differences between rural communities and urban communities is often vast. Ninety-seven percent of our country is rural. I am from a rural community as well. I recognize many of these economic challenges that we face in those rural communities.

The importance of community banks in those communities is leadership that is provided to the community. It is access to credit for consumers and for small businesses. It is an important cornerstone of many of those communities.

One of the concerns that we discussed earlier with Ranking Member Brown was the consolidation of those rural institutions and the continued commitment of the remaining entity in the community that they are serving.

Senator MCSALLY. Great. Thank you.

We also have some unique cross-border challenges right at the border that are impacting our communities there, and we have talked a lot about this on the Committee already. But we need to continue to work across multiple agencies to make sure that our legitimate cross-border commerce still has access to banking.

I do not know if you have any comments on specifically the border elements of that, but it is not just rural but also the cross-border.

Ms. BOWMAN. Yes. We recognize that those are challenges for the banks that are on the border.

I was recently in El Paso, Texas, and in Deming, New Mexico, where we were able to observe some of those and visit with bankers on the border. I would be happy to visit with you further about that and continue to work with you on those issues.

Senator MCSALLY. Great. Thank you.

Yield back.

Ms. BOWMAN. Thank you.

Chairman CRAPO. Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, Mr. Chair.

Ms. Bowman, let me follow up on some of the conversation. You just said you were in Texas.

I am curious. Friday, the regulators closed Enloe State Bank in Texas. I think it was a $36 million bank. What went wrong?

Ms. BOWMAN. My understanding—that was an FDIC-regulated bank—was that there was fraud on behalf of one of the management, representatives of management.

Senator CORTEZ MASTO. OK. And my understanding is that the cost to the FDIC because of this closure is about $27 million.

I guess my question to you, if this community bank had more assets, would the loss have been such as great?

Ms. BOWMAN. I think the challenges when you are dealing with the closure of an institution, as I mentioned when I was testifying last May before this Committee as well, I closed a similar situation, institution in Kansas during my time as the State bank commissioner.

When you have fraud that is resident in the institution, oftentimes it only comes to light during an examination. My under-

standing is that the call report information that was filed indicated that the bank was in good condition, and it was revealed when the FDIC came to do an examination that that was not the case.

Senator CORTEZ MASTO. But the intent is—and I guess this is my concern. Community banks, many have record profits, but the goal here is to ensure that if there is a fraud of if there is something happening, they have access, they have efficient capital or assets for just this very reason, so that there is not a big hit, and they have the ability to cover those costs.

So I guess my concern with this process that is happening right now, in all due respect to the Chairman, there is no way I am going to get to ask every single one of you a question, but here is what I do know. Last time you were before us, we had a short, limited time to ask questions, and when I did not get the answers, I actually submitted questions for the record. But your questions that you responded to me were similar, word for word, to another individual that was on the panel at the same time.

So I guess my concern is I do not have enough time to ask you questions the way this has been presented here, and this is ridiculous to me. These are important positions for every single one of you, and to not even be able to have 5 minutes with all of you, let alone a second, is outrageous to me.

And let me jump over here. For the last 2 years, the Export–Import Bank has not been filled. We are finally filling these positions, and I will tell you the Export–Import Bank is important to Nevada. We have 21 firms that export electrical equipment, machinery, minerals, and other products to other Nations like Mexico, Turkey, and India, and we are now just putting in place individuals that can help finalize and start moving this forward.

I think, Mr. Chairman, with all due respect, this is no way to conduct our business long term in the Senate. It is time for us to start working together and start putting people in positions but making sure we get the right people in these positions and not crowd everybody in because there is no way I am going to be able to ask everybody that is before us a question that is important for my State.

So I appreciate you all being here, but at the same time, I am frustrated with how this process is moving forward. And I just do not think it does a service to anybody here in Congress, let alone the people that represent—are in my State that I am supposed to represent or any of the States that we are supposed to be represent. This is not how we should be doing business.

Chairman CRAPO. Senator Menendez.

Senator MENENDEZ. Let me echo the Senator from Nevada's concerns. I expressed this to the Ranking Member as well.

Six people, major positions, in one hearing is almost an impossibility to get what you need, but I am going to try to get some of it. But I doubt I am going to get all of it.

So let me start off with Ms. Nikakhtar. I appreciated your visit with me.

Are you aware that 3D gun blueprints are already available online?

Ms. NIKAKHTAR. Yes, Senator, and I understand that it is currently the subject of litigation.

Senator MENENDEZ. So my concern is, my understanding of the department which you have been nominated to takes the position that once something has been published, it can no longer seek to control it. So what will you do to allay the concerns of Americans who are worried about the Administration's actions that could make 3D gun blueprints more widely available?

And if you cannot control the release of those designs under existing regulations, will you commit to changing those regulations or simply change the proposed transfer to leave such technical information under the purview of the State Department?

Ms. NIKAKHTAR. Senator, I very much enjoyed our conversation yesterday. Thank you for taking the time.

What you are referring to, it is the Cats I, II, III transfer from the Munitions List to the Commerce Control List. Once that happens—and I want to go on record saying it here and as I communicated to you—I am committed to working with every single Member of Congress to the extent that they would like to engage with me and my bureau to make sure that we are developing and implementing sound policies with respect to our export controls, rules, and procedures

Senator MENENDEZ. Well, I appreciate that, but that does not answer my question.

So when it comes to 3D guns specifically, because of my understanding of the regulations as they exist, since they are supposedly published in some entity, they no longer can be controlled. But we do not need the widespread distribution of this.

So I hope that you will do something, and I would like to see an answer in writing from you as to what you will do.

As I will repeat to you what I said in private, it is no value, your offer to me, which I appreciate, to be engaged on transactions if I do not know the transaction exists. If I have no notification that you are in the midst of considering an arms sale to some entity, if I do not know it, unless I find out through some other source, I cannot comment on it. So there has to be some way, if this goes through, in which you, if confirmed, ultimately engage us in letting us know, at least a simple notification, so we can comment and take value of your offer. Otherwise, your offer is of no value. So I hope you understand it in that respect.

Mr. Feddo, one of the provisions that I offered in FIRRMA was to require CFIUS to develop regulations to ensure that State-owned entities are declaring their transactions with CFIUS and not using complex financial structures to conceal their ownership or evade CFIUS review.

We saw this situation at work in December when the *Wall Street Journal* reported that a firm owned by China's Ministry of Finance was able to use offshore subsidiaries to purchase a U.S. satellite firm and was thereby allegedly able to access information that may have been restricted under U.S. export controls.

Do you agree that CFIUS needs to do more to evaluate the extent of foreign Government control or influence over foreign firms seeking to invest in the United States? And, second, will you commit to implementing this provision, which is law, of FIRRMA so that foreign Governments seeking to invest in critical American industries are required to file declarations with CFIUS?

Mr. FEDDO. Sir, I absolutely commit to implementing that provision. I think it is a very important piece of FIRRMA with respect to State-owned entities.

As you are well aware, there is a real challenge in discerning ultimate beneficial owners, and so we are taking a great deal of energy and attention to building out a team to look at non-notified transactions and identify ultimate beneficial owners when appropriate.

I cannot comment about the specific transaction that you raise, but I am absolutely committed to implementing this provision.

Senator MENENDEZ. Well, I appreciate it and look forward to working with you on that.

Mr. Shmotolokha——

Mr. SHMOTOLOKHA. "Shmotolokha."

Senator MENENDEZ. "Shmotolokha." Thank you very much.

I have always been a strong supporter of the Export–Import Bank. Given in your experience in the private sector, how important is it that we reauthorize a bank and do not let it—to shut it down as we did in 2015?

Mr. SHMOTOLOKHA. It is critical, sir.

Senator MENENDEZ. And do you believe it is appropriate for Congress to increase the bank's exposure cap, the amount of loans it can finance in light of the increased resources some economic competitors like China are giving to their export credit agencies?

Mr. SHMOTOLOKHA. Yes, sir.

Senator MENENDEZ. If everybody gave me answers like that, I could get through the whole process.

[Laughter.]

Senator MENENDEZ. I have one last question, if I may, Mr. Chairman, I would like to ask Ms. Lee.

I appreciate the conversation we had yesterday in my office.

Do you believe that tough penalties are a successful deterrent for future lawbreakers? I am concerned that we often seem to have at the SEC a reticence to pursue the type of enforcement and penalties that are a deterrent and ultimately pursue what we want, which is conformance with the rules. Should such an effective enforcement strategy incorporate tough penalties as part of its strategy to prevent harm, deter bad actors, and punish wrongdoers?

Ms. LEE. Yes. Thank you, Senator.

I actually think that compliance is the overall goal of enforcement, and the best way to get at compliance is deterrence. I think that includes tough penalties where they are warranted on a case-by-case basis, but I do support strong penalties in the right case because I do think that has the best deterrent value.

Senator MENENDEZ. I have other questions, Mr. Chairman. My time has expired.

Chairman CRAPO. Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman.

Thank all of you for your testimony.

Governor Bowman, you and I have spoken about this. I think the fact that the United States does not have a real-time payment system is an embarrassment, and it is costing millions of Americans billions of dollars, especially Americans who do not have big balances in their bank accounts.

Now, I heard some questions from Senator Tillis along these lines. I just want to point out to you an article by Thomas Hoenig, a former vice chair of the FDIC and former president of the Federal Reserve Bank of Kansas City, who wrote a recent editorial regarding this issue stating, and I quote, "The needs of consumers and businesses and the depository institutions nationwide that provide them services will be best served by the Federal Reserve continuing to play its role as a payments processor." He goes on to say, "The alternative is to award the clearinghouse a de facto monopoly resulting in a less competitive and less efficient market for immediate payments." Are you aware of that editorial?

Ms. BOWMAN. Senator Van Hollen, I am familiar with the editorial, and I have read it. It is consistent with some of the comments that we have received during our request for comment on the questions we issued last fall.

Senator VAN HOLLEN. And do you share some of those concerns?

Ms. BOWMAN. There are many factors that are in consideration as we are deliberating this issue within the Federal Reserve System. It is a live discussion, and we are actively in the process of considering all of the comments that we have received.

Senator VAN HOLLEN. All right. So part of your job, of course, is to look out for the community banks——

Ms. BOWMAN. Yes, sir.

Senator VAN HOLLEN. ——and the concerns expressed about giving this monopoly to the clearinghouse come from community banks in large measure. You are aware of that, right?

Ms. BOWMAN. Yes. I have heard from community banks about this issue.

Senator VAN HOLLEN. So, Ms. Nikakhtar, let me just follow up on the use of Section 232 because, in my view, it has been sort of a gross abuse of claims of national security when we use that to place tariffs on our allies like Canada and others.

So count me in with those other Members who have said we really want to get this report with respect to Section 232 and automobiles.

Where I do agree with some of the actions the Administration has taken is where I think we face a real strategic threat, which is China's theft of a lot of our IP and technology. So I supported the efforts that you at the Commerce Department took last year with respect to ZTE after it was found in violation of our sanctions. I was incredibly disappointed that the President then tweeted out that he is going to reverse the blocking order because he wanted to help his, quote, "friend," President Xi.

So now we have your measure putting Huawei on the entities list because of 5G, and as I read the explanation for that—and I think this is a move in the right direction, lots of complicated issues, but a move in the right direction—it was based not only on the finding that they violated the Iran sanctions but also other findings that they pose a national security threat. Is that right?

Ms. NIKAKHTAR. Senator, yes, that is what we have indicated.

Senator VAN HOLLEN. OK. So I am with you in addressing this issue.

What I am concerned about is you are trading off something that you agree is a national security issue as part of concessions over

a tariff fight. Can you tell this Committee that you will not tradeoff legitimate national security concerns in order to get some better deal in a tariff fight with China?

Ms. NIKAKHTAR. Senator, you raise very important points. If it is up to me, I want to make sure that we do everything we can to protect national security. Trade is not in my jurisdiction, national security.

With respect to ZTE, I completely get your points. Under the compliance agreement, ZTE now is the most monitored company in the world.

My commitment is to make sure that we never, ever compromise national security threats, and to the extent that you ever have any concerns, I am happy to engage with you or your staff directly to make sure those concerns are addressed.

Senator VAN HOLLEN. Right.

And so the actions that you have taken with respect to the Huawei and 5G are a result of your conclusion that it poses a national security threat. Is that correct?

Ms. NIKAKHTAR. A national security threat and undermining foreign policy interests of the United States.

Senator VAN HOLLEN. So I am going to be watching very carefully to see if we somehow are trading off that legitimate national security issue to try to get a better deal on some tariff issues. Not only do I think it is wrong in compromising our national security, it totally undermines our credibility when foreign countries think that we are using national security concerns as leverage in some other area like trade because that is a very, very dangerous path to go down. Would you agree with that?

Ms. NIKAKHTAR. You have my commitment, and I want to go on the record that my singular focus is national security. That is the purview of my job, and that is what I am committed to.

Senator VAN HOLLEN. Thank you.

Chairman CRAPO. Thank you, Senator Van Hollen.

That concludes our questioning for today's hearing. For Senators who wish to submit questions for the record, those questions are due to the Committee by the end of the day on Friday, June 7th.

And we ask that our nominees respond to those questions no later than the close of business on Friday, June 14th.

Senator MENENDEZ. Mr. Chairman, may I make one remark before we close?

Chairman CRAPO. Yes. Yes, you may.

Senator MENENDEZ. I have other questions. I am going to submit them for the record. I would like to get substantive answers. If I do not get substantive answers, then I will do everything possible on the floor to impede the nominations moving forward. Since we do not have time to go through a second round here or have enough time, I would like to get substantive answers to those questions.

Chairman CRAPO. That is a fair request.

We would like to thank our nominees for being here today. Thank you again for your willingness to serve. We have got a vote that is already 15 minutes under way, so we are going to wrap this up and leave quickly.

I just want to again extend to each of you our thanks for your willingness to help keep our Country strong and to serve in your respective capacities.

With that, this hearing is adjourned.

[Whereupon, at 11:21 a.m., the hearing was adjourned.]

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

PREPARED STATEMENT OF CHAIRMAN MIKE CRAPO

This morning we will hear testimony on six nominees to serve at five different agencies. Welcome, all of you.

I see friends and family behind you, and I welcome them here today as well.

If confirmed, I look forward to working with each of these nominees on many important issues within each of their respective policy areas, including: continuing efforts from last Congress to right-size regulations, making it easier for consumers to get mortgages and obtain credit; encouraging capital formation, reducing burdens for smaller businesses and improving corporate governance; exploring the proper role of the Export–Import Bank in providing finance in response to foreign Governments, like China, that provide aggressive subsidies and place U.S. exporters at a disadvantage; and preserving the technological edge and national security of the United States while also preserving an open U.S. investment environment and ability of our industry to export its products through the implementation of FIRRMA and export control rule.

First we have, Mr. Thomas Peter Feddo, to be an Assistant Secretary of the Treasury for Investment Security.

This is an important national security job that protects our most critical technology companies from foreign takeovers and influence.

He currently leads the U.S. Department of the Treasury's Office of Investment Security in executing Treasury's statutory role as the Chair of CFIUS.

He also spent 7 years at the Treasury Department's Office of Foreign Assets Control implementing and enforcing U.S. economic sanctions.

As a graduate of the U.S. Naval Academy, Mr. Feddo served as a lieutenant in the Navy's nuclear submarine force and as an officer at the Navy Antiterrorist Alert Center.

Next, The Honorable Nazak Nikakhtar, to be Under Secretary of Commerce for Industry and Security.

She was previously confirmed by voice vote to be an Assistant Secretary of Commerce for Industry and Analysis

She is currently serving as the Acting Under Secretary, evaluating and promulgating effective regulation of emerging U.S. technologies.

She comes to the Bureau of Industry and Security from her role as Assistant Secretary for Industry and Analysis for the International Trade Administration, or ITA.

While at ITA, she worked on policies to strengthen the competitiveness of U.S. companies globally.

Previously, she was a trade attorney at several high profile Washington law firms and an industry analyst at the Bureau of Industry and Security.

Next, we have Mr. Ian Paul Steff, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

Mr. Steff's job is to open markets and sell whatever Mr. Feddo and Ms. Nikahktar do not control, which is about 98 percent of what America makes.

Mr. Steff currently serves as Deputy Assistant Secretary for Manufacturing at the U.S. Department of Commerce's International Trade Administration.

In that role, he oversees approximately 1,400 trade and investment professionals based in more than 100 U.S. cities and 70 markets around the world.

Prior to joining the U.S. Department of Commerce, he worked as vice president of global policy and technology partnerships for the Semiconductor Industry Association for nearly a decade and he started his professional career as staff on the U.S. House of Representatives Committee on Ways and Means.

Next, we have the Honorable Michelle Bowman, to be a Member of the Board of Governors of the Federal Reserve.

Governor Bowman currently serves as a Governor on the Federal Reserve Board and is the first person to fill the Federal Reserve's community banking seat after her confirmation last year by a bipartisan vote of 64 to 34.

While Governor Bowman's current 14-year term expires January 31, 2020, President Trump has renominated her to the same position for a full 14-year term.

Prior to serving as a Governor, she was the State bank commissioner of Kansas from January 2017 to November 2018, served as vice president of a Kansas-based community bank, Farmers & Drovers Bank, between 2010 and 2017, and served in a number of Government roles.

Next, we have Mr. Shmotolokha, who has been nominated to serve as First Vice President and Vice Chairman of the Export–Import Bank of the United States.

As President Trump and other senior officials in his Administration have noted, a fully functioning Export–Import Bank has the ability to provide financing and level the playing field in response to Governments, like China, which can provide

almost limitless subsidies from its Treasury, which places U.S. exporters at a disadvantage.

His career in the private sector has focused on international business and trade, particularly in the fields of telecommunications, technology and renewable energy.

He currently leads the international division for Alpha Technologies.

Finally, we have Ms. Allison Lee who is nominated to serve as a Member of the Securities and Exchange Commission.

As an SEC Commissioner, Ms. Lee would be responsible for helping the SEC fulfill its mission of protecting investors; maintaining fair, orderly and efficient markets; and facilitating capital formation.

Ms. Lee is currently a consultant with Congress Park Consulting where she teaches courses on U.S. corporate and securities law in Spain and Italy, and works as a contributing author on treatises in corporate and securities law.

She previously served as Senior Counsel in the Division of Enforcement's Complex Financial Instruments Unit, and as counsel to former Commissioner Kara Stein.

Thank you all for your willingness to serve and for appearing before our Committee today.

PREPARED STATEMENT OF SENATOR SHERROD BROWN

Thank you, Chairman Crapo, for holding today's hearing on the nominations of Mr. Thomas Feddo, Ms. Nazak Nikakhtar, Mr. Ian Steff, Ms. Michelle Bowman, Mr. Paul Shmotolokha, and Ms. Allison Lee. I look forward to hearing their views and would like to welcome their families to the Committee.

Mr. Feddo is the first nominee to be Assistant Secretary of the Treasury for Investment Security, a position created under the Foreign Investment Risk Review Modernization Act of 2018—the bipartisan legislation from this Committee that made major reforms to the Committee on Foreign Investment in the United States.

We created this new position because of the critical role CFIUS plays protecting U.S. national security from increasing threats from certain foreign investments. Yesterday we heard about how China has adopted new tactics to acquire American technology in sectors that are vital to our national security. It's why we passed this bill, and it's why this job will be so important.

Mr. Feddo is currently serving as deputy assistant secretary for investment security, he played a key role in formulating the reforms last year, and is now working to carry out the technical and structural changes required under FIRRMA, including finishing the rulemakings to expand CFIUS's scope, and filling new staff positions necessary for enhanced review of potential investments that could pose risks to national security.

If confirmed, Mr. Feddo, you will need to continue this critical work. I know you've made progress, and I look forward to hearing from you about next steps.

Ms. Nikakhtar has been nominated to serve as Under Secretary of Commerce for Industry and Security, responsible for a set of key U.S. national security, foreign policy, and economic objectives through application of effective U.S. and multilateral export controls and treaty compliance. Although Ms. Nikakhtar has extensive experience in international trade, including at the International Trade Administration, she has more limited experience in national security and export control matters.

If confirmed, Ms. Nikakhtar will be responsible for administering critical U.S. export control laws and regulations that cover emerging, foundational, and other forms of sensitive technology—an area of increasing importance.

Ms. Nikakhtar, I hope that you will work with your colleagues to navigate the complex national security and political concerns that surround the export of sophisticated U.S. technology.

Mr. Steff is nominated to be Assistant Secretary of Commerce for Global Markets and Director General of the United States and Foreign Commercial Service. In that role, he will be responsible for the International Trade Administration's work to advance U.S. business overseas and to promote U.S. exports and fair trade rules.

Mr. Steff's current experience as Deputy Assistant Secretary for Manufacturing at Commerce, and his prior experience working on economic development, in particular focusing on innovation and technology, provide him with an understanding of how to strengthen the competitiveness of U.S. industry, which ultimately should support American manufacturing and jobs. That's good for the economy and for workers.

Ms. Bowman was renominated to be a Member of the Board of Governors of the Federal Reserve System for a full 14-year term, expiring in 2034.

As a former State bank commissioner, Ms. Bowman serves in the role designated for a Fed Governor with community bank experience.

At her first nomination hearing, I was concerned that Ms. Bowman would be a rubber stamp for Wall Street. I was right to be concerned.

Ms. Bowman, I know you possess a deep understanding of community banks and are being nominated for a full 14-year term based, in part, on that understanding.

But, time and again, you have taken the side of the big banks as the Fed has done favors for Wall Street by relaxing capital standards and weakening stress tests and other postcrisis safeguards meant to protect taxpayers and the financial system.

If you are confirmed to a full term, I expect that you will do all you can to ensure that the regulatory system works for community banks and protects their customers.

Mr. Shmotolokha is the nominee to be First Vice President of the Export–Import Bank.

For nearly 4 years, I have pushed for the EXIM to be fully reopened, and with the confirmation of three board members last month, the Bank is finally running at full capacity. To stay competitive as they pursue business abroad American manufacturers need a reliable Export–Import Bank that is authorized for the long term.

Mr. Shmotolokha is the final nominee to the Bank's board to appear before our Committee. The full Senate needs to consider his nomination and the nomination of Claudia Slacik, who our Committee reported with overwhelming bipartisan support, so they can provide their expertise as the Bank resumes full operations.

If confirmed, he would bring significant private sector experience in the export of U.S. products to the global telecommunications industry. When the EXIM Bank was fully functioning, it supported more than 164,000 jobs a year. I look forward to hearing how we can expand on the number of U.S. jobs supported by the Bank.

Ms. Lee has been nominated to be a Commissioner of the Securities and Exchange Commission. If confirmed, Ms. Lee would return to the SEC at a critical time. The agency is considering several issues that will define the rights and protections for both individual and institutional investors.

I expect Ms. Lee to draw on her SEC enforcement experience when considering rules that could affect investors' rights and remedies against wrongdoers and when weighing penalties in misconduct cases.

The SEC needs to promote integrity and fairness in the capital markets so that investors can trust the markets and have faith in the regulator.

I look forward hearing from all of you.

Thank you, Chairman Crapo.

PREPARED STATEMENT OF THOMAS PETER FEDDO

TO BE ASSISTANT SECRETARY, TREASURY FOR INVESTMENT SECURITY

JUNE 5, 2019

Chairman Crapo, Ranking Member Brown, and distinguished Members of the Committee, I am honored to appear before you today. I am humbled to be nominated by the President to serve as Assistant Secretary of the Treasury for Investment Security, a new position created by the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA).

Last August, FIRRMA was enacted with overwhelming, bipartisan support from this Committee, both houses of Congress, and the Administration. In creating this position—specifically through an amendment by Chairman Crapo—the statute recognizes the need for dedicated, accountable leadership of the critical national security function executed by the Committee on Foreign Investment in the United States (CFIUS). I am confident that my professional background affords me the experience and knowledge to lead CFIUS, and to effectively and faithfully implement FIRRMA over the coming months.

I grew up with two younger sisters, and attended public school near Buffalo, New York. We had a full-time mom, and a dad who served in the Marine Corps and then worked for the local electric company for nearly 25 years. My dad worked long hours to make sure that our family had all that we needed, and a little more than he had as a child. He suddenly passed away just months after seeing me graduate college, but I know that he would be pleased were he here today. My mom dedicated herself to building a warm and loving home for us. I am deeply grateful to my parents for laying the foundation that has brought me to this point—by example, they instilled the virtues in my sisters and me, and we came to know the value of hard work, loyalty, and family.

I would not be here today without my extraordinary wife Muffet. She has been an unwavering source of support and encouragement, while selflessly devoting her many talents to raising our three wonderful children.

Early in high school, I decided that I would serve our Nation in the military, and sought to attend the Naval Academy. Since taking the oath of office at Annapolis 33 years ago, it has been my privilege to spend literally half of my life in public service—including first as a lieutenant on a nuclear submarine, and then with the Naval Criminal Investigative Service. After law school, I served as a counsel for the House Energy and Commerce Committee, before stints as an attorney at the Pentagon, and a civil servant at the Treasury Department. I have served in all three branches of the Federal Government—with nearly 20 years in a national security related capacity. In the private sector, I practiced law as a patent and trademark litigator, and most recently as a partner in a large firm's international trade group.

By virtue of these professional experiences, I understand the importance of protecting American innovators' intellectual property—our Nation's vital economic engine. And as a Navy submariner, educated and trained as an engineer, I experienced firsthand how America's superior technology ensures our warfighting edge.

As an attorney representing global businesses large and small, I have gained a true appreciation for the importance of foreign investment to our strong and vibrant economy, as well as the benefits of regulatory certainty to business transactions.

If I am confirmed, you have my unqualified commitment that I will work closely with this Committee, and Congress as a whole, to continue what I have been doing as Deputy Assistant Secretary over the past year: faithfully and transparently implementing FIRRMA; ensuring our national security is protected while foreign investment is fostered; and serving with humility, and a deep and abiding respect for our dedicated and talented career professionals at Treasury and across the Government who diligently execute the CFIUS mission.

Thank you again for the privilege and opportunity to appear before you today. I am happy to answer any questions that you may have.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Feddo (Last) Thomas (First) Peter (Other)

Position to which nominated: Assistant Secretary for Investment Security

Date of nomination:

Date of birth: 27 (Day) June (Month) 1968 (Year) **Place of birth:** Buffalo, New York

Marital Status: Married **Full name of spouse:** Marie Seton ("Muffet") Feddo

Name and ages of children: Emma, 17; Kaye, 15; Angus, 10

Education: Institution	Dates attended	Degrees received	Dates of degrees
United States Naval Academy	7/86-5/90	B.S., Aerospace Engineering (with merit)	05/1990
George Washington University Law School	8/97-5/00	Juris Doctor (with honors)	05/2000
Naval Nuclear Prototype School	5/91-3/92	N/A	03/1992
Naval Nuclear Power School	11/90-5/91	N/A	05/1991

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

- Eagle Scout
- Meritorious Service Award, Secretary of the Treasury, 2016
- Superior Public Service Award, General Counsel of the Navy, 2008
- U.S. Submarine Service, Gold Dolphins
- Graduate, Prospective Nuclear Engineer Officer Examination
- Navy Achievement Medal, 1996
- Navy Commendation Medal, 1995
- Navy Achievement Medal, 1994
- Navy Expeditionary Medal
- National Defense Service Medal
- Sea Service Ribbon
- Expert Pistol Medal
- Rifle Marksman
- U.S. Army Airborne Course, Silver Wings
- George Washington University Law School, 1999 Finnegan Prize Intellectual Property Writing Competition, second place/honorable mention

- George Washington University Law School, 1999 Van Vleck Constitutional Law Moot Court Competition, semifinalist
- U.S. Naval Academy "Class of 1961 Prize" – awarded for achieving the highest four-year GPA in all curricula related to leadership, law, navigation, seamanship, and officer training
- Valedictorian, North Tonawanda Public High School, Class of 1986

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

Organization	Office held (if any)	Dates
The Federalist Society	None	intermittent membership 1998-present (currently inactive)
Republican National Lawyers Association	None	intermittent membership 2002-present (currently inactive)

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

05/2018-present—U.S. Department of the Treasury, Deputy Assistant Secretary for Investment Security, Washington, DC

02/2016-05/2018—Alston & Bird, LLP, Partner, Washington, DC

02/2009-01/2016—U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC), Washington, DC
(08/2010-01/2016, Assistant Director for Enforcement)
(10/2010-05/2011 and 11/2013-11/2014, acting Associate Director for Enforcement)
(02/2009-07/2010, Senior Enforcement Advisor)

06/2008-01/2009—Republican National Committee, Senior Advisor to the Communications Director, Washington, DC

04/2007-06/2008—United States Navy, Office of the General Counsel, Special Assistant to the General Counsel, Arlington, VA

09/2003-03/2007—U.S. House of Representatives, Committee on Energy and Commerce Subcommittee on Oversight and Investigations, Majority Counsel, Washington, DC

09/2001-09/2003—Pillsbury Winthrop, LLP, intellectual property litigation associate, Tysons Corner, VA

07/2000-08/2001—United States Court of Federal Claims, judicial law clerk to the Honorable James T. Turner, Washington, DC

06/1999-08/1999—Pillsbury, Madison & Sutro LLP, summer associate, Washington, DC

06/1998-08/1998—U.S. Department of Justice, Environmental Defense Section, summer intern, Washington, DC

04/1995-05/1997—Naval Criminal Investigative Service, Navy Antiterrorist Alert Center, watch officer/analyst (active duty Navy Lieutenant), Washington, DC

07/1992-03/1995—USS Salt Lake City (SSN-716), fast attack submarine officer (active duty Navy Lieutenant), San Diego, CA

06/1990-11/1990—NASA Goddard Space Flight Center, temporary research assistant (active duty Navy Ensign, awaiting submarine training pipeline)

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

Please see above listing of undergraduate education and employment history.

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

- Author: *Sanctions-Related Challenges for Payment Systems*, October 2016, Review of Banking & Financial Services
- Co-author: *The Doctrine of Equivalents: Both a Sword and a Shield*, May 2003, Federal Circuit Bar Journal
- Primary drafter: *Waste, Fraud, and Abuse Concerns with the E-rate Program*, October 2005, Energy and Commerce Subcommittee on Oversight & Investigations Staff Report

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

None.

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

None.

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

As deputy assistant secretary, I currently lead the U.S. Department of the Treasury's Office of Investment Security in executing Treasury's statutory role as the Chair of the Committee on Foreign Investment in the United States (CFIUS); exercise oversight and direction of all CFIUS operations and activities within Treasury; lead, oversee, and coordinate the interagency process with CFIUS member agencies during the national security review and investigation of all transactions before CFIUS; engage with international partners and allies on issues pertaining to national security reviews of foreign investment.

As a former officer in the U.S. Navy's submarine service, I am keenly aware of how emerging and critical technologies that have military applications are directly related to ensuring that the United States retains its military advantage, and that CFIUS is a key tool in protecting that advantage. As a former law partner in a large firm's international trade group, I have a real-world understanding of both the vital importance for the United States to maintain a strong open investment policy and to provide regulatory certainty to the business community in the course of an agency's rulemaking process. I have served roughly 25 years in the Federal government in one capacity or another, as a military service member and as a civilian in all three branches, including Treasury, nearly 20 of those years have related to some aspect of U.S. national security. I hold a degree and advanced training in multiple fields of engineering, and have practiced intellectual property law, both of which provide a strong foundation for understanding the technology underlying many of the business transactions that come before CFIUS and how that intellectual property fuels the nation's economic engine.

Future employment relationships:

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

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

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

Potential conflicts of interest:

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Treasury's Designated Agency Ethics Official ("DAEO") to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with Treasury's DAEO and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Treasury's Designated Agency Ethics Official ("DAEO") to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with Treasury's DAEO and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Treasury's Designated Agency Ethics Official ("DAEO") to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with Treasury's DAEO and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

None.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Treasury's Designated Agency Ethics Official ("DAEO") to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with Treasury's DAEO and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

Civil, criminal and investigatory actions:

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

None.

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

None.

PREPARED STATEMENT OF NAZAK NIKAKHTAR

TO BE UNDER SECRETARY, COMMERCE FOR INDUSTRY AND SECURITY

JUNE 5, 2019

Mr. Chairman, Ranking Member Brown, and Members of the Committee, thank you for the opportunity to appear before you today. In 2018, I was honored to be confirmed as the Assistant Secretary for Industry and Analysis at the Department of Commerce, and today I am extremely honored to be nominated for the position of Under Secretary for Industry and Security.

With me today are my husband Gene Degnan and my mother Manijeh Nikakhtar. My father Bijan Nikakhtar passed away several months ago, but he would have been beaming with pride if he were here today, as an amateur political historian and one of the greatest American patriots I have ever known. I am proud to say that my parents and my husband have served our Government as Federal employees for many years. My husband served for over a decade at the Department of Commerce, and my parents served for over 40 years collectively as physicians at the VA hospital taking care of our Nation's veterans. My brother, Nersi Nikakhtar, also a physician at the VA hospital, had work obligations today. I am proud to be part of a family that honors Government service.

I immigrated to America with my family 39 years ago. I can remember from a very young age how proud I was to be an American and how I marveled at American innovation and ingenuity. I knew at an early age that I wanted to be part of the narrative of American growth.

This is what prompted me to study law and economics after college. I obtained my Juris Doctor and Master's in Economics from Syracuse University and, in 2002, I began my career at the Department of Commerce, first at the Bureau of Industry and Security and subsequently at the International Trade Administration. At the Department, I worked with, and learned from, the incredibly smart and talented civil servants. Many of those dedicated professionals are still there today, and they are the pillars that shape our Government from Administration to Administration. I have great respect for them and am privileged to work with them again.

I joined the private sector several years later as a trade and export control lawyer, representing industries in the aerospace and steel sectors, in aquaculture, high-tech goods, chemicals, and minerals. In private practice, worked to level the playing field for U.S. industries and, on exports, I conducted internal investigations to enforce compliance agreements that clients with the U.S. Government to address the Government's national security concerns.

My training and experience as both a lawyer and an economist have given me the expertise to determine how to protect U.S. national security and simultaneously advance the economic interests of U.S. industries.

Today, national security no longer begins and ends with military strength. It is a fact in today's world that our national security is dependent on our economic strength and technological leadership.

Yet, advancements in technology and the interconnectedness of our economies make our national security challenges more complex than ever before. Economic integration has emboldened some foreign Nations to behave in ways that undermine our national security, expecting that threats of economic retaliation will weaken our resolve to act. They have increased illicit procurement of items to build weapons of mass destruction and transshipped those items to terrorist organizations and regimes. We are witnessing illegal acquisitions of sensitive technologies to weaponize dual-use items and oppress millions of innocent citizens. And we've seen for years how rampant intellectual property theft displaces U.S. industries, stifles innovation, and enables the advancement of strategic competitors.

The key to our success is maintaining U.S. technological superiority and economic interests through multilateral coordination that is more forward leaning, better use of intelligence data and analytics, robust enforcement of our laws, and a tightly coordinated whole-of-Government approach, that includes more proactive engagement with Congress.

Time is of the essence, and during my 3½ months at the Bureau of Industry and Security, I have been leading the Department's efforts to update our regulations to incorporate ECRA reforms and address global threats. We are engaging with industry to identify emerging technologies that can undermine our national security. In addition, I have begun an initiative to work with like-minded allies on better export control coordination and wider end-use checks. It is imperative that we better coordinate multilateral policies on sensitive technology so U.S. companies can compete globally while Governments prevent those technologies from being misused by adversaries.

At the Bureau, I challenge my colleagues every day to rethink how we can modernize our policies to stay ahead of new threats. And I have made it a priority to seek industry input, as today's complex challenges cannot be solved without close engagement with U.S. businesses; our policies must maintain and advance America's technological and economic leadership.

My parents immigrated to America knowing that this is the greatest country in the world. As an American, it is my responsibility and honor to preserve this Nation's security for future generations. I thank you again for the opportunity to be here in front of this Committee. I look forward to your questions.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: **Nikakhtar** (Last) **Nazakhtar** (First) **("Nazak")** (Other)

Position to which nominated: **Under Secretary, Bureau of Industry and Security, U.S. Department of Commerce**

Date of nomination:

Date of birth: **15/07/1973** (Day) (Month) (Year) **Place of birth:** **Tehran, Iran**

Marital Status: Married **Full name of spouse:** **Eugene Degnan**

Name and ages of children: **Joseph Bijan Degnan, 2 years old**

Education: *Institution*	*Dates attended*	*Degrees received*	*Dates of degrees*
University of California, Los Angeles	1991-1999	B.A.	1999
Syracuse University, College of Law	1999-2002	J.D.	2002
Syracuse University, Maxwell School	2000-2002	M.A. (Econ.)	2002

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

2018 – Super Lawyers, International Trade
2014, 2015, 2016 – Super Lawyers, Rising Star, International Trade
2006 – Bronze Medal Award, U.S. Department of Commerce
2005 – Silver Medal Award, U.S. Department of Commerce
2004 – Silver Medal Award, U.S. Department of Commerce
2002 – Law and Market Economy Certificate, Syracuse University College of Law

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

Organization	*Office held (if any)*	*Dates*
Committee to Support U.S. Trade Laws	Executive Board	2016-2017
Court of Appeals for the Federal Circuit	Member	2014
Washington, D.C. Bar	Member	2010
Court of International Trade Bar	Member	2009
Maryland State Bar	Member	2006
Iranian American Republican Council	Board of Directors	1996-1998

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

Feb. 2019 – Present, Performing the Non-Exclusive Functions and Duties of the Under Secretary for Industry and Security, Bureau of Industry and Security, U.S. Department of Commerce, 1401 Penn. Ave., Washington, DC 20230

Apr. 2018 – Feb. 2019, Assistant Secretary for Industry and Analysis, International Trade Administration, U.S. Department of Commerce, 1401 Penn. Ave., Washington, DC 20230

Aug. 2015 – Mar. 2018, Partner (Law), Cassidy Levy Kent, LLP, 900 19th Street NW, 4th Floor, Washington, DC 20006

Jan. 2014 – Aug. 2015, Counsel, Akin Gump Strauss Hauer & Feld, LLP, 1333 New Hampshire Ave., Washington, DC 20036

Jul. 2011 – Dec. 2013, Associate Atty, Akin Gump Strauss Hauer & Feld, LLP, 1333 New Hampshire Ave., Washington, DC 20036

Sept. 2007 – Jul. 2011, Associate Atty, Stewart and Stewart, Law Offices, 2100 M St. NW, Ste 200, Washington, DC 20037

Jan. 2009 – May 2011, Adjunct Professor, Georgetown University Law Center, 600 New Jersey Ave NW, Washington, DC 20001

Aug. 2004 – Sept. 2007, Special Assist., International Trade Administration, U.S. Department of Commerce, 1401 Penn. Ave., Washington, DC 20230

Mar. 2003 – Aug. 2004, Analyst, International Trade Administration, U.S. Department of Commerce, 1401 Penn. Ave., Washington, DC 20230

Dec. 2002 – Mar. 2003, Analyst, Bureau of Industry and Security, U.S. Department of Commerce, 1401 Penn. Ave., Washington, DC 20230

June 2000 – Aug. 2000, Judicial Extern, District Court for the Central District of California, 250 W 1st Street, Los Angeles, CA 90012

June – Aug. 1994, 1995, Research Assistant (clinical), Veterans Affairs Medical Center, 11301 Wilshire Blvd, Los Angeles, CA 90073

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

Feb. 2019 – Present, Performing the Non-Exclusive Functions and Duties of the Under Secretary for Industry and Security, Bureau of Industry and Security, U.S. Department of Commerce, 1401 Penn. Ave., Washington, DC 20230

Apr. 2018 – Feb. 2019, Assistant Secretary for Industry and Analysis, International Trade Administration, U.S. Department of Commerce, 1401 Penn. Ave., Washington, DC 20230

Aug. 2004 – Sept. 2007, Special Assistant., International Trade Administration, U.S. Department of Commerce, 1401 Penn. Ave, Washington, DC 20230

Mar. 2003 – Aug. 2004, Analyst, International Trade Administration, U.S. Department of Commerce, 1401 Penn. Ave., Washington, DC 20230

Dec. 2002 – Mar. 2003, Analyst, Bureau of Industry and Security, U.S. Department of Commerce, 1401 Penn. Ave., Washington, DC 20230

June 2000 – Aug. 2000, Judicial Extern, District Court for the Central District of California, 350 W 1st Street, Los Angeles, CA 90012

June – Aug. 1994, 1995, Research Assistant (clinical), Veteran's Affairs Medical Center, 11301 Wilshire Blvd, Los Angeles, CA 90073

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

U.S. Department of Commerce Announces Final Tariffs on Chinese and Taiwanese Solar Products (2014)

U.S. Department of Commerce Imposes Preliminary Antidumping Duties on Chinese Solar Products (2014)

U.S. Department of Commerce Imposes Preliminary Countervailing Duties on Chinese Solar Products (2014)

U.S. Subsidiary of Solar World Files New AD/CVD Petitions on Chinese-Origin Solar Cells (2014)

Acknowledgement for legal and economic research in: Robin Paul Malloy, Law in A Market Context: An Introduction to Market Concepts in Legal Reasoning (Cambridge University Press, 2004)

Acknowledgement for legal and economic research in: Robin Paul Malloy, Framing the Market: Representations of Meaning and Value in Law, Markets, and Culture, 51 Buff. L. Rev. 1 (2003)

Contributor: U.S. Department of Commerce, A Survey of the Use of Biotechnology in U.S. Industry (October 2003)

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

Iranian American Republican Council Board of Directors 1996-1998

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

N/A

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

I have extensive professional experience representing U.S. industries on initiatives to increase their competitiveness both domestically and globally, and my work has involved billions of dollars in imports and exports. Through my work, I have created conditions which have allowed U.S. industries to expand operations and I have helped secure hundreds of thousands of American jobs. In private practice as an attorney (and economist), I have led large teams of attorneys and economists in conducting detailed economic analyses of U.S. industries and export controls, scrutinizing trade practices of foreign companies and governments, developing compliance materials that help companies adhere to U.S. export control laws, and advocating for appropriate trade relief before U.S. Government agencies. My work has involved strategic coordination among private sector stakeholders and U.S. Government agencies (including the U.S. Department of Commerce, Customs and Border Protection, and U.S. Department of State).

Moreover, in my current position performing the non-exclusive duties and function of the Under Secretary for Industry and Security, I lead a staff of approximately 400 export policy experts and enforcement officers that work tirelessly each day to protect our nation's security by applying the new authorities provided by the Export Reform Control Act (ECRA) and the Foreign Risk Review Modernization Act (FIRRMA), as well as the existing authorities in Commerce's Export Administration Regulations. Given the rapid advancement of modern technologies, the fast flow of information across nations, and the widespread overlap between technology and national security, I am leading the Bureau in the critical exercise of identifying emerging threats and developing new ways to counter the proliferation of those threats, while ensuring a healthy defense industrial base. Ensuring that these priorities are met without disadvantaging U.S. businesses vis-à-vis their foreign competitors is integral, and aggressive multilateral engagement is a critical component of this strategy. Another important part of my portfolio is cases before the Committee of Foreign Investment in the United States, where I lead my team (in close collaboration with the International Trade Administration) in our review cases involving foreign investment in U.S. companies that pose a threat to national security, including new cases that are reviewed through the FIRRMA pilot program. Finally, at BIS this year, we concluded our investigation into the impact on national security from imports of uranium pursuant to Section 232 of the Trade Expansion Act of 1962, as amended, and we initiated a Section 232 investigation on imports of titanium sponge. We are currently in the process of making significant improvements to the Section 232 exclusion process for imported steel and aluminum products, including reducing the time for rendering decisions and improving the process for participation by small and medium-size companies.

Also, in my previous role as Assistant Secretary of Industry and Analysis at the U.S. Department of Commerce's International Trade Administration, I managed a group of 200 industry experts and economists to develop policies that strengthen the competitiveness of U.S. industries globally. From leading delegations of U.S. businesses in multilateral trade talks with trading partners on reducing trade barriers, to collaborating with trading partners on increasing U.S. exports, to working with the United States Trade Representative's office on exclusions from tariffs pursuant to Section 301 of the Trade Act of 1974, as amended, my responsibility has been to ensure that U.S. businesses have every opportunity to grow domestically and compete globally. I also led the Section 232 investigation into the impact of imports of automobiles and automobile parts on U.S. national security. This report was the first comprehensive assessment by the Department of Commerce on competitiveness of the U.S. automobile industry and the impact of foreign competition on the industry's growth.

Previously, as an adjunct professor at Georgetown University Law Center, I designed and taught law courses on WTO Dispute Settlement and Negotiations. Before entering private practice, I served at the U.S. Department of Commerce's International Trade Administration as a Special Assistant to the Senior Enforcement Coordinator of the China/Non-Market Economy Unit. In that position, I managed the agency's administration of numerous trade cases, advised on legal and regulatory matters related to the enforcement of U.S. trade laws, and participated in bilateral negotiations on trade issues between the United States and China. I also served at the U.S. Department of Commerce's Bureau of Industry and Security as an industry analyst, where I performed key statistical analyses for the U.S. Government's first official survey of the U.S. biotechnology industry. I received several award medals from the Department of Commerce for my work on behalf of U.S. industries. Additionally, I have been repeatedly recognized by Super Lawyers as a leading lawyer in International Trade Law.

Future employment relationships:

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

N/A – currently U.S. Government employee.
Prior to serving, I severed all connections.

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

No.

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

No.

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

Yes.

Potential conflicts of interest:

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

I have no financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients, or customers. I will continue to abide by any disqualifications described in my **attached ethics agreement.**

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and ethics officials at the Department of Commerce to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Department of Commerce and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and ethics officials at the Department of Commerce to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Department of Commerce and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

None.

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

Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Department of Commerce and that has been provided to this Committee. I will also abide by the rules of professional conduct applicable to me as an attorney.

Civil, criminal and investigatory actions:

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

None.

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

None.

PREPARED STATEMENT OF IAN PAUL STEFF

TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL, UNITED STATES AND FOREIGN COMMERCIAL SERVICE

JUNE 5, 2019

Good morning, Chairman Crapo and Ranking Member Brown, Members of the Committee. It is the greatest of honors to sit before you today. If confirmed, it would be my privilege to serve as the Assistant Secretary of Commerce for Global Markets and Director General of the United States and Foreign Commercial Service. I thank President Trump for this nomination. So too, I am grateful for the continued support of Vice President Pence, both in my former capacities in my home State of Indiana, and now in Washington, DC.

Speaking of Hoosiers, I am proud to be joined by my wife, Brittany. I remain forever grateful for your incredible encouragement, compassion, and flexibility as we serve the Nation we love and raise our two little stars, Daniel and Owen. I am also joined by my parents, Wayne and Lisa. Our childhood home was filled with love, faith, respect, hard work, and an enduring sense of service to one's country. Thank you, Mom, Dad, Gram, Aunt Lori, Aaron, and to all those family members, friends, and teachers who helped me along the way.

My story started under a few feet of snow, thirty miles south of Buffalo, New York, on my grandparents' dairy farm. My two younger brothers, Eric and Levi often reflect on the comradery we developed shoveling that never-ending lake-effect byproduct, raising our pet ducks, and commiserating over our beloved Buffalo Bills. Childhood summers encompassed exploring the pastures and woods, working on our neighbor's berry and plant farm, and waiting for the rumble of Dad's cycle as he returned home from his job in highway maintenance. This is a glimpse of our small slice of country and my upbringing in rural America.

Rural? Yes. Encouraged to dream big? Every step of the way. And dream we did. I devoted nearly every penny earned on the farm to my stamp and coin collection. Years later, as I arrived at American University to begin my academic career in international affairs, I knew unequivocally that my future involved fostering relations with the foreign markets and the people personified in the postage and currency I accumulated. That dream and future continue to be realized.

If confirmed, I would be incredibly honored to lead a world-class team of professionals that provide export counseling to small- and medium-sized businesses, while identifying new foreign markets for their products and services; advocate on behalf of U.S. companies competing for foreign Government procurements; attract foreign direct investment, while working to grow the U.S. manufacturing base; and reduce, remove, and prevent foreign trade barriers that impede market access for U.S. goods in a free, fair, and reciprocal fashion.

As the Deputy Assistant Secretary of Commerce for Manufacturing since June of 2017, I've seen the impact the Global Markets team has on U.S. manufacturers and service providers. This vast network of more than 1,300 trade and investment specialists in headquarters and the U.S. Field, combined with the presence of the Foreign Commercial Service in over 70 foreign markets, deliver daily.

Simply put, I have come to know the Global Markets team as: "A Team that Works, a Team that Chooses to Compete, and a Team that Delivers." These professionals deliver "one deal at a time" and have a tremendous impact measured at over $120 billion in FY2018 in the areas outlined above.

In my former professional capacities, I accrued experience in economic development, executive leadership, and trade policy. In my past economic development roles, I worked successfully to attract foreign direct investment. SelectUSA, which would be under my purview if confirmed, is a valued economic development partner to States.

Likewise, during my time in the semiconductor industry, I witnessed the contributions of the Commerce Department to ensure foreign market access. I regularly engaged with the Commerce team while managing the leading chip industry association's international engagements and technology programs for a decade. I have seen the challenges posed by unfair foreign trade measures and massive market distorting practices that crippled companies looking to compete internationally.

Earlier in my professional career, I worked on the Trade Subcommittee staff of the House Ways and Means Committee. I have a profound appreciation for the vital role of Congress when it comes to ensuring the global competitiveness of U.S. industry.

While my stamp and coin collections are now the responsibility of my two young Hoosiers, I have no doubt that they and our country have a limitless and prosperous future based on the unparalleled accomplishments of the Global Markets team at

Commerce. I aspire to help this team continue to achieve its mission. If confirmed, I will devote every working moment to its success on behalf of our Nation's exporters. Distinguished Members of the Committee, thank you for your consideration.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: **Steff** (Last) **Ian** (First) **Paul** (Other)

Position to which nominated: Assistant Secretary of Commerce and Director General of the U.S. and Foreign Commercial Service

Date of nomination: February 1, 2019

Date of birth: 9 (Day) July (Month) 1982 (Year) **Place of birth:** Buffalo, New York

Marital Status: Married **Full name of spouse:** Brittany Paige Grayson Steff

Name and ages of children: Daniel N. Steff (Age 4) and Owen P. Steff (Age 2)

Education:

Institution	Dates Attended	Degrees received	Dates of degrees
American University	2000-2003	B.A. International Studies	2003
National Defense University	2004-2006	18 credits of graduate work in national security studies	n/a
George Washington University	2007-2011	M.A. International Science and Technology Policy	2011

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

A) Recipient of Scholarship Award from the DC Space Grant Consortium - 2003
B) Graduated *Magna Cum Laude* from American University, School of Int'l Service (SIS) – 2003
C) Member of Phi Beta Kappa – 2003
D) Member of Golden Key International Honour Society – 2003
E) Commissioned a "Kentucky Colonel" – Honor bestowed by the Governor of Kentucky – 2005
F) Distinguished Service Award from the Semiconductor Industry Association - 2014

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

	Organization	Office held (if any)	Dates
A)	Friends of the National Zoo (FONZ)	Member	2018-present
B)	Vice Chancellor for Research's Advisory Board, IUPUI	Member	2016-2017*
C)	Dean of Engineering's Advisory Council- Purdue University	Member	2015-2017*
D)	Collaborative Composites Solutions Corporation	Board Member	2015-2017*
E)	IPS Global RE I LLC (Real Estate Holding Company)	President	2016-present
F)	IPS Global RE II LLC (Real Estate Holding Company)	President	2016-2018
E)	Nausbaum Society of the Indianapolis Zoo, Donor	Member, Chairman's Circle	2014-2016
F)	Battery Innovation Center's Board of Directors	Board Member	2014-2017*
G)	IPS Global Consulting LLC	Principal	2014-2017*
G)	Advisory Board, Rochester Institute of Technology	Member	2010-2014
H)	Int'l Technology Roadmap on Semiconductors (ITRS)	Member, Executive Committee	2010-2014
I)	U.S. Information Technology Office (USITO)	Chairman, Executive Committee	2013-2014
J)	Delta Tau Delta International Fraternity	Member	2002-present
K)	Collins Conservation Club; Collins, New York	Member	1996-present

* Resigned from Firm, Boards and Councils before joining the Department of Commerce in June 2017

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

A) Deputy Assistant Secretary of Commerce for Manufacturing, U.S. Department of Commerce; International Trade Administration – June 2017-present; Performing the Non-exclusive Duties and Functions of the Assistant Secretary of Commerce for Global Markets and Director General of the United States and Foreign Commercial Service – May 2018-present; Washington, D.C.
B) Chief Innovation Officer, State of Indiana; Executive Vice President and Senior Advisor, Indiana Economic Development Corporation – July 2016-May 2017; Indianapolis, IN*
C) Senior Advisor for Science, Technology, and Advanced Manufacturing; Indiana Economic Development Corporation – May 2014-July 2016; Indianapolis, IN*
D) Principal, IPS Global Consulting LLC – May 2014 to May 2017; Indianapolis, IN
E) Vice President for Global Policy and Technology Partnerships; Semiconductor Industry Association – 2008-2014; Washington, D.C.
F) International Trade and Semiconductor Policy Specialist; Dewey Ballantine LLP – 2005-2008; Washington, D.C.
G) Senior Staff Assistant to the Staff Director; House Ways and Means Trade Subcommittee – 2004-2005; Washington, D.C.

* Served in these executive advisory capacities as defined by contractual arrangements between the State of Indiana/Indiana Economic Development Corporation and my former firm, IPS Global Consulting LLC.

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

A) Deputy Assistant Secretary of Commerce for Manufacturing, U.S. Department of Commerce; International Trade Administration – June 2017-present; Performing the Non-exclusive Duties and Functions of the Assistant Secretary of Commerce for Global Markets and Director General of the United States and Foreign Commercial Service – May 2018-present; Washington, D.C.
B) Chief Innovation Officer, State of Indiana; Executive Vice President and Senior Advisor, Indiana Economic Development Corporation – July 2016 - May 2017; Indianapolis, IN*
C) Senior Advisor for Science, Technology, and Advanced Manufacturing; State of Indiana; Indiana Economic Development Corporation – May 2015-July 2016; Indianapolis, IN*

* Served in these executive advisory capacities as defined by contractual arrangements between the State of Indiana/Indiana Economic Development Corporation and my former firm, IPS Global Consulting LLC.

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

A) December 2013 - Forbes Op-ed, co-authored with Ambassador Alan Wm. Wolff – "China Will Make or Break a Once-In-A-Generation Trade Deal" – Link: https://www.forbes.com/sites/realspin/2013/12/02/china-will-make-or-break-a-once-in-a-generation-trade-deal/
B) March 2018 – Remarks at the Taiwan Smart Cities Summit in Taipei, Taiwan in capacity as Deputy Assistant Secretary of Commerce for Manufacturing: https://www.ait.org.tw/remarks-ian-steff-smart-city-summit/
C) September 2018 – Remarks at the 3SI Heads of State Summit in Bucharest, Romania in capacity as Deputy Assistant Secretary of Commerce for Manufacturing - https://www.youtube.com/watch?v=SclMeo2bujY

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

I am a registered Republican in the State of Indiana. I have not held any offices or rendered any services to any political party or election committee during the last 10 years.

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

- March 2016- Contribution to Friends of Todd Young, Inc. - $500.00

Qualifications: State fully your qualifications to serve in the position to which you have been named. (*See Attachment I*).

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

Yes. In connection with my current employment at the Department of Commerce, I have servered all connections with past employers and my former consulting firm. During the nomination process, I have consulted with the Office of Government Ethics and Department of Commerce agency ethics officials to identify any additional action I should take, if confirmed. These actions are documented in my ethics agreement and I will ensure full compliance. I understand that my ethics agreement has been provided to the Committee.

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

I have no current or future employment plans following government service. Rather, I intend to focus exclusively, if confirmed, on carrying out the responsibilities and functions of the position to which I have been nominated. Should any future plans or post-government service opportunities arise, I will consult with the Office of Government Ethics and Department of Commerce agency ethics officials pursuant to the guidelines covering this area.

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

No.

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

Yes.

Potential conflicts of interest:

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

I am not aware of any potential conflict of interest other than those that are the subject of my ethics agreement. Any potential conflicts of interest will be resolved in accordance with the terms of my ethics agreement. I understand that my ethics agreement has been provided to the Committee.

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

I am not aware of any potential conflict of interest other than those that are the subject of my ethics agreement. Any potential conflicts of interest will be resolved in accordance with the terms of my ethics agreement. I understand that my ethics agreement has been provided to the Committee.

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

I am not aware of any potential conflict of interest other than those that are the subject of my ethics agreement. Any potential conflicts of interest will be resolved in accordance with the terms of my ethics agreement. I understand that my ethics agreement has been provided to the Committee.

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

During my tenure with the Semiconductor Industry Association (2008-2014), I conveyed industry views on a number of public policy matters, legislation, and Administration actions. The Association had involvement or expressed views on the following during my tenure:

- Support for authorization legislation and increased appropriations for basic research at DARPA, NIST, and NSF, including the passage of the America COMPETES Act.
- Support for immigration legislation and actions to allow foreign students graduating with STEM degrees to stay in the U.S. following graduation.
- Support for STEM education and workforce initiatives.
- Support for the R&D Tax Credit, a simplified corporate tax system, and a competitive investment climate.
- Support for Administration and Congressional action to enhance intellectual property protection for semiconductors.
- Support for anti-counterfeiting semiconductor initiatives.
- Support for expansion of the Information Technology Agreement and trade agreements effecting the semiconductor industry and global market access.

- Support for efforts to deal with unfair trade practices related to China effecting the semiconductor industry.

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

I am not aware of any potential conflict of interest other than those that are the subject of my ethics agreement. Any potential conflicts of interest will be resolved in accordance with the terms of my ethics agreement. I understand that my ethics agreement has been provided to the Committee.

Civil, criminal and investigatory actions:

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

None.

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

None.

ATTACHMENT 1) Qualifications: State fully your qualifications to serve in the position to which you have been named.

It is the highlight of my professional career to have been nominated to lead Global Markets and the U.S. and Foreign Commercial Service in the International Trade Administration. I am humbled to have an opportunity to work aside a world-class team that a) provides export counseling to small and medium sized business, while identifying new foreign markets for their products and services; b) advocates on behalf of U.S. companies competing for foreign government procurements; c) attracts foreign direct investment through SelectUSA initiatives, while working to grow the U.S. manufacturing base; and d) reduces, removes, and prevents foreign trade barriers that impede market access for U.S. goods in a free, fair, and reciprocal fashion.

In my current and former professional capacities, I have come to know the ITA and Global Markets team as: A Team that Works, A Team That Chooses to Compete, and a Team that Delivers. This team delivers "one deal at a time" and has a tremendous impact measured at over $136 billion in FY 2018 in the areas outlined above.

As the Deputy Assistant Secretary of Commerce since June 2017, I've seen firsthand the difference this team has made for U.S manufacturers and service providers. From my current seat, I have encouraged all units in ITA to focus our collective resources toward delivering on behalf of our clients via trade promotion. Our vast network of trade specialists in the U.S. Field, combined with the Foreign Commercial Service's presence in over 70 foreign markets deliver on a daily basis. We have met or exceeded all internal export, advocacy and investment targets, and also delivered on our Agency Priority Goal related to trade barrier removal, valued at over $5.6 billion. At the same time, I feel that I have earned the team's trust and respect.

In my former professional capacities, I have demonstrated experience and capabilities in economic development, executive leadership, and trade policy that will be put to good use, if confirmed. In my past economic development roles, I worked regularly to maintain and attract foreign direct investment. SelectUSA, which would be under my purview, if confirmed, continues to be a valued partner to states across the nation and I look forward to working with the team to reach our full potential and convey that the U.S. is "open for business".

Likewise, during my time in the semiconductor industry, I witnessed firsthand the contributions of the Commerce Department in ensuring a leading U.S. export industry maintained and grew its worldwide market share. I regularly engaged with the Commerce team in that capacity for over a decade, while managing the leading industry association's

international engagements, offices, and technology programs. I came to know the challenges posed by unfair foreign trade measures and massive market distorting practices that have crippled companies looking to compete internationally.

Earlier in my professional career, I had the good fortune to work on the Trade Subcommittee staff of the House Ways and Means Committee. In addition to gaining valuable experience in trade policy, I also saw its impact on the clients the Department and the GM team serve. I have an utmost appreciation for the vital role of Congress when it comes to ensuring the competitiveness of U.S. industry on a global scale.

Lastly, my educational background in international studies and international science and technology policy will be highly leveraged on a regular basis in this capacity, if confirmed. The role is completely aligned with every aspiration I have ever held as a student and practitioner of international relations.

PREPARED STATEMENT OF MICHELLE BOWMAN

TO BE A MEMBER, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

JUNE 5, 2019

Chairman Crapo, Ranking Member Brown, and Members of the Committee, it has been just over a year since this Committee first recommended my nomination as a Federal Reserve Board Governor. While I am not the first community banker to serve on the Board, I am humbled by the opportunity you gave me to serve as the first Governor to fill the role the Congress designated for someone with community banking experience on the Federal Reserve Board. I am deeply honored the President has renominated me to serve in that capacity.

I am also grateful to my family for their continued support. My husband, Wes, and our children, Jack and Audrey, are here with me today. The rest of my family are watching from home in Kansas.

Since my confirmation last year, I have worked to fulfill my unique role on the Board by traveling widely and listening closely to community bankers, consumers, small business owners, and community leaders. I have visited with farmers, workers, and business leaders from across the country to discuss the economy. I am making sure these unique perspectives are represented in the Federal Reserve's deliberations and decision making on both monetary policy and regulatory matters.

During my time at the Board, I have also drawn on my experience as a community banker and regulator to ensure that our work is guided by a deep understanding of the practical realities confronting bankers and the communities they serve across the country. The work done after the crisis to address the weaknesses in the U.S. financial system and ensure its future resilience was essential. However, during my time at my family's community bank, I saw firsthand how the regulatory changes created in the aftermath of the crisis impacted community financial institutions. Small, solid institutions like this one are essential to so many of our citizens and communities. As regulators, we need to ensure that we are not imposing unnecessary burdens on community banks. That is why one of my priorities as a Governor has been to appropriately tailor our supervision and regulation to the size, complexity, capacity, and risks posed by an institution.

To further this effort, I recently formed a working group of experts from across the Federal Reserve System to launch a comprehensive review of our supervisory work with smaller regional and community banks. While serving as the Kansas State Bank Commissioner, I was committed to treating every consumer and institution fairly and respectfully and fostering open communication. This working group will follow those same principles. We are looking for ways to optimize our supervision and regulation to ensure it adapts to the on-the-ground realities of an evolving industry and changing consumer expectations while maintaining the safety and soundness of our banking system.

Let me close by saying a few words about monetary policy and the Federal Reserve's dual mandate. As a community banker, it was my job to support local businesses and consumers. I draw upon this experience often when thinking about monetary policy, because it has given me a personal and practical understanding of how the Federal Reserve's goals of fostering maximum employment and stable prices directly affects individuals as well as the broader financial system and economy. The Congress has given the Federal Reserve independence to pursue these goals, because our work is critical to our economy, to businesses, to families, and to communities. I am deeply committed to fulfilling this mandate.

If confirmed by the Senate, I will continue the important work I have begun and be committed to accountability, transparency, and clear communication in all of my responsibilities at the Federal Reserve. Thank you for the honor of this hearing, and I look forward to answering the Committee's questions.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name:

Bowman Michelle White

Position to which nominated: Member, Board of Governors, Federal Reserve System

Date of nomination: 4 April 2019

Date of birth: 25 May 1971 (Day) (Month) (Year)

Place of birth: Honolulu, Hawaii

Marital Status: Married

Full name of spouse: John Wesley Bowman

Name and ages of children:

John Henry Bowman 12

Audrey Helen Bowman 10

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Washburn University Law School	1/1994 – 8/1996	Juris Doctorate	8/1996
University of Kansas	8/1989-5/1993	Bachelor of Science	5/1993

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

Leadership Kansas – 2016 Class Member, elected as Class Representative to Board of Trustees
Kansas Bankers Association, Bank Leaders of Kansas – 2013 Class Member, elected as Class Representative
The Dwight D. Eisenhower Series for Excellence in Public Service – 2011 Class Member, elected as Class Representative to Board of Governors
British American Project - 2008 Fellowship (London, England)

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

Organization	Office held (if any)	Dates
Taylor Elementary PTO, Arlington, Virginia		2019 - current
Conference of State Bank Supervisors Vice Chair, Legislative Committee 2017-2018		
Leadership Kansas	Board of Trustees	2016 – 2018
The Dwight D. Eisenhower Series for Excellence in Public Service, President, Vice President, Board Member 2011- 2018		
Council Grove/Morris County Chamber of Commerce & Tourism President, Vice President, Board Member 2010 – 2017		
Rotary International, Council Grove Chapter President, Vice President		2010-current
Community Mentoring Program	Treasurer	2010-2017
Council Grove PRIDE Committee	Co-Chairman, Treasurer	2011-2016
City of Council Grove Economic Development Committee		2014-2017
Morris County Republican Committee Treasurer		2013-2018
Kansas Bankers Association		2010-2017
American Bankers Association		2010-2017
Score & Four		2012-current
PEO		2013-current
Daughters of the American Revolution		1991-current
Kappa Kappa Gamma		1990
Republicans Abroad – UK	Chairman, Vice Chairman	2005-2009
The Reform Club		2008-current
Kensington & Chelsea Women's Club		2005-2009
Junior League of London, England		2004-2008
Junior League of Washington, DC		1999-2004
New York State Bar		1997-current

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

Kansas

Kansas State Bank Commissioner, Office of the State Bank Commissioner, Topeka, Kansas		2/2017 – 11/2018
Vice President, Farmers & Drovers Bank	Council Grove, Kansas	1/2010- 1/2017
Director, Farmers & Drovers Bank	Council Grove, Kansas	1/2015-1/2017
Law Clerk, Kansas Bankers Association	Topeka, Kansas	1994-1995

London, England

The Bowman Group, Government & Public Affairs Consulting	London, England	11/2004-1/2009

Washington, DC

Member, Board of Governors, Federal Reserve System, Washington, DC 11/2018 - current
Senior Management Advisor, Immigration & Customs Enforcement (International Division), Department of Homeland Security 4/2004-8/2004
Policy Advisor to the Secretary, Deputy Assistant Secretary for Legislative Affairs, Department of Homeland Security 2/2003-4/2004
Director, Branch Chief, Congressional & Intergovernmental Affairs Division, Federal Emergency Management Agency 2/2002-2/2003
Counsel, Subcommittee on Highways & Transit, Counsel, Subcommittee on Economic Development, Public Buildings & Emergency Management, US House Committee on Transportation & Infrastructure 1999- 2002
Investigative Attorney, US House Committee on Government Reform & Oversight 1997-1999
Legislative Correspondent, Intern, US Senator Robert J. Dole, 1995-1996

Government

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

Kansas
Kansas State Bank Commissioner, Office of the State Bank Commissioner, Topeka, Kansas 2/2017 – 11/2018
City of Council Grove Economic Development Committee Council Grove, Kansas 2014-2018

Washington, DC
Member, Board of Governors, Federal Reserve System, Washington, DC 11/2018 - current
Senior Management Advisor, Immigration & Customs Enforcement, International Division, Department of Homeland Security 4/2004-8/2004
Policy Advisor to the Secretary, Deputy Assistant Secretary for Legislative Affairs, Department of Homeland Security 2/2003-4/2004
Director, Branch Chief, Congressional & Intergovernmental Affairs Division, Federal Emergency Management Agency 2/2002-2/2003
Counsel, Subcommittee on Highways & Transit, Counsel, Subcommittee on Economic Development, Public Buildings & Emergency Management, US House Committee on Transportation & Infrastructure 1999- 2002
Investigative Attorney, US House Committee on Government Reform & Oversight 1997-1999
Legislative Correspondent, Intern, US Senator Robert J. Dole, 1995-1996

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

None

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

Morris County, Kansas - Republican Precinct Committee Woman, 2014-2018
Morris County, Kansas - Republican Committee, Treasurer, 2013-2018
Kansas 1st Congressional District, Alternate Delegate, 2014-2016
London, England - Republicans Abroad – UK, Chairman (not an official party organization) 2006-2009

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

$500 Romney for President 8-28-2012

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

I was confirmed to be a member of the Board of Governors of the Federal Reserve System in November 2018. Since joining the Board, I have participated in three Federal Open Market Committee meetings and, as a Board member, have voted on a wide range of regulatory and supervisory topics. As part of my leadership responsibilities, I chair the Board's Committee on Consumer and Community Affairs as well as the Subcommittee on Smaller Regional and Community Banking. I also participate in the Committee on Supervision and Regulation, the Committee on Board Affairs, and the Committee on Federal Reserve Bank Affairs.

Attached is a list of my public remarks as a member of the Board.

My prior background and experience align directly with the statutory requirement that at least one member of the Board of Governors of the Federal Reserve System have "primary experience working in or supervising community banks." My family and I have been in community banking for many years. I have experienced community banking, not only from that incredibly valuable and rewarding perspective, but also through the prism of being the lead state regulator of community banks in my home state of Kansas. This background has thus far served me well in this important role and, if confirmed, I will continue to draw upon this experience.

The Office of the State Bank Commissioner (OSBC) in Kansas, which I led before joining the Federal Reserve Board, oversees regulatory supervision for hundreds of state chartered banks, trust companies, money transmitters, and other non-depository financial service institutions. The mission of the OSBC is both proactive oversight of financial institutions and protection of the consumers they serve. Every bank under my supervision qualified as a community bank according to the definitions currently used, and they were a consequential presence in rural and agricultural markets. At that time, our Kansas state-chartered banks ranged in size from just under $7 million in assets to just over $3 billion.

Prior to my appointment as the Kansas State Bank Commissioner, I served as a VP in my family's state-chartered bank with assets of nearly $185 million. I became the third member of the fifth generation of my family working in our bank. My duties in the bank included compliance officer, trust officer, and serving as a member of the board of directors. As a community banker, it was my job to support local businesses and consumers. This experience has given me a personal and deep understanding for how the Federal Reserve's goals of fostering maximum employment and stable prices directly affect the financial system and the broader economy.

Chartered in 1882, Farmers & Drovers Bank endured the Great Depression, the inflationary 1970s, the farm crisis of the 1980s, and the 2008 economic crisis. The 2008 crisis, in particular, hit all banks hard, including community banks that contributed only minimally to its causes. I have firsthand experience of how the crisis' initial impact, as well as the regulatory environment created in its aftermath, disadvantaged community banks.

My banking experience has been supported and enhanced by more than 15 years of non-banking public policy work in the legislative and executive branches of the federal government in Washington, D.C., where I held posts in Senator Bob Dole's office, several U.S. House of Representatives committee staff counsel positions, and executive level appointments in FEMA and the Department of Homeland Security. I also bring an international perspective through my work with the UK and EU governments and industry while living in London, England.

The Congress enacted legislation to ensure community banks' strengths and challenges were well understood by the Federal Reserve Board. If confirmed for a full term, I will bring my broad experiences and distinctive perspectives to the deliberations of the Federal Reserve to better ensure well-rounded policy decisions.

Future employment relationships:

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

No. This information is being provided for the re-nomination for my current role.

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

No

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

No

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

Yes

Potential conflicts of interest:

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

   In connection with the nomination process, I have consulted with the Office of Government Ethics and the Federal Reserve Board's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest were resolved during my prior confirmation process and in accordance with the terms of an ethics agreement that I entered into with the agency's ethics official. That agreement was provided to this Committee during that process. I am not aware of any other conflicts of interest.

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

   In connection with the nomination process, I have consulted with the Office of Government Ethics and the Federal Reserve Board's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest were resolved during my prior confirmation process and in accordance with the terms of an ethics agreement that I entered into with the agency's ethics official. That agreement was provided to this Committee during that process. I am not aware of any other conflicts of interest.

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

   In connection with the nomination process, I have consulted with the Office of Government Ethics and the Federal Reserve Board's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest were resolved during my prior confirmation process and in accordance with the terms of an ethics agreement that I entered into with the agency's ethics official. That agreement was provided to this Committee during that process. I am not aware of any other conflicts of interest.

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

   As a member of the Kansas Bankers Association and the American Bankers Association from 2010-2017, I discussed a variety of KBA and ABA supported

legislative initiatives with federal elected representatives. As a member of the Conference of State Bank Supervisors in 2017, I discussed a variety of state banking related issues with federal elected representatives.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Federal Reserve Board's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest were resolved during my prior confirmation process and in accordance with the terms of an ethics agreement that I entered into with the agency's ethics official. That agreement was provided to this Committee during that process. I am not aware of any other conflicts of interest.

Civil, criminal and investigatory actions:

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

None

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

None

Speeches
Governor Michelle Bowman
2019

4/11/2019 *Community Banking in the Age of Innovation*
Governor Michelle W. Bowman
At the "Fed Family" Luncheon at the Federal Reserve Bank of San Francisco, San Francisco, California

4/2/2019 *Fostering Closer Supervisory Communication*
Governor Michelle W. Bowman
At the Conference of State Bank Supervisors, Washington, D.C.

3/28/2019 *Agriculture and Community Banking*
Governor Michelle W. Bowman
At the Ag Lenders Conference, sponsored by The Independent Community Bankers Association of New Mexico, Deming, New Mexico

3/25/2019 *Welcoming Remarks*
Governor Michelle W. Bowman
At the National Agricultural Credit Conference, Washington, D.C.

2/11/2019 *A Conversation on Community Banking*
Governor Michelle W. Bowman
At the Conference for Community Bankers, sponsored by the American Bankers Association, San Diego, California

PREPARED STATEMENT OF PAUL SHMOTOLOKHA

TO BE FIRST VICE PRESIDENT, EXPORT–IMPORT BANK OF THE UNITED STATES

JUNE 5, 2019

Chairman Crapo, Ranking Member Brown, and distinguished Members of the Committee, thank you for considering my nomination to serve as First Vice President of the Export–Import Bank of the United Sates. I am deeply thankful to President Trump for selecting me and humbled by the obligations that this role brings to American workers and taxpayers.

I would like to introduce some family members who are with me today. First, my parents Stephen and Christine who made the trip from California. They came to America as child refugees of World War II and I am always inspired by their contributions to our country. My father worked as an engineer in the defense industry for more than 40 years and my mother served tirelessly as a nurse. I am also joined by my wife, and best friend, Dania, who guided the family through multiple international moves and extensive overseas travels and Max, my son, who is entering his senior year in college. My brother Adrian and many of my friends, family and coworkers from around the world are also watching online.

I sit before you as someone who has spent the past 16 years on the front lines of global trade with a strong record in growing American exports. I also bear the battle scars of leadership in a time of unparalleled competition in global markets.

It is not simple for any manufacturer to export. They must overcome political risks, economic hazards, import regulations and diverse marketing environments. It takes diplomacy and mutual respect to forge international customer relationships that help guide a business or an institution through the process of closing a successful deal. Sometimes it also takes extra financial support, especially when there are over 100 export credit agencies that are upping the ante and creating new incentives for the end customer. In my travels, I have seen firsthand how critical it is to support the current needs of the market and for EXIM to be able to finance deals in a timely and relevant fashion when the private sector cannot. My demonstrated commitment to this mission and my international experience on both the buying and the selling side of international trade over the last 30 years will allow me to contribute strongly to the team at EXIM.

EXIM's mission is to help support and create jobs. I have experienced firsthand the thrill of walking assembly lines in Georgia and in Washington State and meeting the newest workers putting together products for export, thanks to deals that my team closed. These are some of my best experiences. My legacy and value as a business person comes from the people that I mentor and the jobs that I help create. By working with the President of the Bank, my fellow board members and the talented staff at EXIM, I believe I can best serve America to multiply the job creation effects of EXIM. Having served on numerous private sector boards in various capacities, I understand board responsibilities of proper corporate governance, the need for transparency and how good strategic guidance and a positive leadership attitude can enable organizations to realize their full productive potential. I believe that every organization can do better and that constant advancements to American competitiveness should match changes in global market demand.

The EXIM board needs to make sure it doesn't lose sight of its role as an important source of support for small businesses. Many of its financial products in this area resonate with those looking to expand to new markets. As an entrepreneur, I have worked in small companies and faced the pressure of making payroll. Speed to market and effective financing can make or break opportunities for these companies. I built a significant export business in a medium-sized U.S. manufacturer that, while a very successful domestic business, had yet to find its legs overseas. All companies—small, medium, and large—all need help at times in leveling the playing field in today's global economy.

If confirmed, I will bring a fresh perspective and a fiercely competitive mindset to the Bank. My experience as an officer in the U.S. Army taught me to lead from the front and I will work tirelessly to support the "Made in America" brand that we all share and support. I will ensure that American companies have full access to and understanding of the programs authorized by Congress to maximize their global reach and competitiveness. To this end, I would paraphrase Vince Lombardi: "Winning isn't everything, it is the only thing" for American business and the American worker and I pledge to bring a "can do" winning attitude and to win responsibly for the American taxpayer.

Thank you for your consideration. I would be pleased to answer any questions.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: **Shmotolokha** (Last) **Paul** (First) **Jaroslav** (Other)

Position to which nominated: First Vice-President, Export-Import Bank of the United States

Date of nomination: May 3, 2019

Date of birth: 14 (Day) July (Month) 1967 (Year) **Place of birth:** Plainview, New York

Marital Status: Married **Full name of spouse:** Bohdanna Shmotolokha

Name and ages of children: Maxim Shmotolokha, age 20

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Georgetown University	9/85 – 5/89	BSFS	May 1989
US Army Field Artillery School	10/89 – 4/90	completed Officer basic course in Artillery	
Universidad de Chile	2/91 – 12/91	none – Masters degree program international relations	
London Business School	4/00 – 6/00	certificate ADP accelerated development program	
Dartmouth College	5/18	none – SCTE ISBE Leadership course	
Universidad de Valencia, Spain	6/87 – 7/87	none	

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

Magna Cum Laude Graduate of Georgetown University School of Foreign Service
US Army four-year ROTC Scholarship
Alpha Sigma Nu: National Jesuit Honor Society
Rotary Foundation Ambassadorial Scholarship: Graduate School
Completed US Army Airborne School
US Army Civil Affairs Award, Recognition for Outstanding Partnership (civilian award 2019)

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

Organization	Office held (if any)	Dates
US Philippines Society	Director	2018-Present
St. Paul's Academy School	Board Director	2012-2014
Whatcom Day Academy	Board Director	2010-2012
Society of Cable Television Engineers	Member	2004-Present

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

Energy Systems Americas, an Enersys Company, Bellingham, WA, USA
Vice-President, International Sales and Market Development, 2018-Present
Manage Alpha's export business while managing various integration activities in global markets after Alpha's acquisition by EnerSys Corporation

Alpha Technologies, Inc, Bellingham, WA, USA
Senior Vice-President International Operations and Government Relations, 2015-2018
Broadband, Renewable Energy, Telecommunications and Industrial Divisions Vice-President International Sales, 2003-2015
Manage international subsidiaries as well as the export P&L for Broadband, Renewable Energy, Telecommunications and Industrial power solutions with active markets in over 100 countries

Coppervale Enterprises, Bellingham, WA, USA
President and Co-Founder, 2008-2018
Founded the Broadband industry's first and only sustainability consultancy aiming to reduce energy spend at Broadband operators and to build sustainable business strategies through a number of proprietary methodologies designed to reduce expenditures

Simma International
Founder, Owner and President, 2004-Present
Provide telecommunications consulting services to various clients in the broadband industry focusing on technology, sales and marketing, new business development and business strategy.

AB Advanced Broadband, Vilnius, Lithuania
President, Chairman CGates LLC, 2004-2015
Consolidated the Lithuanian broadband market under the brand CGates. As Chairman of CGates, oversaw all strategy, business planning, investment decisions, executive hiring and managed the Board of Directors. Led successful exit process to Private Equity buyers for 60mln Euros returning 18% IRR to investors.

Encore International, Beijing, China
President, Asia Division, 2002-2003
General Manager and Chief Representative Encore Asia Beijing, 2002-2003
Managed China operations and business development for Liberty Media's China arm. Developed market entry strategy for the launch of a pay television channel platform on cable television networks. Performed extensive work on Government and Public Relations to receive approvals for programming initiatives. P&L responsibility for Encore Asia Beijing Representative Office and Media Wave, a joint venture advertising agency with Central China Television.

Metromedia International Telecommunications, Vienna, Austria
Vice-President, Cable Television and Broadband Networks Group, 1996-2001
Directed operations with Profit and Loss responsibility for 12 broadband networks in 9 countries of Central Europe, Eastern Europe and Central Asia with a customer base of 520,000 subscribers. Responsibilities also included development and implementation of corporate and venture-specific strategies, new business development, M&A, partner and governmental relations, and legal and regulatory issues.

Multichoice Central Europe, Budapest, Hungary
Regional Director Central Europe, 1992-1996
Responsible for operations in Hungary, the Czech Republic, Slovakia, Slovenia and Croatia of the first multichannel Direct to Home Satellite Pay-TV offering in Central Europe. Directed sales and marketing, wholesale and retail distribution, public relations, customer service, business development, finance and administration.

U.S. Army Reserves
Captain, Field Artillery/Special Operations, 1989-2002
Special Operations Team leader with focus on civil affairs and counter insurgency in SOCOM, Two annual training deployments to Panama.

41st District, California State Assembly, Thousand Oaks, CA, USA
Campaign Manager, 1992
Managed Alan Guggenheim's primary race.

Foreign Investment Committee of Chile, Santiago, Chile
Writer and Researcher, 1991

Cahill Gordon Reindel, New York City, NY, USA
Paralegal, 1990-1991

U.S. Department of State Bureau of Intelligence and Research
Internship, 1989
Interned with Dr. Paul Goble, the Special Assistant for Soviet Nationalities.

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

U.S. Department of State Bureau of Intelligence and Research
Internship, 1989
Interned with Dr. Paul Goble, the Special Assistant for Soviet Nationalities.

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

Shomotolokha, Paul. "First Large Scale Conventional Military Conflict in Europe Since World War Two Erupts." *Truth Revolt*, August 29, 2014, https://www.truthrevolt.org/news/paul-shmotolokha-first-large-scale-conventional-military-conflict-europe-world-war-two-erupts. Accessed May 14, 2019.

Thomas, Andrea and Paul Shmotolokha. "Reducing Capital Expenditures for Onsite Renewable Energy." North American Clean Energy, May 20, 2010, http://www.nacleanenergy.com/articles/8481/reducing-capital-expenditures-for-onsite-renewable-energy. Accessed May 21, 2019.

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

None.

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

None.

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

See attachment.

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

I shall resign from Alpha Technologies Inc on July 31, 2019. This has been agreed and I am currently working on all transition issues. I shall also resign my position as President of Simma International upon confirmation vote by the Senate.

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

I have no plans to resume employment with Alpha Technologies or Enersys Corp after completing government service.

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

No

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

Yes

Potential conflicts of interest:

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

Prior to my formal nomination, I had requested to leave my position at Alpha Technologies/EnerSys Corp. on July 31, 2019. Arrangements were made consistent with Enersys Human Resources Policies for an executive at my level. I shall be paid 16 weeks salary (approx $78,500) commensurate to my 16 years of service at Alpha and my bonus consistent with prior years (up to $90,000) based on a series of variable revenue and successful transition targets being reached by the separation date. The formal separation agreement shall be signed on July 31, 2019.

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

The Office of Government Ethics and the Designated Agency Ethics Official for EXIM Bank identified the following investment holdings that might involve potential conflicts of interest with the position to which I have been nominated:

- Adobe Systems, Inc.
- Air Lease
- Allison Transmission
- Apple Computer, Inc.
- Cisco Systems, Inc.
- Danaher Corp.
- EOG Resources
- FedEx Corp.
- Google, Inc.
- Honeywell
- Illumina, Inc.

- JP Morgan Chase
- Liberty Global
- Mastercard Inc.
- Microsoft Corp.
- Qurate Retail, Inc.
- Walgreens

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

None

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

On behalf of Alpha Technologies, in 2017 I began to lay the foundation for improving our relations with the Congressional offices where we have factories (Bellingham, WA and Suwanne, GA). I worked with the offices of:

Rep. Rick Larsen (D-WA-02)
Rep. Suzan DelBene (D-WA-01)
Sen. Maria Cantwell (D-WA)
Sen. Patty Murray (D-WA)
Rep. Rob Woodall (R-GA-07)

No effort was made targeting passage of specific legislation at the time.

In the summer and fall of 2018, I worked on Alpha's applications for exemption on tariffs from products and subcomponents made in China. I sought and received the endorsement for those applications from most of the above mentioned offices and also from Sen. Johnny Isakson (R-GA).

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

I do not believe that I have any material conflicts above. I shall divest any stocks that have been pre-determined by the Office of Government Ethics and shall resign from my position at Simma International.

Civil, criminal and investigatory actions:

1. Give the full details of any civil or criminal proceeding in which you were a defendant

or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

None

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

None

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

To set the example for the rest of EXIM, I believe the First Vice President and Board Vice Chairman requires a leader who has the passion for sharing "the win" alongside U.S. companies and knows what it takes to close deals. The executive management and practical business skills gained during my 30 years of private sector experience put me in a unique position to serve in this role. I also have built a strong multinational educational foundation in international relations, economics, languages, and business management.

For 30 years I have managed telecommunications companies overseas who purchased over $100 million of U.S. made products. I then made the switch to a U.S. high technology manufacturer to help grow international markets, exporting over $500 million of U.S.-made products to more than 100 countries. Every deal I closed overseas with a customer led to increases in the production line, resulting in dramatic job growth for assembly line workers and management alike. My experience on both sides of the export market has prepared me to take on the role of First Vice President and Board Vice Chairman at EXIM.

I know firsthand the risk U.S. exporters take when they ship to a foreign buyer and how challenging it can be when a buyer fails to make good on a payment. I know how international markets offer incredible growth opportunities for American small businesses. From my work in a strategic business sector, such as telecommunications, I have had to work closely with governmental and leading local business interests on nearly every continent and actively work to maintain this global network.

I have served on 13 private sector Boards of Directors of companies, including chairman of eight of them. In this capacity, I made decisions about the allocation of capital investment; executive management hiring, firing and compensation; approval of budgets; review of audit reports and assessment of the performance and financial health of the company as well as political and economic risk assessment.

My strongest focus has been in setting budgets and metrics criteria for companies, and then developing and implementing the operational plans to achieve them. I can adequately assess if an overseas company or project has a good business plan, management team, brand, customer base, processes and ethics to repay debt or investments. These are some of the key criteria for evaluating a reasonable assurance of re-payment.

Throughout my career, I have put anti-corruption at the forefront of international business. Working in Eastern Europe in the 1990's for two public companies exposed me to the reality of operating in emerging markets rife with corruption. I am proud of how we were able to safely and successfully achieve business goals in an extremely challenging environment while maintaining strict compliance with the Foreign Corrupt Practices Act. Having been on the front lines of the new 21st century global trade war has trained me to search for important clues and ask questions to spot corruption.

Finally, I feel that strong leadership abilities and responsibility to taxpayers are key personal characteristics to successfully serve in this position. The US Army developed both of these for me as a young person, bestowing upon me two great responsibilities at a young age: the lives of my soldiers and the value of the equipment to which I had to sign my name. I further honed these leadership skills as a manager, director, vice-president, President, and Founder inside numerous business ventures. In business, there is no greater responsibility than making payroll for all your employees. I enjoy leading from the front. My leadership mantra goes back to the sign at Fort Benning, GA: "Follow Me!"

PREPARED STATEMENT OF ALLISON HERREN LEE

TO BE A MEMBER, SECURITIES AND EXCHANGE COMMISSION

JUNE 5, 2019

Chairman Crapo, Ranking Member Brown, and distinguished Members of the Committee. It is a tremendous privilege to appear before you today and to be considered for the position of Commissioner at the Securities and Exchange Commission, an agency in whose mission and dedicated staff I believe deeply.

I'm very fortunate today to be supported by a large contingent of family. I'd like to introduce my husband Jay Brown, four of the five children in our blended family, Tess, Beth, Josh, and Zoey. Also, our granddaughter, Emerson, is here, and our son-in-law, Colin, my sister Laurie, my brother Wil, my niece Emily, and my brother-in-law, Jeff. Unfortunately, my mother could not be here today, but I know she will be watching.

I have spent the bulk of my legal career at the SEC for one very straightforward reason: the SEC has a mission that is vital to the economic well-being of Americans and American businesses. It navigates the critical intersection between these two; between everyday Americans striving to build savings to buy a home, to send kids to college and eventually retire, and American businesses that need capital to grow and prosper. This reciprocal relationship must be nourished from both sides.

We are a Nation of investors, both retail and institutional, protected by the SEC. This protection is especially important as we continue the shift away from employer pensions toward individual plans in which people must fund and select their own retirement assets and manage their own risk.

The SEC works to ensure that investors are taking the kinds of risk they sign up for—business and economic risk—not the risk of fraud, and not the risk of poorly structured or opaque markets that may disadvantage investors. This instills confidence which, in turn, fosters capital formation.

Beyond instilling investor confidence, the SEC works to ensure that American businesses of all sizes can access the capital they need to grow their businesses, and thus create the kinds of opportunities investors want and need. These businesses deserve thoroughly researched, well-tailored, and clear rules.

I have seen, experienced, and understood this interdependence between investors and business from nearly every angle. I worked in the oil business, at both private and public companies. I've owned and run my own small business. Since law school, I've worked for over two decades as a securities lawyer, first in private practice as a litigator and partner, and then I was privileged to work on the staff of the SEC.

Like many Americans, I've worn a lot of hats and juggled a lot of priorities, working my way through college and eventually through law school, raising children, paying the bills, and investing my savings for retirement. If I have the honor of being confirmed, I will bring all of these perspectives to bear in my role as a Commissioner, and I will reach out and listen to all constituencies served by the SEC to further its critical mission.

Thank you for the opportunity to appear before you today, and I'm happy to answer questions.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name:

Lee Donna Allison Herren

Position to which nominated: **Member, U.S. Securities and Exchange Commission**

Date of nomination: April 4, 2019

Date of birth: 11/22/1958 **Place of birth:** Atlanta, GA

Marital Status: Married **Full name of spouse:** J. Robert Brown, Jr.

Name and ages of children:

Tessa Lee Morse, 34

Elizabeth Joyce Santi, 31

Ryan Lenora Brown (step daughter), 29

Joshua Riley Brown (step son), 26

Zoey Ellen Brown (step daughter), 23

Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Tulsa	1978-80	N/A	N/A
University of Colorado	1983-85	B.S., Business	1985
University of Denver, Sturm College of Law	1994-97	J.D.	1997

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

- University of Colorado – Cum Laude Graduate; Phi Eta Sigma Honor Society, Dean's List.
- University of Denver, Sturm College of Law – Salutatorian; Order of St. Ives; Law Review; Student Leadership Award: Most Innovative Program Award, Award for Academic Excellence (top grade): Lawyering Process, Basic Criminal Procedure, Legal Profession, Intellectual Property, Civil Procedure, West Publishing's Award for Academic Excellence.
- University of Denver, Sturm College of Law – Full tuition Chancellor's Scholarship Recipient, all three years.
- Recipient of the SEC's Ellen B. Ross Award (2007), awarded each year to an attorney in the Division of Enforcement who demonstrates exemplary commitment, enthusiasm and performance in fulfilling the agency's mandate to equitably and effectively enforce the federal securities laws.
- Recipient of the SEC Enforcement Director's Award, 2007, 2008, 2010, 2011, 2012, 2016.
- Received letter of commendation from United States Attorney for the District of New Mexico for my work as a Special Assistant United States Attorney, 2008-2009.

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

Organization	Office held (if any)	Dates
University of Denver, Sturm College of Law	Adjunct Professor Pre-trial Litigation	Approx. 2003
University of Denver, Sturm College of Law	Assist with teaching Lawyering Process	Approx. 1999-2010
ABA Ad Hoc Committee on Public Company Disclosure	Member	Approx. 2002
Warm Woolies, Inc.	Board Member	Approx. 2001-2009

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

January 2018 - Present

Congress Park Consulting, LLC (Bethesda, MD)
Sole Owner and Member

- Invited to serve as visiting professor for 8 months in 2018 at LUISS Universita Guido Carli, Dipartmento di Giurisprudenza, Rome, Italy. Declined invitation, but provided a lecture on US Financial Regulation at LUISS in Rome in January 2018.
- Taught a class on US Business and Corporate Law at Universidad de Navarra, Pamplona, Spain in April 2018, and February 2019.
- Prepared updates to 4th Edition of Regulation of Corporate Disclosure and 3rd Edition of Raising Capital.

2005 – 2018

U.S. Securities and Exchange Commission (Washington, DC)

Senior Enforcement Counsel, Division of Enforcement, Complex Financial Instruments Unit, 2/10 – 1/18 (except 10/13 –1/15)

Counsel to Commissioner Kara Stein, 10/13 – 1/15

Senior Enforcement Counsel, Division of Enforcement, 2/06 – 2/10

Special Assistant US Attorney for the District of New Mexico, 9/08 – 8/09 (detailed to US Attorney for majority of my time during this period)

Enforcement Counsel, Division of Enforcement, 2/05 – 2/06

1998-2005 (except 6 months in 2000; see next entry)
Sherman & Howard, LLC (Denver, Colorado)
Litigation Associate, 1998-2004
Litigation Partner, 2004-2005

2000 (January through June)
Netzorg & McKeever, LLC (now merged with Sherman & Howard, LLC) (Denver, Colorado)
Litigation Associate; Complex Commercial Litigation

May 1998
United States Agency for International Development (USAID)
Pro bono work assisting in drafting Armenian securities and corporate governance laws

1997-1998
Colorado Supreme Court (Denver, Colorado)
Law Clerk for Justice Rebecca Love Kourlis

1996 (May through August)
Sherman & Howard LLC (Denver, Colorado)
Summer Associate

1990 - 1994
Daycare operator (sole proprietorship owned by me) (Golden, Colorado)

1988-1990 (approximate dates)
Resort Computer Corporation (a software company that provided reservation software to the resort industry; acquired in 1995 by Resort Condominiums International) (Golden, Colorado)
Manager of Client Services

1986-1987 (approximate dates)
Regent Corporation (real estate and burglar/fire alarm company) (Denver, Colorado)
Manager

1985-1986 (approximate dates)
NICOR Oil & Gas (Golden, Colorado)
Land Analyst

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

See employment listed above at Colorado Supreme Court and U.S. Securities and Exchange Commission.

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

Editor (in 2018 and 2019): *Regulation of Corporate Disclosure 4th Edition*, J. Robert Brown Jr., published by Wolters Kluwer. The updates and edits I completed for Wolters Kluwer include the following: adding a discussion of new guidance by the SEC regarding disclosure of cybersecurity issues, adding a description of new rules that will require disclosure of certain Critical Auditing Matters in the Auditor's Report, and adding information related to recent cases addressing numerous issues under the federal securities laws.

Editor (in 2018 and 2019): *Raising Capital: Private Placement Forms & Techniques 3rd Edition*, J. Robert Brown, Jr. and Herbert Max, published by Wolters Kluwer. The updates I completed for Wolters Kluwer include updates to Chapters related to Subchapter S Corporations, Letters of Intent, Underwriting Agreements and Placement Agent Agreements and Partnerships.

J. Robert Brown, Jr. & Allison Herren Lee, *Neutral Assignment of Judges at the Court of Appeals*, 78 Tex. L. Rev. 1037 (2000)

Allison Herren Lee, William Shakely & J. Robert Brown, Jr., *Judge Warren L. Jones and The Supreme Court of Dixie*, 59 La. L. Rev. 209 (1998)

Allison Herren Lee, *Title IX, Equal Protection and the Richter Scale: Will VMI's Vibrations Topple Private Single Sex Education?* 7 Tex. J. Women & L. 38 (1997)

Allison Herren Lee, *Employment Law: Sexual Harassment*, 73 Denv. U.L. Rev. 731 (1996)

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

Member of the Democratic Party.

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

$500 to Hillary for America in April 2016.

To the extent responsive, I donated $1000 to the Center For American Progress in 2018 to attend the CAP Ideas Conference 2018.

To the best of my knowledge and research, I have not made any other political contribution of $500 or more to any individual, campaign, organization, political party, political action committee or similar entity during the last eight years.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet) See Attachment 1.

Future employment relationships:

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

Yes.

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

I have no such plans.

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

No.

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

Yes.

Potential conflicts of interest:

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

a. I am a member of the Colorado Public Employee's Retirement Association because of the one year that I spent as a law clerk at the Colorado Supreme Court in 1997-98. I will continue to participate in this defined benefit plan.

b. I am the owner and sole member of my consulting firm, which does business as Congress Park Consulting, LLC. Upon confirmation, the consulting firm will cease engaging in any business. During my appointment to the position of Commissioner, the consulting firm will remain inactive and will not advertise. I will not perform any services for the firm, except that I will comply with any requirements involving legal filings, taxes and fees that are necessary to maintain the consulting firm while it is in an inactive status. Except for the two to three royalty payments referred to in the next paragraph, all amounts owed to me by any of my clients will be fixed before I assume the duties of the position of Commissioner.

c. I am currently providing services to Wolters Kluwer through my consulting firm, Congress Park Consulting, LLC that have and will result in royalty payments. Upon confirmation, I will cease providing services to Wolters Kluwer and my interests in the intellectual property will cease after receipt of two lump sum royalty payments in 2019, and possibly a third in 2020.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the U.S. Securities and Exchange Commission's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the Ethics Agreement that I have entered into with the SEC's Ethics Official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the U.S. Securities Exchange Commission's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the Ethics Agreement that I have entered into with the SEC's Ethics Official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

None.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the U.S. Securities and Exchange Commisison's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the Ethics Agreement that I have entered into with the SEC's Ethics Official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

Civil, criminal and investigatory actions:

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

Sometime in approximately 1979, I was arrested for DUI in Tulsa, Oklahoma. The outcome was that the record of this arrest was expunged.

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

None.

ATTACHMENT 1
Statement of Qualifications
To Serve As Commissioner of the SEC

I am a 20-year veteran securities law practitioner with 13 years of experience at the SEC. During my tenure at the SEC, I developed and now maintain a deep commitment to the agency and its critical mission. I have gained a wide perspective and array of experiences, both in Enforcement and more broadly, as counsel to a Commissioner where I advised on policy issues covering nearly the entire spectrum of the SEC's jurisdiction. I believe my long experience on the staff and my dedication to the success of the SEC and its mission would serve well in helping to guide agency policy. I would welcome the opportunity, if confirmed, to work thoughtfully and collaboratively with the Chairman and each of my fellow Commissioners.

While at the SEC, I worked as Senior Counsel in the Division of Enforcement's Complex Financial Instruments Unit, and as counsel to Commissioner Kara Stein. From 2008-2009, I served as a Special Assistant United States Attorney for the District of New Mexico. I have led significant cases to successful outcomes, including pay-to-play schemes, ponzi schemes, executive compensation and proxy violations, financial statement fraud, and fraud in the offer and sale of complex products. In 2011 and 2012, I led the investigation of a large financial institution that resulted in a $222 million settlement for fraud in the sale of residential mortgage-backed securities.

Also during my tenure at the Commission, I received the agency's Ellen B. Ross Award in recognition of my "exemplary commitment, enthusiasm and performance in working to fulfill the Commission's responsibilities for the fair and effective enforcement of the federal securities laws." I received numerous Enforcement Division Director's awards, have led training sessions in various areas related to both complex products and case strategies, and presented at a national Residential Mortgage-Backed Securities Task Force training.

Prior to government service, I was a litigation partner at the Denver law firm of Sherman & Howard, LLC, where I practiced securities, antitrust, and other commercial litigation. While in private practice, I served on the American Bar Association's Ad Hoc Committee on Public Company Disclosure, undertook *pro bono* work, including both Title IX and prisoner abuse cases, and served as a director on the board of a non-profit providing clothing for children worldwide. I have also worked for the United States Agency for International Development (USAID), where I traveled to Yerevan, Armenia and assisted in drafting corporate governance and disclosure provisions in a new securities law for the Armenian Ministry of Finance.

After leaving the SEC in January 2018, I formed Congress Park Consulting, LLC. My work at Congress Park includes teaching courses and lecturing in US corporate and securities law in Spain and Italy, and working as a contributing author on treatises in corporate and securities law.

I graduated from the University of Denver College of Law (DU Law), earning my Juris Doctor as salutatorian, and serving on the Law Review. I received a number of awards at DU Law, both for scholastic achievement and for leadership. I am a former Chancellor's Scholar at DU Law,

receiving a full tuition scholarship, awarded for combined academic and public service achievements. After law school, I clerked for The Honorable Rebecca Love Kourlis on the Colorado Supreme Court. I later served as an adjunct professor at DU Law, teaching a course in Pre-Trial Litigation. I graduated from the University of Colorado *cum laude* with a Bachelor of Science in Business.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM THOMAS PETER FEDDO

Q.1. One of the many reasons it was important to increase resources and staff at CFIUS with the FIRRMA reforms was to be able to better monitor information about completed mergers, acquisitions, or other investments where the parties to the transaction did not file with CFIUS.

Has CFIUS been able to increase resources to this type of monitoring, and has it identified any non-notified transactions that need to be reviewed? How many transactions has CFIUS pulled into the process this way, and is this an increase over past efforts? Are you seeing any trends when it comes to companies that do not file with CFIUS but should?

A.1. Since the enactment of FIRRMA, Treasury's Office of Investment Security has established a new Office of Mitigation and Enforcement whose mandate includes full-time monitoring for non-notified and nondeclared transactions that could impact national security. This team has dedicated resources to accomplish its mission and is working with CFIUS member agencies to refine the processes for identifying potentially covered transactions that may pose national security concerns. As Treasury and CFIUS dedicate further resources to this mission, the number of non-notified and nondeclared transactions screened by CFIUS will likely rise; it is anticipated that the dedicated and increased screening will consequently result in additional transactions being pulled in for review.

In some cases when CFIUS contacts parties to transactions identified through the non-notified process, the parties indicate that they are planning to file. Because CFIUS filings are largely voluntary, it can be difficult to determine which cases were ultimately filed as a result of CFIUS initiating engagement and which would have been filed even without CFIUS contact. It is too early to discern any post-FIRRMA trends with respect to non-notified transactions. Anecdotal evidence suggests that FIRRMA has served to elevate the public's awareness both of CFIUS and emerging national security risks related to foreign direct investment. As a result, more companies may be filing transactions without contact from CFIUS, either as a declaration or a full notice, thereby allowing the non-notified screening to focus on transactions that in fact may be trying to evade CFIUS. The Office of Mitigation and Enforcement will help to ensure that CFIUS identifies and responds to any trends in parties attempting to evade CFIUS review.

Q.2. The Government shutdown impacted CFIUS's ability to implement important reforms. The shutdown stopped and/or slowed down work on rulewriting, hiring, and implementation of the pilot program to review foreign investments in critical technologies.

What is your assessment of where CFIUS is on implementation of FIRRMA, including the pilot program? Are you seeing any other investment trends emerge, particularly from countries like China that the 2018 reforms do not address?

A.2. Treasury's Office of Investment Security is fully engaged with other CFIUS agencies in the rulemaking process necessary to implement FIRRMA. CFIUS has made substantial progress on the

implementation of FIRRMA. In October 2018, CFIUS promulgated regulations to implement, and make updates consistent with, certain provisions of FIRRMA that were immediately effective. In November 2018, CFIUS through regulations commenced a tailored pilot program related to noncontrolling, nonpassive foreign investments in certain U.S. businesses with critical technologies, and simultaneously initiated the use of FIRRMA's declaration process, including the issuance of a standardized 5-page "short form" for the more efficient electronic submission of the declarations. Post-FIRRMA, Treasury reorganized the Office of Investment Security into functional offices to execute the various mandates of the statute, including with respect to policy making and regulations writing, increased engagement with allies and partners, and enhanced mitigation and enforcement efforts. Since August 2018, CFIUS has timely submitted reports required by FIRRMA and conducted related briefings with Committee staff. Treasury is utilizing additional resources appropriated in FY2019, as well as FIRRMA's special hiring authority, to ensure that the Office of Investment Security is appropriately staffed to carry out new CFIUS authorities; this includes nearly tripling the Office's personnel to date, and commencing development of an end-to-end information technology infrastructure to support additional caseloads and related work streams. CFIUS member agencies are making similar resource upgrades and improvements to support the CFIUS mission.

CFIUS anticipates publishing draft regulations for public comment in the coming months. The Office of Investment Security has engaged extensively with industry stakeholders throughout the implementation process, and this timeline will allow ample opportunity for public comment before these regulations become effective by February 2020.

The pilot program, a tool provided by FIRRMA, was promptly implemented to confront CFIUS's inability to review certain noncontrolling investments in critical technologies, given the rapid changes in those technologies. Since November 2018, the pilot program has allowed CFIUS to review transactions that it would not otherwise have had the opportunity to evaluate, as well as to more fully understand the nature of foreign direct investment as it relates to these critical technologies. Some pilot program transactions have in fact raised potential national security concerns that warranted the parties filing a full written notice. CFIUS has also been able to clear a number of transactions based upon the information provided in the declarations. The critical technology pilot program continues to inform the full implementation of FIRRMA as regulations are being drafted.

CFIUS will be able to assess FIRRMA's impact more fully including any resulting investment trends—after the legislation is fully implemented. One of the legislation's greatest strengths is that it provides important flexibility to address new risks to U.S. national security as they emerge.

Q.3. One of the few ways that Congress is able to understand and oversee foreign direct investment in the U.S., and the national security threats posed by certain investments is the CFIUS annual report. It is also why FIRRMA added new requirements in the annual report going forward. The Department of Treasury has not

submitted the CFIUS annual report to Congress since 2016 (covering transactions in 2015).

Why have the annual reports been delayed, and if confirmed, what is your plan to ensure that annual reports are submitted to Congress in a timely manner going forward? What is your plan for submission of annual reports for years 2016, 2017, and 2018?

A.3. I agree that timely submission of CFIUS's annual report to Congress is important to its ability to understand and oversee CFIUS's execution of its national security mission. I am fully committed to ensuring that annual reports are timely submitted to Congress going forward. Having joined the Office of Investment Security in mid-2018, it is my understanding that in the past case volume and complexity strained the limited resources of CFIUS member agencies, including Treasury. Shortly thereafter, I identified the need to remedy the delay in reporting, and directed my staff to dedicate resources to complete the 2016 and 2017 annual reports as soon as possible. Treasury anticipates submitting to Congress these reports as a combined document by the end of July 2019. CFIUS anticipates submitting the 2018 annual report thereafter. The additional resources provided to implement FIRRMA will help to address this issue in the future.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TOOMEY FROM THOMAS PETER FEDDO

Q.1. During consideration of FIRRMA, Congress heard concerns that extended timelines for CFIUS procedures could change the economics of deals with U.S. companies, reduce their competitiveness, and shift investment overseas, undermining the pace of innovation in this country and possibly contributing to the speed of acquisition of sensitive technologies by our foreign adversaries. Regulations pursuant to FINSA and the ongoing pilot program temporarily implementing portions of FIRRMA require that CFIUS respond to notices and declarations "promptly."

What do you think is a reasonable amount of time to have elapsed before taking initial action on a notice or declaration? Would you direct your staff to write a regulation codifying that window?

A.1. Section 1704 of FIRRMA requires that CFIUS provide comments on a draft or formal written notice or accept a formal written notice of a covered transaction no later than 10 business days after the date of submission of the draft or formal written notice. This requirement applies when parties stipulate that the transaction is a covered transaction. The regulations for FIRRMA will implement this requirement. More broadly, with the benefit of additional staff and resources, my goal is to respond to parties in a timely, efficient, and responsive manner on all written notices and declarations submitted to CFIUS.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR PERDUE FROM THOMAS PETER FEDDO

Q.1. When implementing FIRRMA, Treasury needs to clarify how the foreign entity definition will apply to U.S.–controlled private

funds. I understand that much of the responsibility for implementing FIRRMA falls within your current position at Treasury.

Do you agree with me that the final regulations should not treat a fund as a "foreign entity" if it is controlled by U.S. persons, even if a majority of the equity ownership is held by passive limited partners? Investments from such entities will not create a national security risk because of the nature of limited partners and structure of their passive investments.

A.1. I agree that a fund that is organized and headquartered in the United States and is not controlled by a foreign person (as that term is defined in 31 CFR §800.216) should not be treated as a foreign person.

With respect to CFIUS's new jurisdiction over certain nonpassive, noncontrolling investments, FIRRMA includes a clarification for investment funds that addresses the practice of foreign limited partners serving as members of a fund's advisory board or committee. FIRRMA clarifies that such membership does not, in and of itself, cause an investment by the fund to be subject to CFIUS jurisdiction.

FIRRMA also carves out transactions involving investment funds that meet certain specified criteria from being subject to a mandatory declaration requirement. CFIUS is working to implement these provisions as part of the rulemaking to fully implement FIRRMA, and as part of this process, we are considering whether additional clarification would be appropriate.

Q.2. Will you commit to meeting with me, my staff and industry representatives on this important issue and to follow up as necessary so we can get this issue addressed correctly to ensure that funds controlled by U.S. persons will not be considered "foreign entities" under the regulations?

A.2. Since FIRRMA's enactment, my staff and I have met and will continue to meet with various industry stakeholders regarding this issue, among others. I also look forward to the opportunity to meet with you and your staff. When Treasury issues the proposed regulations implementing FIRRMA in the coming months, the public will have the opportunity to provide formal comments for CFIUS's consideration.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TILLIS FROM THOMAS PETER FEDDO

Q.1. When implementing FIRRMA, Treasury needs to clarify how the foreign entity definition will apply to U.S.–controlled private funds.

Do you agree that the final regulations should not treat a fund as a "foreign entity" if it is controlled by U.S. persons, even if a majority of the equity ownership is held by passive limited partners? Investments from such entities will not create a national security risk because of the nature of limited partners and structure of their passive investments.

A.1. I agree that a fund that is organized and headquartered in the United States and is not controlled by a foreign person (as that

term is defined in 31 CFR §800.216) should not be treated as a foreign person.

With respect to CFIUS's new jurisdiction over certain nonpassive, noncontrolling investments, FIRRMA includes a clarification for investment funds that addresses the practice of foreign limited partners serving as members of a fund's advisory board or committee. FIRRMA clarifies that such membership does not, in and of itself, cause an investment by the fund to be subject to CFIUS jurisdiction.

FIRRMA also carves out transactions involving investment funds that meet certain specified criteria from being subject to a mandatory declaration requirement. CFIUS is working to implement these provisions as part of the rulemaking to fully implement FIRRMA, and as part of this process, we are considering whether additional clarification would be appropriate.

Q.2. Will you commit to working with stakeholders and to follow up as necessary so that funds controlled by U.S. persons will not be considered "foreign entities" under the regulations?

A.2. Since FIRRMA's enactment, my staff and I have met and will continue to meet with various industry stakeholders regarding this issue, among others. I also look forward to the opportunity to meet with you and your staff. When Treasury issues the proposed regulations implementing FIRRMA in the coming months, the public will have the opportunity to provide formal comments for CFIUS's consideration.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNER FROM THOMAS PETER FEDDO

Q.1. As Vice Chairman of the Senate Intelligence Committee, I see how our competitors are accessing critical U.S. technologies through legal and illegal means, stealing our intellectual property, and dulling America's competitive advantage. This sustained, comprehensive, multiyear effort shows no sign of slowing, but is rather accelerating: we are seeing a "whole of society" effort on the part of some adversaries—cyberattacks to steal intellectual property that then mysteriously is fielded by our competitors, attempts to acquire critical technology companies, or, more recently, strategic investments that could be used to acquire technology. That is the threat we face.

We are now 6-months into FIRRMA's pilot program. What are your thoughts on the efficacy of the pilot program?

A.1. The pilot program has benefited U.S. national security. Since November 2018, the pilot program has allowed CFIUS to review transactions that it would not otherwise have had the opportunity to evaluate, as well as to more fully understand the nature of foreign direct investment as it relates to the critical technologies falling within its scope. Some pilot program transactions have in fact raised potential national security concerns that warranted the parties filing a full written notice. CFIUS has also been able to clear a number of transactions based upon the information provided in the declarations. The critical technology pilot program continues to

inform the full implementation of FIRRMA as regulations are being drafted.

CFIUS will be able to assess FIRRMA's impact more fully including any resulting investment trends—after the legislation is fully implemented. One of the legislation's greatest strengths is that it provides important flexibility to address new risks to U.S. national security as they emerge.

Q.2. What is working and what challenges/gaps have come up?

A.2. The critical technology pilot program has benefited U.S. national security. Since November 2018, the pilot program has allowed CFIUS to review transactions that it would not otherwise have had the opportunity to evaluate, as well as to more fully understand the nature of foreign direct investment as it relates to the critical technologies falling within its scope. The pilot program will terminate upon the full implementation of FIRRMA, but I anticipate that it will inform various substantive and administrative adjustments to the final regulations.

Q.3. FIRRMA contains a requirement, based on an amendment I included, that Treasury exempt categories of investors from the expanded CFIUS screening of certain minority investments. As you know, the pilot program applies on a global basis and does not exclude categories of investors from the scope of the pilot. Is this authority being used to exempt investments made by investors from friendly countries?

A.3. CFIUS appreciates the flexibility provided by FIRRMA's "country specification" authority. CFIUS is currently examining how best to use this authority to more effectively address national security concerns while maintaining the longstanding U.S. open investment policy. CFIUS developed the pilot program without exempting any country from the mandatory declaration requirement to comprehensively understand and examine the nature of foreign direct investment as it relates to critical technologies and the specified pilot program industries. CFIUS provided the public with an immediate opportunity to comment on the interim rule in the 30 days prior to the pilot program's effective date. The critical technology pilot program continues to inform the full implementation of FIRRMA as regulations are being drafted, including with respect to the country specification authority.

Q.4. The pilot program identifies 27 "critical technologies" that if a U.S. business is involved with, would require a filing with CFIUS in the event of a foreign investment. Through the lifetime of the pilot program to date, has that list of technologies been sufficient in providing the Committee the jurisdiction necessary to protect U.S. national security?

A.4. FIRRMA defined the scope of "critical technology" as it pertains to CFIUS, and provides future flexibility as "emerging and foundational" technologies are identified by the Department of Commerce. The 27 pilot program industries identified in Annex A to the pilot program regulations were carefully developed by the U.S. Government to narrowly scope the pilot program to include only those industries in which the threat of erosion of technological superiority from some foreign direct investment required imme-

diate action. The critical technology pilot program continues to inform the full implementation of FIRRMA as regulations are being drafted, including whether adjustments need to be made to the scope of declarations for U.S. businesses with critical technology.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM NAZAK NIKAKHTAR

Q.1. Last year, there was bipartisan concern that when it came to ZTE the Administration allowed trade, economic and political considerations to drive what should have been exclusively law enforcement and national security decisions. ZTE had clearly repeatedly and willfully violated our export control laws, and Commerce enforcement officials in the Government had inflicted major punishments that were then reversed by the President.

Many in Congress are concerned that we are preparing to see the same thing on Huawei, with the Administration making certain trade concessions to China in return for not pressing our national security concerns, including in developing 5G systems around the world.

What is your view on this question? Do you think these concerns are justified? What should Congress be doing to reinforce our concern that law enforcement and national security considerations should be treated as separate—and paramount—in these situations?

A.1. When an action taken by the Bureau of Industry and Security (BIS or the Bureau) is based on law enforcement or national security concerns, then that action should only be amended if the enforcement and security concerns which prompted that action are addressed by that amendment. In the case of ZTE, the 2018 superseding settlement agreement that replaced the denial order contained three interlocking elements, each in place for a decade and all of them enabling the Bureau to protect U.S. national security: a suspended denial order; $400 million in escrow (in addition to the criminal and administrative penalties paid by the company in 2017 and the additional $1 billion penalty to the U.S. Treasury in the 2018 superseding settlement agreement); and a special compliance coordinator selected by and accountable to the Department of Commerce.

The facts and circumstances pertaining to the entity listing of Huawei are different from ZTE, and any change to Huawei's listing status will need to ensure that the national security and foreign policy concerns that led to the listing are no longer applicable or are addressed by the change. As a national security arm of the U.S. Government, BIS's mission—and my priority—is to protect the United States' national security interests at all times.

Q.2. One of the most significant changes in last year's export control reforms required the President to establish an interagency process to identify emerging and foundational technologies critical to U.S. national security—areas like artificial intelligence, advanced computing, certain forms of biotechnology, and the like. Commerce then was to establish a licensing policy for those items. That is moving forward.

What do you think the Committee should be looking for in the coming months as we assess whether these lists are targeting the right technologies, and appropriately balancing critical national security concerns vs. commercial considerations? What has been the reaction of industry to the preliminary lists already published?

A.2. The Bureau is working with interagency partners (including the Department of Defense, Department of Energy, Department of State, and the intelligence community) to identify emerging and foundational technologies that are essential to U.S. national security interests. As part of this work, BIS has also been consulting with U.S. industry, research facilities, and universities, and will be seeking input from its Emerging Technology Technical Advisory Committee (ETTAC) this summer. I also welcome engagement with Congress to ensure that the Bureau is targeting the right technologies.

Additionally and consistent with the requirements of the Export Control Reform Act of 2018, as well as the Bureau's mandate to encourage technological innovation while also protecting U.S. national security, the Bureau has been evaluating the impact of export controls on such technologies. Our evaluation includes the identification of any foreign sources of such technologies both in like-minded countries and countries of concern, and the effectiveness of various types of controls on these technologies.

The public comments in response to the Advanced Notice of Proposed Rulemaking (ANPRM), which were collected from November 2018 through January 2019, generally supported the need to address national security threats arising from emerging technologies. However, commenters stressed that national security concerns should be balanced by the impact that controls may have on innovation, the United States' competitive position globally, foreign direct investment in the United States, and the United States' ability to achieve multilateral controls. These important factors are informing our analysis.

On the latter point, I have been actively working on a multilateral initiative with like-minded allies to implement controls on emerging technologies in a consistent manner. This is particularly important, given that export controls are most effective and better able to promote the growth of innovation when applied with the same rigor across Nations.

Finally, BIS will be publishing an ANPRM for foundational technologies in a few weeks. Our analysis of controls on foundational technologies will also be informed by the above outlined considerations.

Q.3. If confirmed, you will be part of the interagency CFIUS review process. As you know, CFIUS is able to look at joint ventures when there is a U.S. business involved. In the confirmation hearing, Senator Jones asked Mr. Feddo about a Chinese steel company that formed a joint venture with an American stainless steel component parts company key to U.S. national defense and aerospace sectors.

If a joint venture results in the Chinese company gaining access to sensitive steel manufacturing technology and trade secrets important for U.S. national security, and it potentially disrupts the U.S. supply chain, should CFIUS review it? If the same company's

request for a Section 232 tariff exclusion was denied, is that information relevant to the CFIUS review? What experience and perspective would you bring to CFIUS on matters similar to this one and as well as others considered by the Committee?

A.3. In my current role performing the nonexclusive duties and functions of the Under Secretary for Industry and Security and as the current Assistant Secretary for Industry and Analysis, I am deeply involved in the Department's CFIUS work, leading a team of industry and policy experts at both BIS and the International Trade Administration (ITA) that reviews CFIUS transactions to analyze their impact on U.S. national security. As part of the interagency CFIUS team, we work collaboratively with the Department of the Treasury (chair) and the Departments of State, Defense, Justice, Energy, and Homeland Security, as well as the Office of the United States Trade Representative and the White House Office of Science and Technology Policy, to analyze each transaction and understand the potential national security risks involved.

Further, I have encouraged the BIS and ITA CFIUS teams to review transactions not only through the lens of presently identifiable national security risks but also by accounting for potential risks that may result from those transactions. This analytical exercise requires that the Department of Commerce, in partnership with other CFIUS agencies, keep abreast of developments in U.S. supply chains, monitor influence by foreign adversaries over the development of international standards, and identify predatory patterns of investment that may impede the growth of the domestic industrial base and thereby threaten U.S. national security.

These considerations underscore the important role that CFIUS reviews play, and the need to ascertain all relevant information about each transaction under review. The transaction described in the question raises national security concerns, and I am committed to ensuring that the U.S. Government has the tools to, and does, effectively respond to all transactions that pose national security risks. All relevant information should be considered in a U.S. Government review.

CFIUS is one of my most important responsibilities at the Department of Commerce, and I am committed to ensuring that we continue to be forward-leaning in our analysis. The U.S. Government must continue to encourage an open investment climate in the United States, but we must also proactively bring all transactions that undermine our national security interests under CFIUS review. My combined experiences at BIS and ITA, as well as my experiences as a lawyer and economist, provide me with a comprehensive understanding of how to assess foreign investments in the United States while protecting national security so that the United States can continue to attract capital to support technological advancements and the growth of our industries.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR PERDUE FROM NAZAK NIKAKHTAR

Q.1. *USML to CCL Transition*—Ms. Nikakhtar, as I'm sure you are aware, the previous Administration implemented the transfer of export licensing authority for dual-use items from the U.S. Munition

List to Commerce Control List to modernize our cold-war era export licensing controls to enhance our national security and to improve the ability of U.S. companies to better compete in an increasingly global marketplace, increasing the amount of U.S. exports and creating more American jobs. One of the ECR's objectives was to rationalize the control lists and pursuant to its authority under the Arms Export Control Act, transfer export licensing authority for commercial or dual-use items to the Commerce Department—Bureau of Industry Security (BIS) and its Commerce Control List (CCL) from the State Department's Directorate of Defense Trade Controls (DDTC) and its U.S. Munitions List. The prior Administration moved commercial and dual-use products covered in 18 of the 21 USML's categories to the BIS's CCL.

However, 3 of the 21 categories—USML categories I, II, and III (commercial and sporting firearms and ammunition products)—were purposely singled out by the past Administration for transparent political reasons and have not realized the benefits of the USML to CCL Initiative. I am very concerned of the impact this is having on our small businesses and national security. Each day that passes with no action taken on Categories I, II, and III American businesses are at a competitive disadvantage and our national security is at risk because the State Department is having to dedicate time on commercial articles rather than on controlling those sensitive articles with national security implications. Approximately 25 percent of DDTC's current export licensing workload now involves Category I products like the single shot bolt action .22 caliber rifle that are used at summer camps. I know that several of my colleagues from both sides of the aisle share these same concerns, and 29 Senators and 145 members of the House sent bipartisan letters to Secretary Ross and then-Secretary Tillerson urging the completion of the ECR initiative. BIS published the proposed rule on May 24, 2018, which was then opened up for public comment. The congressional committees of jurisdiction received formal 30-day Section 38(f) notification in February of the final rules, and it was our understanding that the final rules were expected to be published in about mid-March.

It is now June 5th—more than a year after the proposed rules were published and 3 months since Congress received notification. When can we expect the final rules to be published to transfer to BIS the export licensing responsibility for commercial and sporting products currently on the USML categories I, II, and III? I am looking for a date certain by which the final rules will appear in the *Federal Register*.

A.1. The finalization of these rules is dependent on a White House-led interagency review that is still under way. Because this process is not under BIS's jurisdiction, I am regrettably unable to give you a firm date for publication.

Q.2. If confirmed by the Senate, will you commit to having the Commerce Department expeditiously as possible publish the final rule to transfer from the State Department to the Commerce Department the export licensing responsibility of dual-use, commercial and sporting firearms and ammunition products currently on the USML categories I, II, and III?

A.2. Yes, as noted above, I will work to quickly bring the final rule into effect, once the White House-led interagency review is finalized.

Q.3. What steps will BIS take to work with members of the firearms and ammunition industry to ensure a smooth transition to BIS from DDTC? It is my understanding that the industry's trade association, the National Shooting Sports Foundation, has done joint seminars and industry outreach with BIS, to ensure a smooth transition. Can you commit that BIS will continue those public–private cooperative efforts that work toward achieve compliance with the legal and regulatory requirements under the Export Administration Regulations (EAR)?

A.3. BIS will work with industry to make the transition from the DDTC to BIS seamless and efficient. Once the transition occurs, training on these Commerce-controlled items will become part of BIS's regular outreach activities, which includes direct engagement with industry through seminars as well as online training. Moreover, like with other industries with items subject to the EAR, BIS will support joint training events with private industry upon request and consistent with Federal ethics rules to continue its longstanding practice of public–private cooperation to promote compliance with the EAR. It is one of BIS's primary responsibilities to ensure that industries comply with our export control laws and regulations.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MORAN FROM NAZAK NIKAKHTAR

Q.1. This Committee shepherded to passage the Export Control Reform Act (ECRA), which enjoyed a strong bipartisan consensus due to its careful approach toward pursuing important U.S. national security objectives while preserving U.S. leadership in technological innovation. The Commerce Department is now leading implementation of export control reforms for emerging and foundational technologies called for in the legislation.

If confirmed as Under Secretary, what steps will you take to ensure that any new export controls do not undermine the ability of U.S. companies to innovate and compete on at the frontiers of technology?

A.1. This question touches the core of BIS's mission, which is to counter national security threats while protecting the United States' ability to innovate. Innovation, in turn, results from global competition and the accumulation of revenue that is invested to develop next-generation technologies. I have represented many industries in my career and I understand the direct relationship between access to global markets and its impact on remaining at the forefront of technological innovation. At the same time, I appreciate and fully support the need for controlling exports to prevent adversaries from using U.S. technologies to threaten our national security. This is why BIS regulations must be carefully developed, and encourage multilateral support, to protect U.S. national security and foreign policy interests without impeding U.S. technological

leadership. At the intense pace of global competition, U.S. companies cannot afford to take any step backwards.

This reality underscores the importance of establishing controls on emerging and foundational technologies with the support of key allies and partners. My approach for a multilateral framework consists of three critical components: (1) the identification of dual-use technologies that pose significant national security risks when misused by adversaries, (2) the implementation of controls (e.g., licensing requirements) that are multilateral to the maximum extent possible, and (3) fulsome information sharing among allies to minimize potential circumvention and to maximize the enforcement of controls. These three components are key to a successful export control system, and further advance the creation of an efficient and secure trading ecosystem among like-minded allies and partners. By establishing a secure ecosystem for trade and research in emerging technologies, the United States and its partners will be able to continue to make significant strides in technological advancements while impeding our adversaries' attempts to exploit differences in control frameworks among countries to obtain controlled items.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM NAZAK NIKAKHTAR

Q.1. If export control of the technical information to produce handguns using 3D printers is transferred from the jurisdiction of the Department of State to the Department of Commerce, can the Bureau of Industry and Security prevent the posting of such information on the Internet by U.S. persons without a license from BIS? If not, why not?

A.1. Under BIS's Export Administration Regulations (EAR) as currently written, information posted on the Internet on a site available to the public is considered "published" and thus not subject to the EAR. Since I began my role at BIS, I have discussed this provision and other provisions of the EAR with my colleagues across the U.S. Government to determine how to best conform the EAR to the Export Control Reform Act of 2018, how to use the export control regulations of other U.S. Government agencies to complement the EAR, and, importantly, how to modernize our regulations to keep pace with emerging national security threats. I welcome your office's perspective on improvements to our export control authorities to ensure that we are keeping pace with all national security risks.

Q.2. If the Export Administration Regulations prevent that—especially if someone has previously, illegally, posted such information—why won't BIS seek to change such regulations?

A.2. As set forth above, I am actively engaged in an effort to modernize our regulations to keep pace with existing and emerging national security threats. I am also mindful of my obligation to ensure that BIS's regulations are consistent with U.S. law. To this end, I would welcome your office's input on the effectiveness of our regulatory authorities.

Q.3. Should U.S. law be changed in order for BIS to maintain control in all instances?

A.3. It is my responsibility at BIS to ensure that our regulations on export controls are fully compliant with U.S. law, including the statutory requirements of the Export Control Reform Act of 2018. I am also committed to working through the interagency process to provide input to Congress on any amendments it proposes to update U.S. export control laws.

Q.4. If BIS will not be able to maintain positive export controls over such information in all instances, then why does Commerce seek to acquire regulatory control over such information if it ultimately cannot control it? Isn't that effectively the decontrol of such 3D gun printing information?

A.4. In May 2018, an announcement was made to transfer firearms under the International Traffic in Arms Regulations' U.S. Munitions List (USML)—Categories I–III including 3D gun printing technology—to the Commerce Control List (CCL). That transfer is ongoing and, once the transfer occurs, BIS will not be seeking to decontrol the technology. Pursuant to the current regulatory framework under the EAR, BIS will control and license technology for the development, production, operation, installation, maintenance, repair, overhaul, or refurbishing of firearms that are moved from the USML to the CCL. In addition, EAR license requirements will apply to the export of firearms themselves.

Q.5. The Export Control Reform Act states that the Secretary of Commerce shall control emergent technology for national security purposes, and in a public notice for comment last year in the *Federal Register*, identified 3D printing or "additive manufacturing" as an example of an emergent technology. So, shouldn't the use of such an emergent technology to produce lethal weapons be controlled in all instances? If not, why not?

A.5. 3D printing and "additive manufacturing" are activities currently being reviewed closely as part of the process of identifying emerging technologies that may warrant control as required by the Export Control Reform Act of 2018. This review is ongoing, and BIS notes that discussions are presently underway with partner countries on where multilateral controls are warranted. As noted above in the response to Question 4, BIS, under current regulations, would regulate "technology" for the "production" of firearms, as well as the other elements of "technology" that are subject to the EAR.

Q.6. The Congress has acted to place heightened oversight over the sale of lethal firearms to ensure that they are not going to dangerous or unreliable end-users. They have also been subject to a decades-long informal process of consultation, which has in the past prevented just such sales. BIS could inform the Congress, specifically the Senate Foreign Relations Committee, which has jurisdiction over the export of lethal arms abroad, before licenses are granted, if it chooses to do so. Will you so inform us?

A.6. In May 2018, at the time of the Department of Commerce's and the Department of State's publication of the proposed rules to transfer firearms and related items from the USML to the CCL, the Export Administration Act (EAA) did not include a Congressional notification requirement for firearms, nor did any other gov-

erning statute. On August 13, 2018, the President signed the National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018. Congress did not include in the Act a specific requirement for Congressional notification for firearms and related items exports. Should Congress wish to issue such a requirement, BIS will certainly comply.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNER FROM NAZAK NIKAKHTAR

Q.1. As Commerce compiles its emerging and foundational technologies list, are there sectors concerned may not receive enough coverage or inclusion?

What areas of China's Made in China 2025 priority list or in terms of the gaps in their military capabilities development are not covered?

A.1. China's Made in China 2025 strategy contains a broad swath of technologies, some of which are more easily identifiable as military-related or military-enabling.[1] To initiate the review of emerging and foundational technologies mandated by the Export Control Reform Act of 2018, BIS published a November 2018 *Federal Register* notice that listed 14 emerging technology categories for which the Bureau sought industry input on controls.[2] This list was developed after receiving technical insight from interagency colleagues based on subject matter experts' evaluation of technology categories that were considered to be most critical to U.S. national security interests, for example due to potential uses as conventional weapons, conduits for intelligence collection, use as weapons of mass destruction, or facilitators of terrorist activities. Technologies that could potentially provide the United States with a qualitative military or intelligence advantage were also identified. Many of these technology categories fall under one of China's 2025 priority sectors.

At the same time, BIS recognizes that the technologies listed in the *Federal Register* notice do not, by themselves, represent the full range of emerging technologies that warrant control. There are numerous additional technologies on the China 2025 priority list that also may warrant evaluation for control. Further to this point, China's civil–military integration strategy is a national strategy that incentivizes virtually the entire civilian sector to enter the defense market. This whole-of-Government effort by China now informs BIS's analysis of dual-use emerging technologies and how commercial technologies may be used as weapons. Of course, China is not the only country that poses this type of technological threat through the integration of its civil and military sectors.

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[1] The China 2025 ten priority sectors are: (1) new advanced information technology; (2) automated machine tools and robotics; (3) aerospace and aeronautical equipment; (4) maritime equipment and high-tech shipping; (5) modern rail transport equipment; (6) new-energy vehicles and equipment; (7) power equipment; (8) agricultural equipment; (9) new materials; and (10) biopharma and advanced medical products.

[2] The 14 categories were: (i) biotechnology; (ii) artificial intelligence; (iii) Position, Navigation, and Timing (PNT) technology; (iv) microprocessor technology; (v) advanced computing technology; (vi) data analytics technology; (vii) quantum information and sensing technology; (viii) logistics technology; (ix) additive manufacturing; (x) robotics; (xi) brain-computer interfaces; (xii) hypersonics; (xiii) advanced materials; and (xiv) advanced surveillance technologies.

Given these realities, we are actively engaging with U.S. industry, interagency colleagues, and academia, as well as ETTAC members, to assess the full range of emerging technologies that warrant control and their potential commercial and military applications. We are also assessing the level of development of each of these technologies in the United States and in foreign countries to determine when those technologies are expected to mature into real-use applications. Finally, we are analyzing potential harmful uses of these technologies by foreign adversaries.

We are mindful of the fact that our identification of emerging technologies is a complex exercise, and so we have been actively collaborating with industry, interagency colleagues, and academia to obtain all pertinent information for our analysis. The answers we are pursuing will help us determine the range of technologies that warrant control, and given the nature of each technology, the most effective mode of control. We encourage engagement with all members of the Legislative Branch to ensure that we are able to benefit from Congress' insight as well.

Q.2. What steps should be considered to address the problem of companies seeking to redefine the technologies or products to skirt review?

A.2. Since my start at BIS, I have stressed the need to modernize our mechanisms for control. In light of the ever-changing nature of technology, controls must be implemented in ways that adapt to technological advancements over time. For example, we have seen adversaries forego the acquisition of high-tech items subject to controls and opt for lower-tech items that fall outside of current controls but can be used to create the functional equivalent of the controlled item. While we intend to define controls with sufficient specificity to allow industry to identify what is regulated from what is not, controls on technologies need to be better fashioned with flexibility to avoid loopholes or circumvention of the controls.

Of course, the manner by which each control is defined is dependent on the particular type of technology, but I am confident that with continued and proactive engagement on this issue, BIS is developing effective controls that keep pace with the evolution of technology. Just as important, we must make every effort to ensure that our controls are implemented multilaterally so that U.S. industries are able to complete on a global playing field that is level. I have already begun proactive engagement with foreign-Government counterparts to secure multilateral cooperation on emerging technologies.

Q.3. As one of the most persistent critics of Huawei's concerning relationship with the Chinese Government and its pattern of behavior, I was pleased to see the Trump administration finally take steps to place Huawei on the Entity List.

At the same time, I have concerns that this move reflects a haphazard and not-coherent approach to these issues—particularly when we see the President suggest that the designation could simply be a bargaining chip, to be trade away in the context of a trade deal. Huawei represents a real—not speculative—security risk and one that will not be resolved in the context of a trade agreement.

We see a number of technology companies that boast unusually intimate relationships with the Chinese Government, are instrumental in domestic efforts within China to harness technology to conduct in censorship, surveillance and social control, and that receive significant support—in the form of digital infrastructure grants and loans—to help China export its model of tech-enabled authoritarianism abroad. We even see municipalities in the U.S. buying security cameras from companies like Hikvision because—as in the case of Huawei—it's artificially priced below products from legitimate vendors.

Would you support entity list designations with other technology providers, such as Hikvision and Dahua, that are engaged in activities that are contrary to the U.S. national security and U.S. foreign policy interests?

A.3. BIS continually evaluates information from multiple sources to assess possible additions to the Entity List that meet the criteria specified in part 744 (Control Policy: End-User and End-Use Based) of the EAR. When BIS or any other member of the End-User Review Committee (ERC) identify activities by a party that meet the criteria set forth in Section 744.11(b) of the EAR (acting contrary to the national security or foreign policy interests of the United States) and a majority of ERC members approve its addition, BIS will add that party to the Entity List.

Q.4. Given the pattern of behavior we've seen from a company like Huawei—with well-documented allegations of a concerted effort to evade sanctions on Iran, a longstanding and comprehensive strategy of IP theft from U.S. companies, and a close relationship with the Chinese Communist Party and Chinese military—would it be appropriate for the President to roll back the Entity List designation in exchange for minor trade concessions by the Chinese Government?

A.4. When an action taken by the Bureau of Industry and Security (BIS or the Bureau) is based on law enforcement or national security concerns, then that action should only be amended if the enforcement and security concerns which prompted that action are addressed by that amendment.

Huawei and its affiliates were added to BIS's Entity List (Supplement No. 4 to part 744 of the EAR) on the basis of activities that were contrary to U.S. national security or foreign policy concerns. Any change to Huawei's listing status will need to ensure that the national security and foreign policy concerns that led to the listing are no longer applicable or are addressed by the change. As a national security agency, BIS's mission is to uphold the United States' national security and foreign policy interests; that is and will continue to be our focus specific to the Huawei listing.

Q.5. What is your view on the scope of the Temporary General License the Trump administration issued with respect to Huawei?

Are there areas where a more relaxed policy would be warranted?

A.5. BIS implemented the Temporary General License to provide U.S. companies impacted by the listing time to adjust and BIS continues to evaluate the scope of the Temporary General License based on information from a variety of sources, including input

from U.S. companies and other potentially affected parties. We want to ensure the scope of the Entity List listing and Temporary General License are appropriate to address the national security and foreign policy concerns and are well-understood by industry.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM NAZAK NIKAKHTAR

Q.1. Would you agree that trade and international cooperation have a direct impact on tourism?

A.1. Fostering long-term mutually beneficial trade relations and cooperation with Nations has been one of my priorities as a U.S. Government official and, as we seek to expand jobs in our economy, we have been intimately aware of the impact that international travel and tourism has had on this objective. In 2018, international visitors supported 1.2 million American jobs and spent a record-breaking $255.5 billion experiencing the United States, an increase of nearly 2 percent when compared to the previous record set in 2017. Additionally, these travel trade exports accounted for 31 percent of total U.S. services exports and 10 percent of all U.S. exports, goods and services alike. Spending by international visitors who stay one night or more in the United States for leisure, business, education, or medical purposes is counted as a U.S. travel and tourism export. Our two largest visitor markets (defined by country of residence) both increased last year: Canadian visitation to the United States was up 4.9 percent and visitation from Mexico increased 3.9 percent. Despite the fact that the number of Chinese visitors to the United States decreased last year by 5.7 percent, visitation from western European countries—France, Spain, the U.K., and Italy—also increased between 3.9 and 6.0 percent. In 2018, the United States finished the year with a trade in travel surplus of more than $69 billion. As we forge closer trade ties with our allies, we expect to see continued increases in inbound tourism numbers and greater positive contributions to the U.S. economy. I am committed to encouraging such growth.

Q.2. What specifically will you do on a regular basis in this role to help expand the interests of bringing international visitors to one of America's best destinations for both indoor and outdoor activities, namely Nevada—where we saw over eight million international visitors in Las Vegas alone in 2016, accounting for $11 billion in spending?

A.2. Having grown up in California, Nevada was a frequent travel destination for my family, friends, and me. Through many frequent visits, I have watched Nevada flourish as a tourist destination for international travelers. Nevada's bourgeoning tourism industry has not only boosted U.S. economic growth, but it has also encouraged a greater understanding of U.S. culture and values, which are important components of fostering better international cooperation between the United States and its global partners.

During my time at the International Trade administration, I worked to support the long-term growth and competitiveness of the travel and tourism sector and to encourage more international visitors to the United States. I worked with my colleagues across the

agency to connect U.S. companies and destinations to opportunities in growth markets of interest to Nevada and other U.S. destinations. For example, while in India, my staff at the National Travel and Tourism Office (NTTO) met with Herb Santos, Jr., Nevada Tourism Commissioner, and Carson City Culture and Tourism Authority Executive Director David Peterson, to discuss a number of issues important to the State of Nevada.

Additionally, in 2018, I personally worked with U.S. Customs and Border Protection to resolve an issue related to the country of residence data it was collecting so that ITA NTTO's statistical program could provide the most accurate traveler data to U.S. businesses in order to improve their competitiveness and effectiveness in the international travel marketplace. Many State tourism offices and convention and visitors' bureaus are dependent upon the program as the source for comparable State and city visitation and international traveler trend information. In my former ITA role and current BIS role, I continue to be committed to advancing policies that will encourage tourism across the United States, including the State of Nevada.

Q.3. Can you provide us a sense of how we can continue to improve our outreach worldwide?

A.3. The Department of Commerce proactively examines all export markets to identify opportunities for future growth. The Department's NTTO and U.S. Foreign Commercial Service Officers (including professionals in embassies worldwide) work together as a focused travel and tourism team, to increase U.S. exports in the travel and tourism sector.

One particular example is India. Under the U.S.–India Commercial Dialogue, we have a travel and tourism work stream where the NTTO and India's Ministry of Tourism collaborate on opportunities to increase tourism between our Nations. The Department of Commerce also works directly with the private sector both in the United States and in our source markets to support efforts to secure more business for companies and destinations across the United States.

Q.4. During your consideration by the Senate Commerce Committee last Congress, you stated in your response to me the importance of "initiatives that facilitate travel to the United States, such as aviation liberalization, the streamlining of visa application processes, improvements to customer service at ports of entry, and the enhancement of passenger screening." How do you reconcile that statement with the lack of progress in these areas under the current Administration, even going so far to employ the questionable tactic of moving passenger screeners from the Transportation Security Administration (TSA) to the southern border where they have not been trained and are vacating their security posts at our Nation's airports and surface transportation outlets?

A.4. The Department of Commerce welcomes international visitors and forward-thinking policies that may be implemented to increase travel and tourism to the United States. An example of a recent initiative that ITA has undertaken to facilitate the travel process is its work with CBP to develop a pilot a biometric entry and exit system that, once fully deployed, will help create a more secure and

seamless travel experience. To this end, the United States Travel and Tourism Advisory Board, an advisory committee established pursuant to the Federal Advisory Committee Act and overseen by ITA, is tasked with providing recommendations on how the public and private sectors can collaborate to accelerate progress on the implementation of the biometric entry and exit system at U.S. ports of entry. The Board provided recommendations on this topic in April 2019, and Department officials are reviewing them with interagency partners to determine how to best implement the recommendations. We welcome further engagement with your office on initiatives that the Department may pursue to further facilitate travel to the United States.

Q.5. While I received your assessment during consideration of your nomination last Congress, can you please provide an update to the trends we are currently seeing in international tourism given the rhetoric and policies toward some Nations or groups, of this Administration?

A.5. International visitation and international visitor spending both set records in 2018. A record 79.6 million international visitors enjoyed the United States and spent a record-setting $255.5 billion. International tourism supports 1.2 million jobs in the United States. Thirty-one percent of all services exports in 2018 were travel and tourism-related and travel and tourism accounted for 10 percent of all exports, goods and services alike, in 2018. In terms of growth in visitation by residents from specific markets, the United States saw increases from the two biggest visitor markets, Canada (4.9 percent) and Mexico (3.9 percent). South America was up 8.5 percent with Brazil up 15.5 percent and Colombia up 12 percent, among our biggest gainers. Western Europe saw increases in several key markets—U.K. (3.9 percent), France (6 percent), Spain (6 percent), and Italy (4 percent). Visitation by residents of countries in Asia was mixed. Down markets included China (5.7 percent), South Korea (5.3 percent) and Japan (2.8 percent). Visitation from India increased by 7.2 percent.

Q.6. I also previously asked you for your thoughts on the Federal Brand USA program, for which I didn't receive a specific answer to whether you supported Federal funding of this specific successful program?

A.6. The Administration understands the value of travel and tourism to the economy. The Department continues to be very engaged with Brand USA; the Secretary has appointed the Brand USA board of directors, approved Brand USA's annual objectives, and transmitted the Brand USA annual report to Congress. The Department is committed to exploring all ways to increase travel and tourism to the United States.

Q.7. In your previous response on Brand USA, you stated "I will commit to being a strong advocate for public–private partnerships that promote the United States as a tourist destination, and will do so based on the Administration's and Congress' approved budgets and policies." From that statement, please help me reconcile what your position will be toward that program as the Trump ad-

ministration has again proposed to cut funding for Brand USA in their FY20 budget?

A.7. For the reasons described above, the Department and I fully support travel and tourism to the United States, and we will continue to advocate for the economic growth that such tourism brings, including through private–public partnerships. I will faithfully execute the budget that Congress passes and that the President signs into law, and should that budget include funding for Brand USA or some other type of public–private partnership, I and the Department will support Brand USA and continue to work to leverage all possible resources to maximize international travel to the United States.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM IAN PAUL STEFF

Q.1. The Foreign Commercial Service is critical to many U.S. exporters who struggle to navigate complex foreign markets and need advocates on the ground to help them succeed. I've been disheartened to see President Trump propose to slash this trade office's funding in the last couple of budgets. This office deserves a leader who will advocate for its programs and staff, and communicate its importance to Administration leadership and the public.

Do you believe in the mission of Foreign Commercial Service?

A.1. If confirmed, I would be incredibly honored to lead the U.S. and Foreign Commercial Service, with its global network of more than 1,300 international trade and inward-investment professionals at our U.S. Embassies and Consulates in 76 countries and 108 cities across the United States. I wholeheartedly believe in their mission to help business create jobs and grow our economy through exports and inward investment. I also know unequivocally that our U.S. and Foreign Commercial Service is unique and the only group in the U.S. Government that is equipped, experienced, and capably dedicated to lead the charge on behalf of U.S. exporters, particularly small- to medium-sized companies, into a future of increasingly aggressive and competitive global business. I have the utmost respect for this global team of professionals who deliver daily on behalf of our Nation's exporters. I also know that in terms of value, no organization within the U.S. Government has a greater return on its investment on behalf of U.S. exporters than the U.S. and Foreign Commercial Service. I believe in their mission, and I plan to help grow that value.

Q.2. Can you commit to me today to work toward strengthening the office and fight against the President's budget cuts?

A.2. I stand behind the President's budget and will direct the use of our appropriation to its maximum efficiency and effectiveness for our exporters. I commit to working with you and your colleagues throughout the budget and appropriations process. My top priority will be to dedicate those allocated resources to make the U.S. and Foreign Commercial Service the strongest advocate it can be for U.S. companies doing business in an increasingly competitive world, while equipping the team with the tools they need to compete.

Q.3. Building stronger economic links with our neighbors in Latin America has always been a priority of mine. The region presents tremendous opportunity for the U.S. to develop export markets and to form partnerships to boost our Nation's competitiveness as we look to compete in the global economy with China and others.

If confirmed, will you prioritize developing relationships with our partners in Latin America?

A.3. I share your view that Latin America presents many important growth opportunities for the United States. The Commerce Department has led productive engagements, talks, and visits with their respective counterparts in the region, enhancing our commercial and economic relationship. The fact that the United States has sought to bring the NAFTA into the 21st century by way of the new U.S.–Mexico–Canada agreement, demonstrates a strong commitment to the Americas. Modernizing and rebalancing our trade relationship with Mexico will foster a better investment climate for reciprocal trade, that supports high-paying jobs for Americans and will grow the overall North American economy.

Creating a more level playing field for American workers to boost our Nation's competitiveness is an important first step in expanding opportunities for U.S. exports in Latin America, and as we look to compete in the global economy with China and others. In addition, I look forward to continuing Global Markets' strong focus on Latin America through our advocacy and Select USA efforts. We've seen many strong delegations from Latin America looking to invest in the United States.

Q.4. Will you commit to expanding the Foreign Commercial Service's footprint in the region?

A.4. I recognize that the increasing heat of global competition faced by our U.S. exporters is right in our back yard in Latin America. Over the last decade, many of our exporters have lost ground to Government-supported foreign competitors in Latin America and other markets around the world. We cannot afford to cede further ground, and we need to show our trading partners around the world that we choose to compete, and that we mean business on behalf of our Nation's exporters.

If confirmed, I will strategically allocate those resources available to us to ensure our companies pursue opportunities to compete for and gain back market share and win new business in Latin America and around the world. I commit to working with you and your colleagues to find opportunities where we can further strengthen our effectiveness and services in the region, while supporting a multitude of action oriented commercial dialogues in Latin America. Likewise, I look forward to working with the private sector to grow our commercial relationship in sectors of mutual interest in the region.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM MICHELLE BOWMAN

Q.1. Please provide to the Committee a detailed list of all meetings with individuals or groups not directly affiliated with the agency

you serve, from the date of your confirmation by the Senate to present.

A.1.

Attachment #1

Below, please see a list of individuals and groups that I have met with in my capacity as a member of the Board of Governors of the Federal Reserve System. I also met with White House staff as part of my nomination process. Between November 15, 2018, and January 2019, all of my meetings were with individuals or groups affiliated with the Federal Reserve.

January 2019

January 7	Americans for Financial Reform
January 8	Federal Reserve Board/Council of Economic Advisers Luncheon
January 9	American Bankers Association (ABA) Economic Advisory Committee
January 9	Call with Rob Nichols, President and CEO, ABA
January 18	Joseph M. Otting, Comptroller of the Currency

February 2019

February 5	Federal Reserve Board/Council of Economic Advisers Luncheon
February 5	Call with Rob Nichols, President and CEO, ABA
February 6	Prof. Joachim Wuermeling, Bundesbank
February 7	Rebeca Rainey, President and CEO of the Independent Community Bankers of America (ICBA) & Cam Fine, President and CEO of Calvert Advisors, LLC
February 11	Speech to ABA Community Banker Conference, San Diego
February 13	Treasury Borrowing Advisory Committee Meeting
February 15	Conference of State Bank Supervisors
February 15	Rebeca Rainey, President and CEO of ICBA & Karen Thomas, Vice President of Government Relations and Public Policy of ICBA
February 22	International Monetary Fund (IMF) Lunch
February 25	Call with NeighborWorks
February 26	NeighborWorks America Board Meeting
February 28	Call from Rob Nichols, President and CEO, ABA
February 28	ABA State Bankers Meeting – Ohio

March 2019

March 5	Federal Reserve Board/Council of Economic Advisers Luncheon
March 7	Meeting of Board members and staff with Marcus Brunnermeier, Princeton University; Monica de Bolle, Johns Hopkins University; Gita Gopinath, IMF; Rick Mishkin, Columbia University; Adam Posen, Peterson Institution; and Kenneth Rogoff, Harvard University
March 8	ABA State Bankers Meeting – Delaware
March 12	Ashwini Tewari, U.S. Head of Operations, State Bank of India
March 13	Communications Workers of America's Committee on Better Banks
March 13	California Reinvestment Coalition
March 22	Call with Marietta Rodriguez, CEO, NeighborWorks America
March 25	National Agricultural Credit Conference
March 25	Congressman Ben McAdams (UT)
March 25-26	National Agriculture Credit Conference
March 26	Congressman Blaine Luetkemeyer (MO)

March 27	Tour Project Vida and Discussion with Program Supervisors
March 28	Ag Lenders Conference, sponsored by the Independent Community Bankers Association of New Mexico
March 28	Farm Tour Locations: Billy the Kid Produce; New Mexico Chili Products; Luna Rossa Winery

April 2019

April 1	Board lunch with IMF Staff
April 1	Senator Ron Johnson (WI)
April 2	Congressman Emanuel Cleaver (MO)
April 2	Federal Reserve Board/Council of Economic Advisers Luncheon
April 2	Conference of State Bank Supervisors Listening Session and Dinner Remarks
April 4	Karen Lawson, Director, Office of Banking for the Michigan Department of Insurance and Financial Services
April 4	Richard Trumka and members of the Executive Council of the AFL-CIO
April 5	Community Depository Institution Advisory Council
April 8	Congressman Bryan Steil (WI)
April 8	Congressman Frank Lucas (OK)
April 9	CFPB Director Kathy Kraninger
April 10	Meeting with Santa Rosa and Sonoma County Leaders Participants: Michael Gossman, Director of the Sonoma County Office of Recovery and Resilience; David Guhin, Director of Santa Rosa Planning and Economic Development; Albert Lerma, Director of Business Development and Innovation at the Sonoma County Economic Development Board; Peter Rumble, CEO of the Santa Rosa Metro Chamber of Commerce; Tom Schwedhelm, Mayor of Santa Rosa; Ben Stone, Executive Director of Sonoma Economic Development Board; Margaret Van Vliet, Executive Director of the Sonoma County Community Development Commission; Tennis Wick, Director of the Sonoma County Permit and Resource Management Department
April 10	Charlie Hall, CEO, Alta-Pacific Bank
April 10	Jan Lynn Owen, Commissioner, California Department of Business Oversight
April 10	San Francisco Community Bank Panel Participants: Bruce Farrell, Liberty Bank; Walter Kaczmarek, Heritage Bank; Keith Wilson, Heritage Bank; Steve Heitel, Presidio Bank; Chris Courtney, Oak Valley Bank
April 11	Twelfth District Economic Advisory Council Meeting
April 11	"Fed Family" Luncheon at the Federal Reserve Bank of San Francisco
April 12	Andy Ryback, President and CEO, Plumas Bank
April 12	NeighborWorks Tour Locations/Executives: Tenderloin Neighborhood Development Corporation, Donald Falk, CEO; Chinatown Community Development Center, Norman Fong, Executive Director
April 15	FDIC Chairman Jelena McWilliams
April 15-16	NeighborWorks Board meeting

April 25	Call with Grovetta Gardineer, Senior Deputy Comptroller for Bank Supervision Policy, Office of the Comptroller of the Currency
April 26	Call with FDIC Chairman Jelena McWilliams

May 2019

May 2	Jennifer Burns, Associate Professor of History, Stanford University; Research Fellow, Hoover Institution
May 2	Brian Sack, Director of Global Economics, D.E. Shaw Group
May 3	2019 Hoover Institution Monetary Policy Conference
May 6	Risk Management Association Community Bank Council Meeting
May 7	Martin J. Gruenberg, member, FDIC Board of Directors
May 7-8	Joint Meeting of Audit Committee Chairs and General Auditors
May 8	Treasury Borrowing Advisory Council
May 8	Senator Chris Van Hollen (MD)
May 9	ABA State Bankers Meeting – Georgia
May 9	Congressman David Scott (GA)
May 9	Senator Richard Shelby (AL)
May 14	Opportunity Finance Network
May 14	ABA State Bankers Meeting – Tennessee
May 14	Sen. Tina Smith (MN)
May 15	National Association of Homebuilders
May 16	Senator Thom Tillis (NC) and Senator Jerry Moran (KS)
May 21	ABA State Bankers Meeting – Kentucky
May 22	Meeting of Board Members and Staff with Hayley Boesky, Bank of America Merrill Lynch; Joyce Chang, JP Morgan; Paul Harrison, DCI; Prakash Melwani, Blackstone; Jason De Sena Trennert, Strategas; Mark Wiedman, Blackrock
May 22	Senator Mike Crapo (ID)
May 29	Regional Banking Executives Roundtable Discussion Participants: Phil Green, Cullen/Frost Bankers, Inc. and Frost Bank; Archie Brown, Jr., First Financial Bankcorp and First Financial Bank; Kevin Riley, First Interstate Bancsystem; Michael Scudder, First Midwest Bancorp Inc.; Jim Reuter, FirstBank Holding Company; Steven Gardner, Pacific Premier Bancorp, Inc.; George Markis, Jr., Simmons First National Corp.; Richard Adams, Jr., United Bankshares, Inc.; Kenneth Vecchione, Western Alliance Bancorporation

June 2019

June 5	Senate Banking Committee Nomination Hearing
June 6	Douglas Elliot, Partner, Oliver Wyman
June 11	Senator Sherrod Brown (OH)

Q.2. In a recent speech entitled "Community Banking in the Age of Innovation", you explained that "FinTech firms originate a larger share of personal loans than banks," but "we should not simply assume that gains by FinTech lenders are necessarily at the expense of banks." You highlight the opportunities for community banks to partner with fin tech firms.

Do you support these same FinTech firms competing directly with community banks through industrial loan company (ILC) charters or OCC special purpose national bank charters?

A.2. I support innovations in financial services because I believe it can benefit consumers and small businesses through expanded access to financial services, greater efficiency, increased convenience, or potentially reduced transaction costs. The question of FinTech companies operating through industrial loan company (ILC) charters requires careful consideration. As you know, the Federal Reserve does not supervise ILCs or their holding companies.

The Office of the Comptroller of the Currency's (OCC) proposed special purpose national bank charter raises interpretive and policy issues for the Federal Reserve Board (Board), for example, questions relating to Federal Reserve membership, status under the Bank Holding Company Act, access to Federal Reserve accounts and services, or access to the discount window. The Board would have to analyze these issues closely if any FinTech firm was to obtain a special purpose national bank charter.

Q.3. During your testimony, in response to my question about consolidation making it harder for small banks to compete, you said that your concern was investment in local communities and that as branches are acquired in rural communities, home investment in the community tends to be dissipating.

What actions is the Fed taking to ensure that acquiring banks continue to invest in communities where all acquired branches are located?

How will you ensure that banks distribute their investments in all communities, not only the location in which the charter is held?

Would you support requirements for banks to continue to invest in these communities after an acquisition?

A.3. My interest is to see credit flowing to consumers and businesses in all communities consistent with safe and sound lending. This includes meeting credit needs in low- and moderate-income areas and furthering economic development and financial inclusion. The Community Reinvestment Act (CRA) is one of the tools we have to accomplish this goal. The CRA encourages banks to serve their entire community, in particular the credit needs of low- and moderate-income communities. To ensure that this is accomplished, the Federal Reserve evaluates the records of State member banks in helping to meet the credit needs of their communities. The CRA regulations define a bank's "assessment area"—the area within which we evaluate their CRA performance—as those areas around the bank's branches and deposit taking ATMs. We are currently in discussions with the OCC and Federal Deposit Insurance Corporation (FDIC) regarding possible revisions to the CRA regulations. One aspect of the regulation that we are discussing is a better way to delineate the community served by a bank to provide better in-

centives for providing credit in every assessment area, not just its major markets.

When two banks merge, we evaluate the CRA performance of the resulting bank in all the areas where they retain a branch presence. In evaluating the convenience and needs of the communities to be served following a merger, an institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed on-site evaluation of the institution's performance under the CRA by its appropriate Federal supervisor. In addition to CRA performance, Federal Reserve System staff considers recent actions taken to improve CRA performance, comments submitted by interested parties and the applicant's response to those comments, and the potential effects of the proposal on the convenience and needs of the communities to be served.

Q.4. In your remarks at the Conference of State Bank Supervisors in April, you said that "we must continue to ensure that the institutions we supervise are proactively managing their risks to remain strong" and that "it's the [financial supervisors'] job to identify emerging risks to community banks and to ensure bankers are identifying and managing their risks appropriately."

What are the emerging risks to community banks today?

A.4. Despite generally favorable economic and financial conditions, community banks continue to manage a moderate level of risk. Some emerging risks include cybersecurity, deposit competition, and agricultural and commercial real estate (CRE) lending.

Cybersecurity continues to be an area of elevated risk across the banking system as threats evolve and the banking industry continues to face challenges in establishing and maintaining adequate cyberdefenses. Threat actors are active and innovative in seeking ways to exploit weaknesses in people, processes, and technology.

Agricultural-based lending remains an area of concern. Net farm income has declined since 2012 and continues to be an issue. Low commodity prices, trade uncertiainty, and recent unfavorable weather conditions in the Midwest have added to an already challenging situation. Lower incomes and increasing debt-servicing costs are impacting borrowers management of operational debt. Weaknesses in credit at agricultural banks can be seen in the form of carryover debt from prior operating years, increasing levels of nonperforming assets, and modest increases in the number of problem banks with significant agriculture-related exposure.

CRE risk is an area of elevated risk, mainly due to the widening gap between real estate values and property income used to service outstanding debt. For most property types, the primary driver of price appreciation appears to be new investor demand rather than increasing rents or other property-level fundamentals.

Q.5. Please describe what specific proactive measures the Fed is taking to ensure that banks are managing these risks.

A.5. With respect to these risks, the Federal Reserve has adopted common work programs to help examiners assess overall IT operations, including cybersecurity of community banks. The Federal Reserve also has included mandatory training for all community bank examiners in the area of IT in order to consistently identify

and provide feedback to the banks supervised by the Federal Reserve.

Building on earlier supervisory guidance on managing agricultural lending, the Federal Reserve has sponsored a number of training and educational opportunities for examiners. In addition, the Federal Reserve closely monitors and provides updates on farming conditions and agricultural lending conditions to examiners.

As discussed in SR letter 19-9, Bank Exams Tailored to Risk (BETR), the Federal Reserve has revised its procedures for credit and liquidity risk to better identify risk and tailor exam procedures based on the risk profile of a particular bank. CRE concentrations and a bank's use of volatile funding sources are among the factors that examiners consider in determining whether a bank's activity is low, moderate, or high risk, which will determine the procedures examiners will complete during the examination.

Q.6. What additional steps should the Fed take to address these risks?

A.6. With respect to cybersecurity, we continue to review our program and have placed a high priority on building our expertise to ensure we and the institutions we supervise understand and manage the associated risk. With respect to agriculture lending, the Federal Reserve will continue to gather current information on industry factors that (1) affect the ability of farm producers to repay loans, (2) influence collateral values, and (3) affect the ability of producers and banks to hedge potential losses. We will continue to focus on examining banks with concentrations in agricultural lending, with particular emphasis on ensuring banks hold capital commensurate with their portfolio compositions. And, as mentioned, with respect to CRE concentrations, this remains to be an area of focus.

Q.7. In your capacity as community bank designee, what is your definition of a community bank?

What is the largest firm, by assets, that you consider to be a community bank?

In how many States can a bank operate and still be considered a community bank?

Are there any financial activities that you think disqualify a firm from inclusion as a community bank?

What is the maximum number of distinct subsidiaries and affiliates at a bank or bank holding company that you would still consider to be a community bank?

A.7. There are a number of statutory definitions for community banking organizations, but the Board uses $10 billion in total assets as the threshold for its supervisory and regulatory purposes. It is my view that $10 billion is a reasonable ceiling. However, various statutes tailor requirements for community banks using differing threshold. For example, the Small Bank Holding Company policy statement provides relief for firms under $3 billion, while banks under $10 billion would be eligible for Community Bank Leverage Ratio.

While no formal restriction on financial activities exists that would disqualify a firm from being considered a community bank,

community banks tend to have more traditional, low-risk banking operations. Additionally, there is no formal limit on the number of subsidiaries and affiliates a community bank may have and no restrictions exist on the number of subsidiaries and affiliates, according to the Federal Reserve's current operating practices. That said, as noted above, community banks tend to have simpler banking operations than large banks.

In general, I do not believe a community bank should be defined by the number of States in which it operates. Rather, a bank's size, risk profile, capacity, and complexity, tend to be more important factors.

Q.8. If confirmed to a full 14-year term, what will be your top priorities as a member of the Board of Governors that serves as the community bank designee?

A.8. My top priority as a member of the Board of Governors will continue to be fulfilling the vital responsibilities Congress has given us: to support full employment and stable prices, regulate and supervise the banking system to ensure it remains safe and sound, enforce consumer protection laws that require everyone be treated fairly, and carry out the Board's important payments-related responsibilities.

As the first governor to fill the role the Congress designated for someone with community banking experience on the Board, I will continue to travel widely and listen closely to community bankers, consumers, small-business owners, and community leaders. I will make sure these diverse perspectives are represented in the Federal Reserve' s deliberations and decision making on both monetary policy and regulatory matters.

As I noted in my testimony, I firmly believe that, as regulators, we need to ensure that we are not imposing unnecessary burdens on community banks. That is why one of my priorities as governor has been to tailor appropriately our supervision and regulation to the size, complexity, and capacity and risks posed by an institution. To further this effort, I recently formed a working group of experts from across the Federal Reserve System to launch a comprehensive review of our supervisory work with smaller, regional and community banks.

In carrying out each of my responsibilities, I am committed to accountability, transparency, and clear communication.

Q.9. Systemic regulatory failures, like the savings and loan crisis and 2008 financial crisis, have been the largest contributors to community bank failures over the last 30 years. What actions are you taking to ensure that excessive risk-taking in corporate debt will not result in harm to the financial sector broadly and community banks specifically?

A.9. Widespread failures of community banks are indeed risks to economic growth, particularly in the communities they serve. The wave of community bank and savings and loan failures in the late 1980s and early 1990s was a strong headwind to the economy, requiring coordinated action by Congress and bank regulatory agencies. We absolutely want to avoid the need for such extraordinary measures in the future.

Community banks emerged from the financial crisis substantially more resilient than they were in the precrisis period. Their regulatory capital ratios are higher, and they now rely more on capital instruments with greater loss absorbency. There is no substitute for high quality capital in limiting stress on institutions from the risks they take in the normal course of the bank. The use of wholesale funding—another source of pressure during stressful periods—by community banks remains significantly below the levels that were typical prior to the financial crisis. We continue to closely monitor the solvency and liquidity risks among community banks.

Community banks traditionally have little exposure to leveraged loans, and legal lending limits combined with the minimum participation sizes would limit most banks of that size from becoming significantly active in that market. Community banks are exposed to the small business sector as well as unincorporated businesses through traditional commercial and industrial lending. The current credit performance in the small business sector is quite strong, and during the past two downturns, small business lending has not generated outsized losses after accounting for the size of the economic contraction. We also closely monitor community banks that do have high concentrations of business-related debt to ensure they have appropriate risk management processes in place.

That said, some community banks do have significant concentrations of CRE loans. We pay close attention to this sector, because it has played a role in previous episodes of widespread banking stress. The Commercial Real Estate Guidance issued in 2007 includes expectations that banks with concentrations in CRE have in place enhanced risk management programs, and the fraction of banks with large CRE concentrations is much lower than it was heading into the 2008 financial crisis. Moreover, our financial stability assessment highlights the attention we have given to CRE prices and lending standards. We will continue to closely monitor this sector as well as supervised banks with concentrated exposure to CRE.

Q.10. Are you concerned that the deregulation of foreign banking organizations (FBOs) as proposed in April will create additional competitive pressures on community banks? Are FBOs direct competitors with community banks in activities like small business and residential mortgage lending? If not, what activities do FBOs engage in that distinguish their business and risk profile from community banks?

A.10. Most branches and agencies of foreign banks are not direct competitors of community banks, as foreign banking organizations (FBOs) tend to have a wholesale business model focused on large borrowers and home country customers operating in the U.S. FBOs generally engage in limited residential mortgage lending, most of which flows to employees of the bank.

Some U.S. commercial banks owned by FBOs may directly compete with community banks. Of the 4,751 commercial banks operating in the U.S. as of year-end 2018, FBOs operate 39 of them.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR ROUNDS FROM MICHELLE BOWMAN

Q.1. The community bank leverage ratio (CBLR) created pursuant to S. 2155 is of paramount interest to community banks in South Dakota. I am particularly concerned about how the CBLR was created because the current CBLR includes changes to the Prompt Corrective Action framework that would effectively eliminate any relief achieved from the creation of the leverage ratio. I've heard from several institutions in my State that they will decline to take advantage of the CBLR as a result.

Why was 9 percent chosen for the community bank leverage ratio?

A.1. The Federal banking agencies jointly issued a proposal that would allow community banking organizations that meet certain qualifying criteria to opt into a simple, leverage-based capital framework. Firms that opt into the framework would not be subject to the capital rule's risk-based capital requirements.

Under the proposal, a qualifying community banking organization may elect to use the community bank leverage ratio (CBLR) framework if its CBLR is greater than 9 percent. A 9 percent CBLR should generally maintain the current level of capital held by these banking organizations, while supporting the banking agencies' goals of reducing regulatory burden for community banking organizations and retaining safety and soundness in the banking system. Before finalizing the CBLR rule, I, along with my Federal Reserve Board (Board) colleagues will consider all public comments received as well as the input received from State bank supervisors.

Q.2. S. 2155 required Federal regulators to engage in a dialogue with State banking regulators regarding how the leverage ratio should be set. How did the Federal Reserve fulfill this requirement?

A.2. The banking agencies have worked closely with State bank supervisors over the past several months to inform the rulemaking process, and are considering their constructive input and feedback as we work to finalize the CBLR framework.

Q.3. What changes will be made to the community bank leverage ratio so that community banks can actually avail themselves of this relief?

A.3. The banking agencies are still considering the public comments received on the proposal as well as the input received from State bank supervisors. Moving forward in the rulemaking process, the banking agencies will strive to develop a CBLR framework that is consistent with congressional intent.

Q.4. I am honored to be the sponsor of the Financial Stability Oversight Council Improvement Act of 2019, which would require FSOC to determine whether potential nonbank threats to financial stability could be better solved by allowing companies to work with their primary regulator or through the development of a risk reduction plan. This legislation is important because most FSOC members are banking regulators and applying banking regulations to

nonbank companies would be harmful to our capital markets and to Main Street investors.

Do you agree that FSOC should focus on empowering primary regulators so that true systemic risks can be addressed?

A.4. I believe that the Financial Stability Oversight Council (FSOC) should work closely with the relevant primary regulators when addressing systemic risks, and my understanding is that the proposed activities-based approach to nonbank designation strengthens such coordination.

Q.5. Do you agree that it's important for FSOC to consult with primary regulators before voting on a SIFI designation?

A.5. Yes, I agree on the importance of consultation with primary regulators before any FSOC vote on a systemically important financial institution designation to leverage the expertise of that regulator and explore alternative solutions to mitigate systemic risk. The activities-based approach envisions close cooperation between the FSOC and the relevant regulators.

Q.6. Do you agree that addressing nonbank risk does not always have to include a SIFI designation?

A.6. Yes, I believe that there are ways to address nonbank risks other than through designating firms as systemically important. Indeed, it is my understanding that the proposed amendments to the nonbank designation guidance are intended to capture instances where designating an entity may not effectively address the risk to the system.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TILLIS FROM MICHELLE BOWMAN

Q.1. The Federal Reserve's (Fed) regulatory approach to interaffiliate margin transactions is an outlier. The margin requirements have the effect of locking up capital that could otherwise be used for economic growth and they discourage centralized risk management practices among firms. In addition, the current approach results in the movement of collateral out of the U.S. insured depository institutions. These are all suboptimal policy outcomes. Regulatory authorities in the European Union, Japan, and most other G20 jurisdictions each currently provide such an exemption for these transactions. You have indicated you are aware of the issue but, to date, I've seen no official action from the Fed to fix the problem.

The recognition for the need for an exemption began under regulators nominated by President Obama. In 2013, CFTC Chairman Gary Gensler provided an exemption for central clearing and trade execution. In 2015, CFTC Chairman Tim Massad provided an exemption, determining that initial margin was not warranted and it was a "very costly and not very effective way" to enhance risk management. Yet, the Fed did not provide an exemption from initial margin in the 2016 margin rules, and as a result, as of the end of last year, U.S. banking entities collected nearly $50 billion in initial margin from their own affiliates. In 2017, the Treasury Department noted that this rule puts U.S. firms at a disadvantage both domestically and internationally, recommending that your agencies

provide an exemption consistent with the margin requirements of the CFTC.

Do you agree that an exemption from initial margin is appropriate for interaffiliate transactions?

A.1. The Board is actively discussing this aspect of the rule with the other prudential regulators. The goal is to assess what, if any, changes can be made consistent with the statutory directive that margin requirements help ensure the safety and soundness of covered swap entities and are appropriate for the risk associated with noncleared swaps.

Q.2. Will you prioritize a rule to provide an exemption for interaffiliate transactions, separate from any broader regulatory effort such as a Regulation W rewrite?

Please provide an explicit timeline for when the Fed will take action.

A.2. Discussions with the other prudential regulators as mentioned above are separate and apart from any broader regulatory efforts. While I am not able to provide a specific timeline for you, we will strive to address the issue as soon as possible as we coordinate with other relevant agencies.

Q.3. The reason a "Reg W" rewrite is suboptimal is that it will be counterproductive and slow. Most believe it will take 5 to 6 years to complete. This capital needs to be released soon because we have geopolitical risk emerging over the world that could destabilize markets. If we have a Brexit, the number of entities will double and more capital will be unfairly sequestered. With potential trade volatility, Middle East uncertainty, and other risks, our banks need to be able to use capital for risk management, not have it trapped for no reason.

Could a Reg W action be done outside of providing an exemption?

A.3. The swap margin rule, codified in the Board's Regulation KK, is different than and separate from Regulation W. I understand this question to be asking about the treatment of interaffiliate transactions in the swap margin rule. The swap margin rule requires that a covered swap entity collect initial margin from an affiliate. If the Board were to change this requirement, it would do so through the normal public notice and comment rulemaking process consistent with the Administrative Procedure Act.

Q.4. Please explain any reasoning for not allowing this exemption this year.

A.4. While we are actively discussing this aspect of the rule with the other prudential regulators, I am not able to confirm a timeline on the result of our collaboration. I understand the importance of moving as quickly as possible.

Q.5. In October of last year, the Fed issued a request for public comment on "actions the Federal Reserve could take to support faster payments in the United States." We understand the Fed has been working collaboratively with the banks and other private sector stakeholders for years on how best to facilitate faster payments. As Chairman Powell noted at a recent press conference, the Fed has thus far been "more of a convener, bringing industry and the public and public interest groups . . . around the table and . . .

playing a constructive role" in encouraging the private sector in this area. In October, however, the Fed issued a request for public comment indicating that "it will probably enter the market for faster payments as a direct competitor of the private sector solutions with its own Real-Time Gross Settlement" (RTGS) system.

Is it possible the Fed's proposal could hamper and delay, rather than facilitate, the arrival of real-time payments?

A.5. In its 2018 *Federal Register* Notice (2018 Notice) request for public comment, the Board of Governors (Board) requested feedback on the impact of Federal Reserve action(s) in faster payments settlement. In particular, the 2018 Notice specifically asked whether Federal Reserve action would help or hinder adoption of faster payment services by the financial services industry. This matter is still pending before the Board, and we are carefully reviewing the comments received.

Q.6. Please explain why the Fed is proposing the creation of a Government-run real-time payments system when the private sector has already created one that is up and running?

A.6. The Federal Reserve has not committed to any action at this time. Any decision made by the Board will consider carefully the importance of the views of the private sector on this issue.

Q.7. The Fed's own policy statement on "The Federal Reserve in the Payments System" requires that the Fed satisfy three conditions before proposing a new service.

Among those is a finding that the private sector "cannot be expected to provide such service with reasonable effectiveness, scope, and equity." Has the Fed made this finding, and, if so, on what grounds was it made?

A.7. The Board has not made a determination at this time. However, throughout the Board's deliberations, it will adhere to the requirements of the Federal Reserve Act, the Monetary Control Act (MCA), and longstanding Federal Reserve policies and processes.

Q.8. How long would it take for the Fed to create its real-time system?

A.8. At this time, the Federal Reserve has not committed to any action. If the Board determines to pursue a Real-Time Gross Settlement (RTGS) service for faster payments, a subsequent *Federal Register* notice would be issued that outlines additional details of the proposed service.

Q.9. Would the Fed's proposed RTGS and the existing private sector real-time payments network be interoperable and, if so, why—specifically—do you believe that will be the case?

A.9. The Board's request for comment asked for feedback on several areas, including interoperability with existing or potentially new Real-Time Gross Settlement (RTGS) service providers. Various commenters responded to such questions. The Board is assessing these comments and seriously taking them into account.

Q.10. If you believe the systems would interoperate, would such interoperability require the private sector system to significantly alter its current design?

A.10. As I mentioned above, the Board is reviewing the comments received on the proposal, including those comments on interoperability, and will take this feedback into account throughout its deliberation.

Q.11. My understanding is that the Fed seeks to justify this potential action in part on a perceived need for "resiliency". The notion that having two systems would provide resiliency necessarily assumes that every bank in the country (or at least an overwhelming majority of them) would have to connect to two systems: the private sector system and the yet-to-be-built Government-run system, which would create enormous inefficiencies and impose needless costs on the American taxpayer and the private sector.

Have you done any cost-benefit analysis, particularly in light of the other faster payment options currently in the market that already serve as near substitutes, like payments over the card networks, same-day ACH, PayPal, Venmo, Zelle, Fedwire Funds Service itself, to determine whether or not this proposal makes any sense?

A.11. The Board is considering the comments of the broad range of stakeholders throughout its deliberation, including the points you raise on resiliency and costs. We note that the Monetary Control Act of 1980 requires that Federal Reserve services must be priced to recover actual expenses associated with providing the services as well as certain imputed costs, including the taxes and cost of capital that would be paid by a private sector competitor. Importantly, the Board is considering the comments from the broad range of stakeholders throughout its deliberation.

Q.12. Doesn't the Fed already regulate and supervise the private sector real-time payments operator, which we understand has an impressive track record for resiliency, operating with multiple data centers, redundant systems, etc? Are you contending that your regulatory and supervisory powers over the private sector operator are deficient in terms of your supervising the private sector's plans to ensure resiliency?

A.12. The Board does not have plenary regulatory or supervisory authority over the U.S. payment system. Rather, the Board has limited authority to influence the operations of private sector retail payment services providers in certain circumstances and pursuant to specific laws. For example, assuming the private sector operator is subject to the Bank Service Company Act (BSCA), the Board and other Federal banking agencies would have authority to regulate and exam third party service providers that perform certain services for depository institutions that the agencies regulate. The BSCA, however, does not grant enforcement authority to the Board or other Federal banking agencies over the third party service providers.

Q.13. In light of the recent Fedwire Funds outage, which we understand came at a critical part of the day when private sector settlement relies on Fedwire, should the Fed's resiliency focus perhaps be on the Fedwire Funds system, which has vital systemic importance, rather than committing time and resources to standing up new infrastructure that may or may not provide resiliency?

A.13. I recognize the critical role that the Fedwire Funds Service plays in the financial system. Maintaining and enhancing the resilience of this service is, and will continue to be, an area of focus for the Board. The Board, through its oversight of the Reserve Banks, holds the Fedwire Funds Service to the standards included in Part 1 of the Federal Reserve Policy on Payment System Risk, which include robust operational resilience expectations. These expectations are consistent with the international standards applicable to systemically important financial market infrastructures operated by the private sector. The Federal Reserve Banks strive to not just meet these standards, but to continuously strengthen Fedwire Funds' resiliency posture, and doing so will remain an ongoing area of focus.

The Fedwire Funds Service has historically provided a very high level of operational reliability. Having responded to the outage's immediate cause, efforts are underway to identify, understand, and respond to the outage's proximate causes so that the same high levels of operational reliability continue going forward.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM MICHELLE BOWMAN

Q.1. My home State of New Jersey is moving toward legalization of recreational marijuana, and I have concerns that these new businesses as well as existing medical marijuana businesses in the State will continue to find themselves shut out of the banking system. And when these businesses are forced to operate exclusively in cash, they create serious public safety risks in our communities.

I've already heard support from Chair Powell and Comptroller Otting on this issue, but I'd also like to know if you agree that financial institutions need legislative clarity on this issue?

A.1. Yes, I do. However, only Congress can provide financial institutions legislative clarity on the conflict between Federal and some State laws on the legalization of marijuana and whether banks can service marijuana businesses that are legal under State law. The Federal Reserve is monitoring the various legislative proposals Congress is considering to resolve this issue.

Q.2. Closely related to the provision of banking services is the ability for such businesses to access insurance products, a necessity for those looking to secure financing. Would it be helpful for Congress to also consider the role of insurance companies as States move toward legalization?

A.2. Access to insurance products is an important aspect of commerce. If Congress decides to address the conflict between Federal laws and some State laws on the legalization of marijuana and whether banks can service State legal marijuana businesses, it would likely be helpful to also address any similar issues related to insurance companies and products.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN FROM MICHELLE BOWMAN

Q.1. The Federal Reserve Board of Governors is engaged in an interagency process to rewrite the Community Reinvestment Act (CRA) rules.

In your view, what is problem with the current Community Reinvestment Act (CRA) regulations?

A.1. The Federal Reserve Board of Governors (Board) takes our Community Reinvestment Act (CRA) responsibilities seriously and strives to conduct meaningful CRA evaluations. There has been considerable change since the time the regulations implementing the law were last revised. The Board supports modernizing CRA to improve the clarity, consistency, and predictability of how CRA performance is assessed, as well as the predictability of which community development investments and loans qualify for CRA consideration. While there is a lot that is good about the current regulations, many stakeholders have said that they are too complicated and that if they were made simpler and more transparent both banks and communities would benefit.

I believe that the regulations should recognize that banks serve communities with different credit needs. Additionally, the regulations should be tailored to evaluate a bank's CRA performance in light of its size, business strategy, capacity, and constraints as well as its community's demographics, economic conditions, and credit needs and opportunities. I also understand the need to update assessment areas to reflect how technology and other advancements have significantly changed how financial services are accessed and delivered.

My Board colleagues and I support working with the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency (OCC) to modernize CRA and believe the agencies should find a way to preserve this statutory intent in any future update of the regulation. We are continuing to evaluate public input from a wide range of stakeholders on ways to modernize the CRA, including through the OCC's Advanced Notice of Proposed Rulemaking and the roundtables that the Federal Reserve held across the country from October 2018 through January of this year. [1]

Q.2. Currently, more than 98 percent of banks pass their CRA examinations but lending discrimination and banking deserts still exist in communities all across the country. Does this suggest that CRA examinations are too early?

A.2. The CRA regulations are very specific with respect to the criteria necessary to achieve a "Satisfactory" or "Outstanding" rating. In general, banks work to avoid poor CRA ratings, which can lead to community relations and public reputational issues, result in more frequent CRA evaluations, and pose a significant barrier to any future plans for expansion. Ratings also are made public, giving banks additional incentives to establish effective CRA pro-

[1] See *https://www.federalreserve.gov/publications/files/stakeholder-feedback-on-modernizing-the-community-reinvestment-act-201906.*

grams. Given these factors, I believe that our CRA examination process is robust and rigorous.

Q.3. More than half of mortgages are now made by nonbank mortgage companies. Should these nonbank lenders have CRA or other similar obligations to serve the whole communities in which they are located?

A.3. I have heard this concern expressed in my meetings with community bankers. As you know, decisions about which financial institutions to exempt from certain laws or rules are a matter for Congress or, if granted the authority by Congress, by the regulator with responsibility for promulgation of regulations, which in this case is the Consumer Financial Protection Bureau.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM MICHELLE BOWMAN

Q.1. I am very concerned about climate-related financial risks. The most recent National Climate Assessment said the U.S. Southwest could lose $23 billion per year in region-wide wages as a result of extreme heat. Since you joined the Federal Reserve Board, what have you done to prepare community banks for long-term shifts in climate patterns, like increasing extreme heat and more severe and more frequent storms?

A.1. Congress has placed the responsibility to address climate change within other agencies. The Federal Reserve Board's (Board) supervisory framework guides supervisors in their work with these institutions on a wide range of risk management practices, including those around severe weather events. To supplement that broad framework, the Board also has issued guidance on lending to sectors where assessments of severe weather-related risks are especially critical, such as agriculture and energy lending. I can assure you that I appreciate the distinct concerns of community banks in this space, because of both their size and their important social role; I will continue to urge Federal Reserve examiners and supervisors to do the same in their daily work.

Q.2. In March, Glenn Rudebusch published an economic paper on Climate Change and the Federal Reserve. The paper notes that droughts, floods, and hurricanes amplified by climate change could result in more infrastructure damage, agricultural losses, and commodity price spikes. Rudebusch notes that "some have advocated that central banks use their balance sheet to support the transition to a low-carbon economy, for example, by buying low-carbon corporate bonds."

Do you think Congress should consider changing the law to support "green" quantitative easing as an option for the Fed?

A.2. The Federal Reserve conducts monetary policy to promote its statutory goals of maximum employment and stable prices. Decisions about how to foster new technologies, new industries, or about channeling credit to particular sectors of the economy inevitably involve competing political interests. The Congress and the Administration are in the best position to make judgments balancing those interests on behalf of the U.S. taxpayer.

Q.3. Which other Central Banks allow green quantitative easing? Do you believe those models could translate to the American financial system and economy?

A.3. I am not aware of any advanced-economy central bank that has a "green quantitative easing" program. As I noted in my response to Question 2, Congress and the Administration are in the best position to evaluate this question.

Q.4. In the Federal Reserve's Supervisory Report released November, there was a section on merger and acquisition risks. The banking law passed last year changed the asset threshold for a small bank holding company from $1 billion to $3 billion. It also reduced capital requirements and other rules for banks above $50 billion. We have seen more bank mergers since the law passed.

Do you expect to see more bank mergers this year and next year than in previous years?

How much of merger activity is due to changes from S. 2155 and other regulatory actions?

A.4. Merger activity is affected by a number of factors, including economic environment, industry outlook, and factors unique to particular institutions or business models. As such, I am not able to draw conclusions on the effect of S. 2155 or other regulatory actions at this time. Following the implementation of S. 2155, we have not seen a significant change in applications for bank acquisitions and mergers submitted to the Federal Reserve System to date. In fact, the number of these types of applications submitted to the Board is lower now than in the years before the financial crisis.

Between May 24, 2018, the enactment date of S. 2155, and December 31, 2018, the Federal Reserve System received 113 applications for the proposed merger and acquisition of banking organizations under the Bank Holding Company Act, the Bank Merger Act, and the Home Owners Loan Act. This number is lower than the number of merger and acquisition applications submitted during the same period for each year from 2006 to 2017.

Q.5. What do you see as the risks from mergers and acquisitions beyond the impacts on the customer?

A.5. Like any firm, a variety of risks are always present, but when firms merge or make acquisitions, the chief risk is operational. Operational risk could present during the integration of systems related to risk management, information technology, Bank Secrecy Act/Anti–Money Laundering, and the Community Reinvestment Act. In reviewing bank merger and acquisition proposals, the Federal Reserve considers the applicant's plans for implementing the proposal and its capacity to do so effectively.

Q.6. What are the risks to communities when banks merge?

A.6. Congress has given the Federal Reserve a set of statutory factors to use during the evaluation of a merger or acquisition application, one of which is the convenience and needs of the communities to be served and public benefits. Furthermore, the Federal Reserve also must analyze the competitive effects of the proposal, including whether the proposal would substantially lessen competition in any section of the country. In addition, the Board considers the appli-

cant institution's business model, its marketing and outreach plans, and the institution's plans following consummation of the proposal. I take this role seriously and intend to be thorough in my review of all current and future applications.

Q.7. Are you concerned about a loss of branches? Types of products? Jobs?

A.7. I understand and am sympathetic to the concerns raised with respect to the potential loss of branches, products and services and jobs following financial institution mergers. In evaluating convenience and needs factors in bank acquisition and merger proposals, the Board considers all relevant information, including the addition of new products, extended hours of service, or additional branch locations that will be subsequently available to the public. With respect to branch closures, banks are required to adhere to Federal Deposit Insurance Act public notice requirements [1] before closing branches, which include the following:

- The bank is required to provide reasons and other supporting data for the closure, consistent with the institution's written policy for branch closings.
- For branches to be closed in low- or moderate-income geographies, affected persons have the ability to request a public meeting to explore the feasibility of obtaining adequate alternative facilities and services for the area.
- The bank also is required to provide the public with at least 30 days' notice, and the appropriate Federal supervisory agency with at least 90 days' notice, before the date of a proposed branch closing.

A pattern of branch closures in minority communities also may be relevant in determining whether a bank is in compliance with fair lending laws. For example, it may be a consideration in determining whether a bank is engaging in redlining. Branching is one of the factors that is considered in a redlining analysis, along with the bank's CRA assessment area, lending, marketing, and outreach practices. In evaluating branching for these purposes, we analyze whether there are bank branches in majority–minority census tracts.

The Federal Reserve considers applicants' plans for products and services to be offered by the combined institution, including significant anticipated changes to products and services currently offered by the individual institutions and plans to offer new, replacement, or enhanced products and services. Many acquiring banks plan to offer the products and services of both the acquiring bank and the target bank throughout the footprint of the combined bank, resulting in increased availability of products and services for customers of each bank.

The Federal Reserve reviews applications for consistency with the applicable statutory factors. These factors include the applicant's current and pro forma financial condition and future pros-

[1] Section 42 of the Federal Deposit Insurance Act (12 U.S.C. §183 1r-1), as implemented by the Joint Policy Statement Regarding Branch Closings (64 FR 34,844 (1999)). The Joint Policy Statement Regarding Branch Closings states that the Federal banking agencies will examine institutions for compliance with branch closure requirements in accordance with each agency's consumer compliance examination procedures.

pects, managerial resources, the convenience and needs of the communities to be served and public benefits, the competitive effects of the merger or acquisition, and impact of the proposal on financial stability.

Q.8. At a time when community banks are earning record profits, why have you voted repeatedly to lower the amount of regulatory capital they hold?

A.8. The Board has not acted on any proposals to lower capital levels for community banks. However, as I stated in my testimony, as regulators, we need to ensure that we are not imposing unnecessary burdens on community banks. This is why I believe we must tailor our supervision and regulation to the size, complexity, capacity, and risks posed by an institution. Community banks are critical to so many local economies, which is why it is important to adapt our approach to supervision and regulation as the industry evolves.

Q.9. Why have you never joined Governor Brainard in a dissent of all these deregulatory actions, including those that weakened rules for the biggest banks?

A.9. As I stated in my testimony, the core reforms that resulted from the crisis were crucial to ensure the resilience of the U.S. financial system. At the same time, I believe that our regulatory and supervisory framework should be tailored according to banking firms' size, complexity, and risk profile, in a way that minimizes costs and is consistent with statutory provisions. I have appreciated the value placed on getting a broad range of external and internal views throughout our deliberative process.

Q.10. How does your support for revising the capital and liquidity requirements for large banks help community banks?

A.10. One of the key goals of the recent tailoring proposals is to better reflect the differences in risk profiles between firms that qualify as U.S. global systemically important banks and other large banking organizations. U.S. firms with the most significant risk profiles would remain subject to the most rigorous existing requirements under the proposals. These proposals build on the Board's existing efforts to tailor its rules and experience implementing those rules, and account for changes to the enhanced prudential standards made by S. 2155, the Economic Growth, Regulatory Relief, and Consumer Protection Act.

Q.11. How does your support for weakened stress test regimes for large banks help community banks?

A.11. I believe that a strong, resilient financial sector is important to banking institutions regardless of their size. Stress testing remains a core tool for the Federal Reserve. Our proposal aligns compliance requirements for firms with less risk while maintaining more stringent requirements for firms with more risk and more systemic importance. The proposal also provides banking organizations with additional transparency, so that they can better comply with the tests.

Q.12. How does your support for changing the formula for derivatives so that less capital is held against derivative positions help community banks?

A.12. The Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (together, the agencies), estimate that the proposal would not significantly change the amount of regulatory capital in the banking system. The proposal updates standards for how large banking organizations measure counterparty credit risk posed by derivative contracts under the agencies' regulatory capital rules. The proposed changes are designed to better reflect the current derivatives market and incorporate risks observed during the 2007–2008 financial crisis. The new approach, called the "standardized approach for measuring counterparty credit risk", or SA–CCR, is intended to better reflect the current derivatives market and to provide important improvements to risk sensitivity, resulting in more appropriate capital requirements for derivative contracts exposure. The proposal would require large banks to adopt SA–CCR, but permit smaller firms to use the existing current exposure methodology (CEM).

While the agencies recognized that the proposed implementation of SA–CCR would offer several improvements to CEM, it may require, particularly for firms with relatively small derivatives portfolios, internal systems enhancements and other operational modifications that could be costly and present additional burden.

Q.13. How does your support for reducing resolution plans for big banks from once a year to every 4 or 6 years help community banks?

A.13. Changing the frequency of resolution plan submissions for large firms will not have an impact on community banks. Community banks have total assets of $10 billion or less and therefore, are not subject to the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd–Frank Act) resolution planning requirement. The change in resolution plans is consistent with the Board's broader efforts to tailor supervisory expectations to the size and complexity of our supervised firms.

Q.14. How does your support to end risk-reducing margin requirements for derivatives transactions between affiliates of large complex banks help community banks?

A.14. The banking agencies have not taken action on this matter. However, I believe it is sensible to review our regulatory requirements periodically to assess whether they can be made more efficient, consistent with the Dodd–Frank Act and considering other regulatory requirements applicable to the firm.

If the U.S. prudential regulators (the Board, FDIC, OCC, Farm Credit Administration, and Federal Housing Finance Agency) propose to eliminate interaffiliate margin requirements, that change would likely have limited effects on community banks because community banks are already exempt from the swap margin rule. Community banks and other small financial institutions do not have to post margin for their noncleared swap transactions. On August 1, 2016, the prudential regulators announced their final rules exempting banks, savings associations, Farm Credit System institutions,

and credit unions with $10 billion or less in total assets from the OTC margin requirements under the Dodd–Frank Act. This relief is designed to allow such firms to use OTC derivatives to hedge normal business activity as they have done in the past (e.g., hedging the interest rate risk of loans).

Q.15. If a fair lending exam detects a violation after a bank has been graded for its Consumer Reinvestment Act exam, do you think the bank should receive a retroactive downgrade?

A.15. I find discriminatory and other illegal credit practices unacceptable and they have no place in civil society. Moreover, such practices can have a negative effect on a bank's CRA rating. The Board's current regulation is explicit about how to consider illegal credit practices when assigning ratings. Consistent with the regulation, our process entails a fact-specific review of the matter before deciding whether it should prompt a downgrade of a CRA rating, including the nature of the practices, any corrective actions taken to address them, and the policies and procedures in place to prevent them.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM PAUL SHMOTOLOKHA

Q.1. As First Vice President of the Export–Import Bank (EXIM), how will you work to assist Congress in reauthorizing EXIM's charter, which expires on September 30, 2019?

A.1. If confirmed, I will work with Congress on any issue of concern and provide insight from 30 years of business experience in export and managing overseas market conditions and customers. If confirmed, I would participate in areas where I have the most prior experience, so I would seek to ensure that the small business perspective is considered as well as the views of the international customer base. I would advocate a sense of urgency for having the Bank be fully able to fulfill its mission of creating American jobs, and follow the direction of the Chairman in my work.

Q.2. EXIM President Kimberly Reed has pledged to make reforms to improve the Bank's operations and to address certain concerns with regard to credit assistance offered by the Bank, such as ensuring that EXIM does not compete with private financing.

As the Bank pursues reforms, whether through proposals for action by EXIM's board of directors or a proposal for reauthorization of the Bank's charter, will you pledge to provide transparency in reform efforts?

A.2. Yes, I would provide transparency in reform efforts within the parameters of the position of First Vice President and in accordance with EXIM's Charter and Bylaws, as well as with my experience of best business practices.

Q.3. If confirmed, are there any specific policies or procedures of the Export–Import Bank that you would work to alter or change?

A.3. If confirmed, I look forward to reviewing EXIM's policy and practices and to reviewing implementation of all reforms previously mandated by Congress and to ensure that EXIM complies with all provisions in the Charter and Bylaws. As I do not currently have

access to internal EXIM information concerning policies and procedures, I do not currently have specific proposals to alter EXIM's policies or procedures. If confirmed, I am interested in looking closely at what can be done to improve small business application processes to potentially reduce turnaround times while maintaining or even improving EXIM's risk management practices. Additionally, given my background, I would be interested in reviewing business development, operations efficiency, customer service, brand perception and values, product management, performance metrics and goal setting, ethical standards, transparency, strong risk management practices, and maintenance of client confidentiality at appropriate times during a deal cycle. I would also like to support EXIM's strategic plan and work collaboratively to chart a new future for the Bank.

In order to make recommendations, I expect that my colleagues and I on the Board of Directors would conduct a review process that could involve congressional and EXIM staff meetings, a review of EXIM-related GAO reports, surveys of U.S. manufacturers (including those who are not clients of EXIM), private sector financing sources (including community banks, regional, and multinational banks), foreign EXIM customers, United States Foreign Commercial Service staff in key markets and U.S. and International Development Banks.

Q.4. Do you believe it is important to seek public comment from EXIM customers and the general public before making any changes that would significantly affect the availability of credit from EXIM for certain products or economic sectors?

A.4. Yes, I believe that listening to the "voice of the customer" is a critical tool to ensure best practices are being followed in any organization. Public comments from American manufacturers, international customers and taxpayers add value in any decision-making process and I would seek to combine that with input from Congress and the Administration before making any changes that would significantly affect the availability of credit from EXIM for certain products or economic sectors.

Q.5. If confirmed, will you publicly defend the Export–Import Bank against false or misleading charges of fraud?

A.5. Yes, I would publicly defend EXIM Bank against false or misleading charges of fraud.

Q.6. Do you see a need to impose an upper limit on doing business with any particular industry or commercial sector, like aerospace manufacturing, that has previously relied heavily on EXIM to access foreign markets? Or should EXIM's lending be driven by demand from qualified applicants, to the extent permitted by the Bank's charter?

A.6. If confirmed, I will faithfully execute all laws consistent with the intent of Congress and within the authority of my office. I will review each transaction independently, on its merits, and in accordance with the EXIM Charter established by the Congress, the Bylaws approved by EXIM's Board, and other policies and procedures established by the Bank for review of individual transactions. It is my understanding that Congress has established EXIM to

serve as a demand-driven institution. EXIM must also consider the risks associated with individual transactions and its overall portfolio. If transactions meet the requirements as laid out in the Bank's Charter and the risks can be appropriately managed, I do not see the need currently to put a limitation on financing for sectors that support American jobs.

Q.7. If confirmed, would you work to ensure that the comment process for environmental and social impacts from projects is properly structured and adequately resourced to ensure that comments from concerned parties are meaningfully considered?

A.7. Yes, I would work with fellow Board members and EXIM staff to ensure that the comment process for environmental and social impacts from projects is properly structured and resourced to ensure that comments are meaningfully considered.

Q.8. If confirmed, do you commit to providing all documents and materials that the Office of Inspector General requests?

A.8. Yes. I believe that Inspector General requests are critical to good governance, transparency, and ensuring compliance. I would provide all documents and materials that the Office of Inspector General requests of me.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNER FROM PAUL SHMOTOLOKHA

Q.1. The EXIM Bank is one of the most underutilized tools in our toolkit for supporting U.S. exports and protecting our national security interests. As of 2017, the export credit agencies of Japan and Korea had $187 billion in medium and long-term exposures; Canada, Germany, France, Italy, and the United Kingdom had $306 billion; and China had an estimated $363 billion.

By comparison, America's EXIM has an exposure of about $70 billion—about one dollar for every five of China's.

Do you agree that the EXIM Bank is an important piece of our trade infrastructure that will help us compete with foreign ECAs?

A.1. Yes, EXIM Bank is a critical part of our trade infrastructure and it should assist in levelling the playing field.

Q.2. Do you agree that the lack of a quorum at the EXIM Bank over the past several years has had significant negative consequences for U.S. competitiveness in markets like nuclear energy and aerospace?

A.2. Yes, working for a company that was a supplier to large power generation manufacturers I have personally observed the negative consequences of the lack of a quorum at EXIM and the inability to approve transactions over $10 million.

Q.3. As we go into reauthorization at the end of 2019, what are your top priorities for the Bank?

A.3. Should I be confirmed, I expect that my top priorities will include, but not be limited to: compliance with the mandates in the Charter and Bylaws of the Bank and implementing reforms mandated by Congress. I would also expect to focus on improving transparency, reviewing the existing pipeline of deals, and ensuring that

EXIM is available to provide financing that will help support and create jobs across the country.

In order to do so, I believe outreach to small, medium, and large businesses and building closer cooperation with regional and community banks will be necessary to revitalize the brand and confidence in EXIM as a stable partner both inside and outside the USA. Constant improvement is necessary to improve EXIM's relationships and support for small business. Should I be confirmed, I would expect to explore how cooperation with other funding sources such as regional or national development banks can help American business win supply contracts in emerging markets, especially for infrastructure projects that may require closer cooperation with private sector lenders.

Finally, should I be confirmed I would be interested in working with the business divisions of the Bank to develop more medium term financing opportunities, and examining what can be done to improve small business application processes to potentially reduce turnaround times while maintaining or even improving EXIM's risk management practices. I believe EXIM can continue to strengthen efforts to educate owners, finance teams, and management at more American manufacturers on EXIM products in order to respond to more aggressive tactics being used by foreign competition.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM PAUL SHMOTOLOKHA

Q.1. Can you give me a few examples of U.S. companies you worked with that financed deals with the Export–Import Bank?

A.1. While being respectful of business confidentiality considerations, I can share the following anecdotes.

A regional cable TV company owned by a media group in Brazil wanted to purchase quality American-made products and turned to a global distributor of broadband network products located in Florida, who worked with EXIM and put together financing for a basket of products from several American manufacturers. Financing from a private bank coupled with a medium-term (5-year) loan guarantee from EXIM allowed the company to source American products, including powering equipment from my current employer, Alpha Technologies. This Florida-based company is working to secure contracts for additional opportunities in South America. Those transactions will require financing from a Government-backed export credit agency because the private sector is unwilling to finance such transactions in certain markets.

In my own circumstances at Alpha Technologies, we had decided to turn to EXIM Bank in 2017 for export financing support. In order to continue to grow our export business, we needed to balance the growing demand for our products with the risks of exporting to certain fast-growing emerging markets in Central and South America, Africa, and Asia. Private sector export insurance was not readily available. Alpha had two options: require that customers pay in advance of shipment or offer to finance the transactions at lower values and assume all the risk. An export credit insurance policy could have helped Alpha offer more competitive terms at less

risk to the company's bottom line and would have increased deal sizes significantly. Ultimately, due to an unrelated issue, Alpha's internal resources were diverted from this initiative and foreign buyers either purchased fewer products or moved to other suppliers.

As a manufacturer of critical back up power systems for large capital equipment, we sold these systems to a U.S. manufacturer who then bundled it into their multimillion dollar solutions that they marketed worldwide, often with EXIM financing. In 2015, when EXIM lost its ability to provide financing over $10 million, we noticed that the U.S. manufacturer moved some of its procurement sourcing locations overseas and utilized the export credit agencies of other countries. We lost some sales to foreign competitors as a result of these developments.

In my work in international sales, I have also been informed by a number of leading international telecommunications companies who, despite a desire to purchase U.S. goods, have made purchases from other countries, including China, because of the financing made available.

Q.2. Now that we have President Reed, and Commissioners Bachus and Pryor, the board has a functioning quorum. How quickly do you think the Export–Import Bank can finance the backlog of sales—about $40 billion—that have been delayed over the past 4 years?

A.2. As my nomination is still pending and I am not involved in EXIM's internal decision making, I cannot give an exact timeline. To answer this question, I would need to know more about the quality of the transactions in the pipeline and the status of the deals as they have been in suspension for some time. What I can say is that working through a large backlog takes a solid plan based on resource availability and priorities but no business has anything more important than customers waiting for their products or services. Should I be confirmed, I would seek to ensure that the Bank is being diligent in its underwriting of current and new transactions and is processing transactions efficiently, while being mindful of the statutory obligations of EXIM's financing and our role as responsible stewards of taxpayer dollars. I would also be mindful of my own experience: that customers are impatient and the market is efficient, and that suppliers may turn to other means that are not necessarily in the American worker's best interests.

Q.3. At any given time, the bank can have only $135 billion in loans, loan guarantees, and other types of financing assistance outstanding. After 4 years of restricted operations, it has about $60 billion in credit out, leaving about $75 billion available. The Export–Import Bank needs to be reauthorized by September 30 of this year. Do you think Congress should raise the credit exposure cap?

A.3. As I said when I testified before the Committee, I do think that Congress should raise the overall financing authority of the Bank. The exposure cap should be set at a level that is based on forecasted need and that enables EXIM to meet its statutory mandate to support U.S. jobs by facilitating exports, to level the playing field for U.S. exporters, and to supplement private sector capital. Regardless of where the exposure cap is set, EXIM must maintain

its robust risk management procedures and be responsible stewards of taxpayer dollars.

Q.4. There are more than 100 foreign export credit agencies providing their companies with billions of financing. What have you learned about how other Nations assist their companies with exporting goods that we should emulate?

A.4. The most significant development that I have seen is the increased provision of medium-term loans at terms that are extremely aggressive. I believe it is worthwhile for EXIM to consider how its medium-term program can continue to be enhanced while maintaining alignment with the Organization for Economic Cooperation and Development's Arrangement on Officially Supported Export Credits. Globally, I have observed an increase in large scale funding for infrastructure projects that is then tied to exports. Should I be confirmed, I look forward to learning more about the ways in which other countries are using export financing and how EXIM can best fulfill its mission of supporting U.S. jobs through exports. Should I be confirmed, I believe it will continue to be important to partner with like-minded countries to ensure companies are competing on the price and quality of the product rather than the terms of Government-backed financing.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA FROM PAUL SHMOTOLOKHA

Q.1. What ideas do you have to improve EXIM's visibility and outreach to small businesses? If confirmed, what metrics would you use to measure the Bank's success in doing so?

A.1. In my personal experience, the EXIM network of outreach professionals performs an admirable job with their resources. I have personally been marketed at trade shows, and through in-person visits to our company and via digital means. I cannot provide ideas to my fullest extent to improve EXIM's visibility and outreach to American small business without having the benefit of working internally with the staff. However, should I be confirmed I would set this goal as a priority and advocate for the proper allocation of resources to succeed. Based on my own experience, I believe that any strategy should include outreach to both the U.S. and international customer base. The education of EXIM product features and benefits should be amplified through cooperation with export promotion agencies such as U.S. Trade Development Agency and U.S. Foreign Commercial Service.

Education needs to reach more small business owners, salespeople, and finance teams. All those stakeholders have to buy into the need to invest the time, energy, and resources in order to engage effectively. Most companies do a great job in marketing their products, but focusing on the customers' "why" and linking that to EXIM's products and services increases the chance for success. In my experience, a focus on digital marketing can be the best multiplier to reach wide-ranging customer base nationally and globally. I would also advocate that EXIM continue to enhance its efforts to work with community and regional banks as multipliers as they are closer to local businesses.

Metrics development and measurement is an essential tool for achieving success, especially for specific initiatives or campaigns. Metrics should be linked to strategic plans and annual goal setting. Should I be confirmed, I would make it a priority to understand which, if any, Customer Relationship Management (CRM) platforms or tools are being used so that we can improve visibility of the customer among EXIM's units, measure organizational performance, and help staff gain key insights about which businesses could benefit from utilizing EXIM's financial tools. These platforms can also be used to make course corrections or adjustments without having to wait for lengthy research and reports. The power is at the keyboard and the data is the data.

Without internal EXIM information available to me, based on my previous experience, I expect there are several metrics that could be used to measure the Bank's success in tracking its outreach and visibility to small businesses. These include: measurement from the source of the lead generation, lead assignment, qualifying leads from follow up and indication of interest, total applications submitted, total approved applications, total nonapproved applications (and reasons why), status of lead before closing, total number of transactions closed, reasons transactions are not closed, and customer surveys at the end of any successful or unsuccessful process. Should I be confirmed, I would also be interested in tracking the timeline from lead generation to close, and application submission to close. Having different metrics by product, size of company and approvals process, will help Bank staff assess where changes ought to be made. Average deal size, average number of employees per transaction or dollar deployed, analysis by product, specific market segment targets, geographic spread and reach, and many other customer oriented metrics can be added.

Accurate metrics tracking can help EXIM ensure it is meeting its congressional mandate to support small business exports, could help identify areas where product improvements can be made, and could also be helpful in new lead generation (defined as new leads from existing accounts or new account leads).

RESPONSES TO WRITTEN QUESTIONS OF SENATOR ROUNDS FROM ALLISON HERREN LEE

Q.1. I am pleased to be the sponsor of the Financial Stability Oversight Council Improvement Act of 2019, which would require FSOC to determine whether potential nonbank threats to financial stability could be better solved by allowing companies to work with their primary regulator or through the development of a risk reduction plan. The SEC is the only FSOC member that focuses on capital markets. In order to protect investor access to our markets, the SEC must guard against a blunt SIFI designation when other more appropriate methods of remediation are available.

Do you agree that the SIFI designation process needs to be reformed to prevent unnecessary designations?

A.1. The Financial Oversight Stability Council was created in the aftermath of the 2008 financial crisis in part to help identify and reduce systemic risks confronting the financial system.

I agree that the improper designation of a nonbank SIFI unnecessarily imposes heightened regulatory oversight without necessarily reducing systemic risk. It is the Chair of the Commission who acts as the voting member from the SEC on FSOC, and if confirmed, I would be interested in understanding his and others' views as to whether changes could be made to reduce any risk of an improper designation while continuing to adequately protect against systemic risk. I am open to considering all facts and data, and to hearing from and working with you, your staff, Members of this Committee and all relevant constituencies on this issue.

Q.2. Do you agree that it's important for FSOC to consult with primary regulators before voting on a SIFI designation?

A.2. In general, yes. It is likely that primary regulators will have significant information and expertise relevant to a SIFI determination. Moreover, it is my understanding that FSOC rules provide for such a consultation.

Q.3. Do you agree that addressing nonbank risk does not always have to include a SIFI designation?

A.3. A SIFI designation, and the consequences that flow therefrom, represent one method of addressing systemic risk in the financial system. Primary regulators overseeing nonbank institutions may also be in a position to implement certain changes that can address systemic risk.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM ALLISON HERREN LEE

Q.1. I worked to include the honest broker provision in the Wall Street Reform law, and Congress' clear intent was for the SEC to establish a uniform standard of conduct. However, the SEC's "best interest" proposal fails to establish a uniform standard of conduct for broker-dealers and investment advisers, and it puts the burden on the retail investors to understand the difference between brokers and investment advisers. Moreover, the SEC's own Investor Advisory Committee recommended in November that everyone—investment advisers and brokers—be held to a uniform standard.

Do you believe the average retail investor understands the difference between brokers and investment advisers?

A.1. No. I agree with Chairman Clayton who stated "it has long been recognized that many investors do not have a firm grasp of the important differences between [broker-dealers] and [investment advisers]—from differences in the variety of services that they offer and how investors pay for those services, to the regulatory frameworks that govern their relationship."

Q.2. Do you believe retail investors should bear the burden of trying to decipher complex legal relationships to understand whether they are making good investment decisions?

A.2. No. I believe that both investors and registered entities deserve rules that clearly delineate the nature and extent of requirements regarding their relationship. Retail investors should receive a full, fair, and simple explanation of these requirements, includ-

ing, among other items, how any differing standards compare to one another, so as to allow them to make well-informed choices.

Q.3. Do you believe the SEC can do more to encourage brokers to put retail investor's interest first?

A.3. Yes. In my view, there are approaches the SEC can consider to encourage brokers, where needed, to focus on ensuring that retail investors' interests are paramount. These can include, among others, working closely with FINRA in implementing and interpreting Regulation BI in a manner that optimizes the protection of retail investors, and focusing enforcement efforts through programs such as the Enforcement Division's Retail Strategy Task Force.

Q.4. In its post-mortem of the financial crisis, the Financial Crisis Inquiry Commission concluded that "compensation structures were skewed all along the mortgage securitization chain, from people who originated mortgages to people on Wall Street who packaged them into securities."

What is your view on the impact of incentive-based compensation structures in the years leading up to the financial crisis?

A.4. In my view, compensation structures at financial institutions in the period leading up to the financial crisis in 2008 often incentivized and rewarded short-term results, with little accountability for long-term success. This encouraged the creation of excessive levels of risk that later proved damaging to these financial institutions and, in some cases, to the entire financial system.

Q.5. If confirmed as Commissioner, would you push the SEC to finish the incentive-based compensation rule required by Dodd–Frank?

A.5. Yes. If confirmed, I would work with the Chairman, the other Commissioners, the staff and, where appropriate, other regulatory agencies to encourage completion of the Joint Agency Proposed Rule on Incentive-Based Compensation Arrangements.

Q.6. If so, what you think this rule should look like?

A.6. Given the pending rulemaking, I do not want to prejudge the final rule. That said, the areas I would want to consider closely in any final rule would include, among others (a) whether the rule is broad enough to cover the appropriate institutions, the appropriate persons within those institutions, and the appropriate types of compensation; (b) whether the rule is appropriately tiered and tailored between smaller and larger institutions; (c) whether restrictions on excessive compensation are adequate and clearly defined; (d) whether enhanced requirements at larger institutions are adequate with respect to areas such as downward adjustments, deferrals, forfeitures, clawbacks, and various other limitations; (e) whether the rule adequately addresses governance and compliance issues such as board oversight, control, policies, and recordkeeping.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNER FROM ALLISON HERREN LEE

Q.1. In an article published in 2016 in the *Cornell Law Review*, Professor Urska Velikonja called the SEC enforcement measures deeply flawed. She identified numerous problems, including double

or triple counting of enforcement actions and defendants and counting tangential or follow on proceedings that do not meaningfully reflect a separate action, etc. Given your extensive experience at the SEC and background in enforcement, do you believe the SEC consistently follows the same policies and procedures with respect to enforcement statistic reporting, from year to year?

A.1. I believe that enforcement statistics should be gathered, analyzed, and reported in a consistent and transparent manner that provides a depth of information on the nature, extent, and success of enforcement activities. Such an approach supports well-informed internal assessments at the SEC, and equally important, public assessment and accountability. I have read Professor Velikonja's article on SEC enforcement statistics, and if confirmed, would look forward to hearing the staff's views and exploring the areas she has highlighted as potentially revealing inconsistencies, as well as considering more broadly whether changes that increase consistency should be made.

Q.2. Could the SEC could improve the quality, reliability, and consistency of its enforcement statistics?

A.2. Improvement in each of these areas merits careful attention and consideration. Identifying and understanding the nature of, and trends in, enforcement over time is critical to instilling investor confidence. Moreover, consistent and reliable data is necessary to support the public's confidence in regulators, and to aid Congress in its oversight responsibilities. If confirmed, I would look forward to hearing from the staff, you, your staff, Members of this Committee, and all interested constituencies on how improvements may be made to the quality, reliability, and constituency of SEC enforcement statistics.

Q.3. If confirmed, will you commit to looking closely at this issue and to the extent possible, work with the GAO—which is conducting a study on this issue at my request—to provide more transparency into enforcement statistic reporting?

A.3. Yes.

Q.4. As you know, on June 5, 2017, the Supreme Court in Kokesh v. Securities Exchange Commission (SEC) ruled that the SEC only has 5 years to bring disgorgement claims against bad actors to try to compensate harmed Main Street investors. The practical effect of this Supreme Court decision for retail investors who have been harmed in fraud, pump-and-dump schemes, and other malicious activity is significant. The SEC, in its 2018 annual enforcement report, said that with respect to matters already filed by the Commission, "the court's ruling in Kokesh may cause the Commission to forgo up to approximately $900 million in disgorgement, of which a substantial amount likely could have been returned to retail investors." As you know, I have a bill with Senator Kennedy that would address this problem by giving the SEC new authority to seek restitution for harmed investors, subject to a statute of limitations of 10 years.

I understand that you can't comment directly on the legislation, but I am interested to get your views—as a former enforcement attorney—regarding the impact of the Kokesh case on the Commis-

sion's ability to effectively carry out its mission to protect investors?

A.4. The ruling in Kokesh has significantly diminished the SEC's ability to recover and return funds to investors. The $900 million in forgone disgorgement is money left in the hands of fraudsters that will never be returned to their victims. By its nature, fraud is often well concealed for many years, thus under this ruling, some serious misconduct will go unaddressed. For example, while at the SEC, I helped bring a case against a broker who had been paying secret cash kickbacks to a State treasurer in exchange for business over a 6-year period. The misconduct was by its nature hidden, and not uncovered until years after the scheme ended.

Accordingly, most of the misconduct had occurred more than 5 years prior. The SEC was able to obtain a judgment requiring the broker to disgorge all of the profits from kickback scheme, but likely could not have done so had it been subject to a 5-year statute.

In addition, during my time in the Enforcement Division, I spent many hours meeting with and talking to the victims of fraud—people who were tricked into emptying their retirement accounts, maxing out their credit cards and even taking out a second mortgage on their homes on the false promise of high returns. I once spoke at length with a couple, a retired teacher and a retired insurance agent, who had to take jobs in a fast food restaurant just to keep a roof over their heads after being defrauded in a ponzi scheme. The statistics on foregone disgorgement are striking, and the real-world stories behind those numbers are equally jarring.

Q.5. One of my top SEC priorities is improving public disclosures around human capital management. I've had a good dialogue with the Chairman on this issue, specifically around improving Reg S-K disclosures to require public companies to provide more qualitative and quantitative information regarding their human capital management policies and practices.

Do you believe there's value to be gained by investors to have additional information on human capital management and practices at reporting companies?

A.5. Yes. Increasingly, the value of public companies is driven by the nature, quality, and skill of their workforces. Understanding human capital management policies and practices can thus provide an important basis for investors to assess the nature of, and risks associated with, a company's business. Indeed, investors have indicated strong interest in additional information regarding human capital. As Chairman Clayton has noted, "the historical approach of disclosing only the costs of compensation and benefits often is not enough to fully understand the value and impact of human capital on the performance and future prospects of an organization." In addition, Regulation S-K contains no specific obligation to disclose this type of information other than the number of employees at a company. While periodic reports also must include information deemed material to investors, this requirement generally has not led to human capital disclosures that are sufficiently robust, consistent, or comparable.

Q.6. If confirmed, would you push for the SEC to dedicate resources to explore this topic or otherwise undertake a rulemaking?

A.6. Yes, if confirmed, I will work with the Chairman, the other Commissioners, and the staff to identify methods of improving the quality, extent, and comparability of human capital disclosures, including potential rulemaking.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN FROM ALLISON HERREN LEE

Q.1. On the June 5, 2019, the Securities and Exchange Commission (SEC) voted to adopt new rules on standards of conduct for investment advisers and broker dealers.

How would you have voted on this rule package had you been a Commissioner on the SEC?

Why?

A.1. I have not had the benefit of discussions with the Chairman, other Commissioners, or staff on the choices made in this rule package, or their views and analysis of the voluminous comments filed. That said, based on my reading of the final rule, I do have serious concerns.

They include, among others, the adequacy of the standard for broker-dealers. I am concerned that the new, but undefined, "best interest" standard fails to establish a higher standard of conduct than that which was required of broker-dealers before the rule. The reason for the rulemaking was to improve on the prior standard which experience had shown often led to increased costs to retail investors. In my view, and depending on how the new rule is interpreted and implemented, it appears that the undefined standard may not improve the prior standard to a measurable degree.

My concerns also include the Commission interpretation related to the standards applicable to investment advisers, and specifically the removal of proposed language that interpreted the duty of loyalty as requiring investment advisers to put their client's interest first. In addition, I am concerned that Form CRS may fail to adequately inform investors regarding all relevant conflicts, and lacks comparative information regarding the types of choices investors have. The information on Form CRS should provide relevant, meaningful, and understandable information to investors at a critical juncture in their decision-making process.

Q.2. In a departure from the proposed rule, which described current law as "require[ing] an investment adviser to put its client's interest first," the final rule said an investment adviser "must not place its own interest ahead of its client's interest." Do you understand there to be a meaningful difference between those two standards? Which do you think better describes the standards of conduct in place before the new rule was finalized on June 5?

A.2. I am concerned that the changed language could be read as meaningfully different and used by some to justify practices that are not in the best interest of investors.

As to the standard in place prior to the final rule package, in my view, the state of the law, as well as its interpretation by many, supported the concept that investment adviser fiduciaries must put their clients' interests first. If confirmed, I would look forward to obtaining a better understanding of the staff's views regarding the

changed language, including how the SEC will enforce compliance with the standard.

Q.3. Based on your understanding of the new standards of conduct for broker-dealers, are there any instances that would have been permissible under the previous standards that are now unlawful?

A.3. As suggested by the concerns expressed in your July 20, 2018, letter to FINRA, the interpretation and enforcement of the new rule will be a pivotal factor in achieving a higher standard for broker-dealers. Based on my reading of the rule, I believe there are areas where the new rule could accommodate such an outcome, including, among others, precluding some types of sales contests, requiring mitigation of certain conflicts, and requiring certain disclosures related to conflicts. If confirmed, I would support efforts to interpret and enforce the new rule in a manner that would preclude certain types of conduct that were previously permitted under the suitability standard.

Q.4. The SEC uses fines to punish companies for violating the law and deter future bad behavior. According to a recent report in the *Wall Street Journal*, the SEC had only collected 55 percent of fines assessed from 2013–2018 and 60 percent of fines for the previous 5 years. Apparently "unpaid fines are written off as uncollectable after 2 years."

How would you ensure that fines are collected from people of companies that have violated the law?

A.4. I share the concerns indicated by your question. Maximizing the collection of disgorgement and penalties at the SEC is essential. This is particularly important because the funds collected come straight out of the hands of bad actors, and a substantial amount can go straight to harmed investors. Few endeavors could be more worthwhile in terms of fairness, accountability, and deterrence. If confirmed, I would look forward to working with the Chairman, the other Commissioners, and the staff to better understand what factors contribute to difficulties in collections and to develop approaches that could increase the collection rate. Staffing levels and expertise in the collections area must meet current needs. Collection difficulties also arise when, as can frequently occur, fraudsters hide or dissipate assets. The use, where feasible, of asset freezes, contempt motions, and whistleblowers may help increase the availability of funds to be collected after a judgment has been obtained.

Q.5. Who at the SEC is responsible for collecting delinquent fines?

A.5. My understanding is that there is a specific group of attorneys and staff tasked with the job of collecting and disbursing, either to investors or to the U.S. Treasury, penalties and disgorgement from enforcement matters. Ultimately, however, it is the Commission that is responsible for maximizing the collection of these funds.

Q.6. What tools does the SEC have to pursue delinquent fines?

A.6. It is my understanding that the SEC can and does institute legal proceedings to seek property liens against, and seize certain assets of, those owing disgorgement and/or penalties. If confirmed, I would look forward to learning more about additional specific tools and approaches that can be taken. As fraudsters often dis-

sipate or hide assets, there may be steps that staff can take that could help reduce collections issues. I know, for example, that SEC Enforcement Division staff works hard to seek, where appropriate, orders freezing ill-gotten gains in the early stages of an investigation, but courts rightly require a high standard of proof in order to grant such requests. Careful monitoring of asset freezes that are granted, and seeking contempt motions where violations occur could, in some cases, further prevent dissipation. In addition, whistleblowers can often provide assistance in preventing asset dissipation and locating hidden or improperly transferred assets. If confirmed, I would work with the Chairman to ensure that staff has the resources and support they need to maximize collections.

Q.7. Are there any additional authorities or resources that would be helpful for the SEC to have in pursuing companies that owe fines?

A.7. If confirmed, I would look forward to gaining a deeper understanding from the staff as to whether greater resource allocation and/or specialized staff training could be of help. I would welcome the opportunity to work with you, your staff, and Members of this Committee to identify any additional authorities or resources that may assist in the collections effort.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM ALLISON HERREN LEE

Q.1. Last week, Stephen Brandon Anderson, who previously ran River Source Wealth Management LLC, agreed to pay about $405,000 in disgorgement and another $100,000 in civil fines. The SEC has a critical role to holding people accountable who cheat or lie to investors. I'm worried about recent press articles that only a bit over half of the fines assessed in settlements or court judgments is collected by the SEC. Why do you think the SEC has had trouble collecting fines?

A.1. I am aware of the recent press articles, and I share your concerns. Maximizing the collection of disgorgement and penalties at the SEC is essential. This is particularly important because the funds collected come straight out of the hands of bad actors, and a substantial amount can go straight to harmed investors. Few endeavors could be more worthwhile in terms of fairness, accountability, and deterrence. As a former enforcement attorney, I know that collection difficulties can arise when, as can frequently occur, fraudsters hide or dissipate assets. And I would want to ensure that SEC staffing levels and expertise in the collections area meet current needs. If confirmed, I would look forward to working with the Chairman, the other Commissioners, and the staff to better understand what factors contribute to difficulties in collections and to develop approaches that could increase the collection rate.

Q.2. If you are confirmed as an SEC Commissioner, what can you do to ensure fines assessed are fines collected and paid to victims of fraudsters?

A.2. If confirmed, I would look forward to gaining a deeper understanding as to what specific factors contribute to collection difficulties so that solutions can be well-tailored toward improvement. For

example, I would be interested in understanding whether greater resource allocation and/or specialized staff training could be of help. Further, fraudsters often dissipate or hide assets so there may be steps that staff can take that could help reduce collections issues. I know, for example, that SEC Enforcement Division staff works hard to seek, where appropriate, orders freezing ill-gotten gains in the early stages of an investigation, but courts rightly require a high standard of proof in order to grant such requests. Careful monitoring of asset freezes that are granted, and seeking contempt motions where violations occur could, in some cases, further prevent dissipation. In addition, whistleblowers can often provide assistance in preventing asset dissipation and locating hidden or improperly transferred assets. If confirmed, I would work with the Chairman to ensure that staff has the resources and support they need to maximize collections.

Q.3. Do you think the newly enacted Regulation Best Interest appropriately protects retail investors from being overcharged by their financial advisors? Would you support a fiduciary standard?

A.3. I have not had the benefit of discussions with the Chairman, other Commissioners, or staff on the choices made in Regulation BI, or their views and analysis of the voluminous comments filed. That said, based on my reading of the final rule, I do have serious concerns. They include, among others, the adequacy of the standard for broker-dealers. I am concerned that the new, but undefined, "best interest" standard may fail to establish a higher standard of conduct than that which was required of broker-dealers before the rule. The reason for the rulemaking was to improve on the prior standard which experience had shown often led to increased costs to retail investors. In my view, and depending on how the new rule is interpreted and implemented, it appears that the undefined standard may not improve the prior standard to a measurable degree.

A fiduciary standard, on the other hand, could have relied on longstanding legal precedent that traditionally emphasizes placing the interests of investors over those of fiduciaries. Such a standard would need to be carefully considered, weighing all costs and all benefits, but could lead to better, less costly and less conflicted financial advice for retail investors.

Q.4. The hiring freeze at the SEC has led to a 10 percent reduction in staff and an inadequate number of administrative judges. What do you recommend to ensure adequate staffing at the SEC?

A.4. Although an agency's efficiency and use of assets cannot be judged solely on the basis of a headcount, I am nonetheless concerned that the SEC's resource requests and allocations keep pace with the vast complexity, technological advances and resources in the specific markets it oversees. Moreover, a hiring freeze can subject the agency to arbitrary changes in resource allocations overall, and between and among divisions, that flow from random attrition. While I am pleased to see that the Congress' recent funding of the SEC allowed it to lift the hiring freeze, if confirmed, I would look forward to obtaining a better understanding as to how the budget requests are developed and supported, and would support efforts to ensure that any decisions regarding such requests are based on a

careful analysis of the facts related to specific needs in each division.

Q.5. Are you concerned about the decline in SEC enforcement actions, the lower monetary settlements and low average settlement amount in the past 2 years? If so, what will you do to ensure bad actors are held accountable?

A.5. An effective enforcement program requires both a sufficient number, as well as sufficient quality and scope, of actions. Effective enforcement is critical to the SEC's mission because it instills investor confidence, ensures accountability, and deters misconduct. During my time working in Enforcement at the SEC, I spent many hours meeting with and talking to the victims of fraud—people who were tricked into emptying their retirement accounts, maxing out their credit cards, and even taking out a second mortgage on their homes on the false promise of high returns. In my view, the broader goal of compliance with the securities laws, and thus deterring potential bad actors, is critical. Individual accountability for misconduct is an important deterrent, and should be carefully considered and actively sought, particularly in cases involving fraud. This can involve a number of approaches including, among others: (1) efforts to work closely with cooperating companies to identify and gather evidence relating to culpable individuals; (2) working to sustain and, where possible, improve the whistleblower program which can often be a vital component in uncovering evidence of individual culpability; (3) shifting resources toward litigation in certain cases when a settlement with a culpable individual cannot be reached; and (4) in certain cases, accepting greater litigation risk.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

LETTER SUBMITTED BY SENATOR BOB DOLE IN SUPPORT OF THOMAS PETER FEDDO

SENATOR BOB DOLE
THE ATLANTIC BUILDING
950 F STREET, N.W., 10TH FLOOR
WASHINGTON, D.C. 20004

May 30, 2019

The Honorable Mike Crapo
Chairman
U.S. Senate Committee on Banking, Housing and Urban Affairs

The Honorable Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking, Housing and Urban Affairs

Dear Chairman Crapo and Ranking Member Brown,

I am writing to offer my strong endorsement to the President's nomination of Thomas Peter Feddo for Assistant Secretary of the Treasury for Investment Security. I am very familiar with Tom's character and commitment to our nation, and I firmly believe he is an exceptional choice for this important new role created by Congress.

Tom is already serving America with distinction in his current role as Deputy Assistant Secretary for Investment Security. Before joining the Department of the Treasury, Tom and I worked closely together at the international law firm of Alston & Bird. His work ethic, dependability, personal integrity and intelligence are some of the reasons why I enjoyed practicing law with him. Tom previously served with the Treasury Department's Office of Foreign Assets Control, the Office of the General Counsel of the Navy, and the House Energy and Commerce Committee's Subcommittee on Oversight and Investigations. Before he worked on Capitol Hill, Tom clerked at the United States Court of Federal Claims. He received his J.D. from George Washington University and bachelor's degree in aerospace engineering from the United States Naval Academy. Despite being a rocket scientist, upon graduation from Annapolis Tom served on the submarine USS Salt Lake City and then with the Naval Criminal Investigative Service. Public service and national security are clearly hallmarks of Tom's career.

Considering the intensity and importance of the work before the Committee on Foreign Investment in the United States, I believe it makes sense to have someone like Tom at the helm. Over the years, he has demonstrated sound judgment, a depth of relevant expertise, and an impressive ability to get things done. I am confident that Tom will do an outstanding job, and I urge the Committee to unanimously refer his nomination to the full Senate for confirmation. Thank you for your consideration.

God Bless America,

BOB DOLE

LETTER SUBMITTED BY THE INDEPENDENT COMMUNITY BANKERS OF AMERICA IN SUPPORT OF MICHELLE BOWMAN

Preston L. Kennedy, *Chairman*
Noah W. Wilcox, *Chairman-Elect*
Robert M. Fisher, *Vice Chairman*
Kathryn G. Underwood, *Treasurer*
Alice P. Frazier, *Secretary*
Timothy K. Zimmerman, *Immediate Past Chairman*
Rebeca Romero Rainey, *President and CEO*

June 4, 2019

The Honorable Mike Crapo
Chairman
Committee on Banking, Housing
& Urban Affairs
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing
& Urban Affairs
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of community banks across the country, with more than 52,000 locations, I write to thank you for promptly advancing the nomination of Michelle Bowman for a full term in the community bank seat on the Federal Reserve Board of Governors (Board). ICBA strongly supported her original nomination, which was confirmed by the Senate last November on a strong bipartisan vote, to complete a term which expires on January 31, 2020. We are pleased to endorse Ms. Bowman for a full term and enthusiastically urge you to advance her nomination.

Board policy affects many aspects of community banking, and it is important to have a full Board in place for appropriate input and balanced deliberations. We were thrilled when Congress enacted a key ICBA priority policy to create a dedicated community-bank representative seat on the Board. Ms. Bowman has distinguished herself in her short time on the Board, going to great lengths to engage with community bankers including agriculture lenders, and we are confident that she will continue to do so if confirmed to a full term.

Ms. Bowman's experience is highly relevant to the Board. She served as a top bank regulator, the Kansas Bank Commissioner, and she is a fifth generation Kansas community banker, having served as an officer of the Farmers and Drovers Bank of Council Grove, Kansas, where she was involved in both the lending and compliance aspects of the business. Where statute requires community banking regulatory *or* business experience, Ms. Bowman has both, in senior, leadership roles. In addition, she has worked both in Congress and the Executive Branch at senior levels.

Ms. Bowman's diverse professional experience, seasoned judgment, and insight into the financial, rural, and agricultural economies has already begun to diversify the Board and strengthen its deliberations, rulemaking, and open market operations. Ms. Bowman's confirmation to a full term at the soonest opportunity would alleviate uncertainty and reassure community bankers nationwide that they will be represented in Board deliberations without disruption.

Thank you for your consideration.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the Senate Banking Committee