

**FINANCIAL SERVICES AND GENERAL GOVERNMENT
APPROPRIATIONS FOR FISCAL YEAR 2024**

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE
ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

ON

H.R. 4664/S. 2309

AN ACT MAKING APPROPRIATIONS FOR FINANCIAL SERVICES AND
GENERAL GOVERNMENT FOR THE FISCAL YEAR ENDING SEPTEMBER
30, 2024, AND FOR OTHER PURPOSES

**Department of the Treasury
Nondepartmental Witnesses
U.S. Federal Communications Commission
U.S. Securities and Exchange Commission**

Printed for the use of the Committee on Appropriations



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FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2024

WEDNESDAY, MARCH 22, 2023

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 2:30 p.m., in room SD-124, Dirksen Senate Office Building, Hon. Chris Van Hollen (Chairman), presiding.

Present: Senators Van Hollen, Murray, Manchin, Heinrich, Hagerty, Collins, Boozman, and Kennedy.

U.S. DEPARTMENT OF THE TREASURY

OPENING STATEMENT OF SENATOR CHRIS VAN HOLLEN

Senator VAN HOLLEN. Welcome, everybody. This hearing will come to order. And I want to start by welcoming Senator Hagerty as the Ranking Member of the Financial Services and General Government (FSGG) Subcommittee of the Appropriations Committee.

Also pleased to continue to have Senator Kennedy on the subcommittee, and newly having Senator Heinrich on the subcommittee. And Madam Secretary, thank you for your service. Thank you for being here today to talk about the 2024 Treasury budget and related matters.

Since its very inception, the Department of Treasury has played a central role in maintaining a strong economy, spurring growth and promoting opportunity. Secretary Yellen, I suspect that much of your attention in recent days has been focused on the situation with the banking system.

I give you and the Biden Administration, the FDIC, and others, high marks for the way you responded quickly and decisively to the Silicon Valley Bank default and the issues with Signature Bank as well as others. First of all, making it crystal clear that the United States Government is not going to bail out the owners and investors of the bank, but also assuring depositors that they would be held harmless.

That was a very important measure to take to make sure that the workers at small businesses and other companies that bank with Silicon Valley Bank got paid and also to prevent the contagion within the system.

I also want to commend you and your team on the efforts you made in implementing the sanctions on Russia, including efforts to

place a price cap on Russian oil and Russian petroleum products. We have worked with the Deputy Secretary as well as you on these issues. I do believe we could go even further in terms of ratcheting down the price cap in that area.

I also want to applaud your efforts to move toward a global minimum tax rate for corporations to stop the current race to the bottom that we have seen between countries. A little later, I am going to ask you about the debt ceiling. The United States of America pays its bills on time.

We always have. And because of that, the United States has earned a reputation as a reliable, credible, and trustworthy partner here and around the world. And that reputation helps every single American and our entire economy. We need, speaking of the deficit, to make sure that the IRS has the capacity and the resources needed to collect revenues that are due and owing, including from very wealthy tax cheats.

Now, that is why the IRS received \$80 billion over 10 years in the Inflation Reduction Act, and we will be asking you some questions about implementation and use of those resources. Obviously, they also go toward trying to improve, dramatically improve IRS customer service, which we are already seeing results from, as well as dealing with outdated technology, including the COBOL system, which the IRS continues to use.

We know that there are over somewhere between \$500 billion and \$1 trillion in taxes each year that are owed and not paid. Those are just some of the issues under the purview of the Department of Treasury.

Madam Secretary, again, I would like to commend you and your staff on being responsive to questions from Members of the Committee. And let me now turn it over to Senator Hagerty for his opening statement.

OPENING STATEMENT OF SENATOR BILL HAGERTY

Senator HAGERTY. Thank you, Chairman, Van Hollen, and thank you for holding this hearing today. As the new Ranking Member of the Committee, I look forward to working alongside you and all of our colleagues.

We have an exceptional job ahead of us. We are challenged in conducting rigorous oversight to strengthen U.S. financial systems and ensure that the dollars that taxpayers have entrusted to us with are spent responsibly. I also want to welcome our witness today, Secretary Yellen.

Thank you for appearing before the subcommittee, Secretary, at such a critical time for our economy, and I look forward to your testimony. Secretary Yellen, the Department of Treasury has a fundamental role in managing our Nation's debt and collecting its taxes. The President, with the advice and consent of the Senate, has conferred upon you a great responsibility and obligation to provide sound economic guidance.

At this same time, it is your duty to respect the rights of taxpayers who rely on you to treat them fairly. Unfortunately, our Nation has accumulated an unprecedented amount of debt at levels that are unsustainable at this point.

One of our Nation's greatest strengths is the depth and liquidity of our financial markets that has allowed us to capitalize our economy with large amounts of money at a relatively low cost, a significant competitive advantage for our Nation.

Further, our historic commitment to the rule of law and our commitment to repay our debts underpins this strength. While I understand the desire to raise the debt limit, repaying our debts is not just a matter of periodically increasing the amount we can borrow.

We are on an unsustainable path for which the bill will ultimately come due. Our ability to repay our debts requires us to live within our means, which means we must put our economy on track to eliminate the annual deficit.

In my view, we either take serious steps toward addressing our fiscal house now, or we allow the global financial markets, who will not ignore our fiscal peril, to make those decisions for us, and it won't be pretty. The country is looking for leadership from you, Madam Secretary, to navigate this difficult fiscal path.

However, I was disappointed to see the President's budget put forward a series of tax increases that have been largely rejected by both Republicans and Democrats in Congress. The tax increases proposed in the President's budget would make American businesses less competitive and ultimately weaken our economy at a time when we desperately need it to be strong.

Combating inflation remains a priority for me. Many basic goods and services are too expensive for most American families. Again, I believe that too much spending has placed upward pressure on prices. Very simply, there are too many dollars chasing too few goods and services. My constituents' purchasing power has steadily and dramatically eroded over the course of this Administration.

One way we can both rein in inflation and expand the economy is by extending tax reform, which contrary to forecast at the time, resulted in booming corporate tax receipts for the Federal Government, allowing manufacturers to deduct the full cost of their capital expenditures in the year that they are made, encourages businesses to build more factories, help workers to become more productive, raise wages, and it expands economic output.

When we expand supply, we put downward pressure on the system to meet demand. In that manner, businesses provide more goods and services to their customers at a lower price. The problem with more government spending is it just redistributes private resources from one group to another, generating economic friction and inefficiency.

Its primary effect is to increase demand, not to increase supply, further adding to inflationary pressures. Rather than helping individuals and businesses during these challenging times, taxpayers are facing greater tax burdens, reduced customer service from the IRS, and endless amounts of paperwork and bookkeeping requirements.

I have reintroduced my Snoop Act, which would strike the Biden Administration's requirement that third party platforms report businesses gross transaction volumes totaling more than \$600 per year to the IRS. This requirement is cumbersome, is difficult to comply with, and it needlessly intrudes into Americans' privacy.

While I was glad to see your department is temporarily delaying the implementation of this provision, I will continue to stand up for small business owners with an aim to put an end to this egregious and unwanted overreach.

And finally, as a lifelong businessman, I have been following the developments over the past week as we have seen unfold a pair of spectacular bank failures. To me, this entire situation was a series of failures that should have been foreseen. First, it is a massive failure on the part of management.

Silicon Valley Bank's board and management seem to have been asleep at the wheel. It has become—beyond comprehension that they could have allowed the Chief Risk Officer position to remain vacant for 8 months during the period leading up to this collapse. It is malpractice, plain and simple.

Second, it was a massive failure of oversight from the San Francisco Federal Reserve Bank who in their position—who in their possession had the detailed liquidity reports that should have made it clear that this was a real issue. But perhaps the biggest failure of all is how this Administration mishandled the crisis, particularly the decision to take Silicon Valley Bank and Signature Bank into receivership instead of expeditiously expediting an auction.

By failing the auction process, we find ourselves now in a completely new environment where no one knows the limits of the taxpayer backstop. The decision made by the FDIC, the Federal Reserve Board, and by yourself to guarantee all deposits of both banks, even though those exceeding—even those exceeding the \$250,000 insured limit sets a dangerous and uncertain precedent, one that would not have been necessary had a successful auction occurred.

And it sets up American taxpayers to foot the bill, regardless of the Administration's claims to the contrary. As we saw on Sunday with the FDIC's announcement of the sale of a significant portion of Signature Bank's assets, losses are already being accumulated and those losses will be forced upon the entire banking system, and by extension, U.S. taxpayers.

Secretary Yellen, I hope you can address these concerns today in both your testimony and during the period of questions. Thank you.

Senator VAN HOLLEN. Thank you, Senator Hagerty. The Appropriations Committee has two new strong leaders. We have a new Chair, Senator Murray, and a new Ranking Member, Senator Susan Collins, who is with us today. Senator Collins, Ranking Member Collins, do you have any opening comments?

Senator COLLINS. I do not—thanks—

Senator VAN HOLLEN. Okay. Thank you. Madam Secretary, it is great to be with you. Your biography and experience is well known to Members of the Committee, so I won't go on for a long time.

I will note that you are the first person to have led the White House Council of Economic Advisors, the Federal Reserve, and the Treasury Department. It is also great to see your signature on our currency.

So, without objection, Madam Secretary, your full written testimony will be entered into the record. I ask you to please summarize your opening statement in approximately 5 minutes.

STATEMENT OF HON. JANET YELLEN, SECRETARY, U.S. DEPARTMENT OF TREASURY

Secretary YELLEN. Chairman Van Hollen and Ranking Member Hagerty, thank you for inviting me to join you today. I would also like to thank you for your leadership of this subcommittee in support of the Treasury Department.

Two years into this Administration, Treasury continues to serve at the forefront of our Nation's response to some of its most urgent challenges. We have advanced our country's domestic and international economic priorities thanks to the resources that you have provided us. Our top priority is to protect the health of the U.S. economy.

Two weeks ago, we learned of problems at two banks that could have had significant impacts on the broader banking system and the American economy. In the days that followed, Treasury worked with the Federal Reserve and the FDIC to take decisive, and forceful actions to strengthen public confidence in the U.S. banking system.

We took actions to protect all depositors of the two failed institutions and provide additional liquidity for banks. This was designed to mitigate risks to the banking system. It is important to be clear, shareholders and debt holders of the failed banks are not being protected by the government, and no losses from the resolution of these banks are being borne by the taxpayer.

Deposit protection is provided by the Deposit Insurance Fund, which is funded by fees from insured banks. As I said last week, the U.S. banking system is sound. The Federal Government's recent actions have demonstrated our resolute commitment to take the necessary steps to ensure that depositors savings remain safe.

Beyond our work on the financial system, Treasury has also led our Administration's broader efforts to recover and stabilize our economy from a once in a century pandemic shock. Our Office of Recovery Programs help drive the fastest and most inclusive labor market recovery in history by coordinating the effective implementation of the American Rescue Plan relief.

Today, the unemployment rate is near historic lows. Our economy has added over 12 million jobs since 2021. Our Administration is now building on that progress by effectively implementing long term investments enacted by Congress. Internationally, Treasury continues to mount a swift, bold, and enduring response to Russia's illegal war against Ukraine. In my visit to Kyiv a month ago, Ukrainian officials told me firsthand about the critical impact of our work.

As part of a broad coalition, we are responsibly disbursing vital economic assistance to Ukraine. Since last February, Treasury has also implemented over 2,500 Russia related sanctions. We have degraded the Kremlin's ability to replace more than 9,000 pieces of heavy military equipment that it has lost on the battlefield.

We have also stabilized global energy markets and cut into the Kremlin's revenues by implementing innovative caps on the price of Russian oil. The President's fiscal year 2024 budget requests the necessary resources to continue advancing our Nation's priorities. I will highlight three imperatives. First, the budget requests \$14 billion in discretionary resources for the IRS.

For too long, the IRS has been woefully underfunded. We are changing that. Our budget request provides steady State operational funding that will allow taxpayers to receive the best service possible. It will complement the one-time long-term investment in the IRS from the Inflation Reduction Act.

We have already seen our investments pay off. For example, the IRS has answered a million more phone calls during this filing season than at this time last year, and now is the time to build on this progress. Second, our budget request shores up our capacity to respond to Russia's immoral war in advance of our national security priorities.

It includes \$244 million for the Office of Terrorism and Financial Intelligence to continue to administer, enforce, and modernize our sanctions regime. It also allows the office to expand financial intelligence in sanctions related economic analysis. Further, the budget request \$229 million for FinCEN to support its efforts to address deficiencies that illicit actors exploit to evade scrutiny.

Third, this request enables us to continue our work to bolster the long-term foundations of the American economy. We are requesting \$332 million for Treasury's Departmental Offices, which craft and implement policies to advance our economic priorities and coordinate Government wide efforts to promote financial stability and growth.

We are also asking for an increase for the Community Development Financial Institutions (CDFI) Fund, which expands credit and financial support to historically underserved communities.

I want to end by thanking the men and women of the Treasury Department for their service. Their dedication and commitment inspire me every day, and I could not be prouder to call them my colleagues. With that, I am happy to take your questions.

[The statement follows:]

PREPARED STATEMENT OF HON. JANET L. YELLEN

Chairman Van Hollen and Ranking Member Hagerty: thank you for inviting me to join you today. I would also like to thank you for your leadership of this subcommittee and support of the Treasury Department.

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I want to end by thanking the men and women of the Treasury Department for their service. Their dedication and commitment inspire me every day, and I could not be prouder to call them my colleagues.

With that, I'm happy to take your questions.

Senator VAN HOLLEN. Thank you, Madam Secretary. I think your testimony underscored the depth and breadth of the responsibilities of the Department of Treasury. Thank you for listing those priorities, including, importantly, CDFIs.

Going back to the banking situation, I saw you gave some remarks just the other day indicating that we are still determining the root causes of the recent crisis. And I also serve on the Banking and Housing Committee, and we are going to be having hearings next week to try to get to the bottom of exactly what happened in Silicon Valley Bank and other banks.

But there is one area where I think we can agree, I hope we can agree to move forward now on the issue of accountability, and that is the need for legislation to empower Federal regulators like the FDIC to claw back compensation packages and stock profits that were gained by executives at failing banks in close proximity to the bank's failure.

I know that under the Dodd-Frank Law, that authority exists for executives of the biggest banks, but apparently it does not exist with respect to banks the size of Silicon Valley Bank. And we also know from reports that the CEO of Silicon Valley Bank sold about \$3 million worth of shares just a short time before the collapse.

I know President Biden has called upon Congress to change the law so that we can hold executives accountable. This is whether or not there is criminal wrongdoing or not. That is a separate matter.

I know the Justice Department, the FBI will be looking into that. But just as a basis of accountability, would you, Madam Secretary, you and the Treasury Department, work with me and others in the Senate who are interested in fashioning legislation along the lines that President Biden also supports?

Secretary YELLEN. Certainly, Senator Van Hollen, we, of course, agree with President Biden that those who were responsible for the failure of a bank should not be profiting when stockholders and investors in the bank are taking—forced to take losses. And when the Deposit Insurance Fund is working to save the depositors in stem runs, that this is an important form of accountability. And we would be glad to work with you on that legislation.

Senator VAN HOLLEN. Thank you. I look forward to doing that and hopefully we can get it passed on a bipartisan basis and support accountability in the system. I think American consumers are sort of looking at the situation here where those who were clearly responsible for the failure in their banks are running away with major profits.

And that doesn't seem right, especially at a time, as you said, when we are asking, we are going to be asking other banks to help support those depositors.

I am somewhat concerned that perceptions and a sense that there is riskiness in the bank system because of these failures will lead some people potentially to go to the shadow banking system, which, as you know, is a much more risky proposition and not subject to much of the regulation that currently exists, including the kind of capital requirements that apply in the banking system.

As Secretary of the Treasury, you serve as the chair of the Financial Stability Oversight Board, which has the authority to designate non-banks as systemically important financial institutions.

Last November, in the Banking Committee, I asked the Federal bank regulators that were before us as witnesses, including the vice chair of the Federal Reserve Board and the heads of the Office of the Comptroller of the Currency (OCC) and the FDIC, if they would support a repeal of the Trump era guidance that made it much more difficult to regulate the much riskier shadow banking sector.

The answer from all three of those witnesses who are responsible for it and who sit on the board with you was yes, they would vote to repeal that limitation on the ability to provide prudent regulation over the non-banking sector.

So, my question to you, Madam Secretary, is can we move forward and hold that vote on the Financial Stability Oversight Council (FSOC)? And if so, when.

Secretary YELLEN. I am working very closely with FSOC. We are considering and drafting revised guidance on designation that would restore FSOC's lost capacity to designate non-bank financial institutions as systemic and subject them to regulation.

I would say that more generally the risks that you mentioned in the non-bank financial sector, sometimes other forms of intervention can be appropriate and I have made it a priority since I be-

came Treasury Secretary, as Chair of FSOC, to look at a number of different risks in the non-bank financial sector. In some cases, for example, the case of money market mutual funds or open-end bond funds, where I believe there are risks, the Securities and Exchange Commission (SEC) has the authority, and FSOC has worked with the SEC.

The SEC is in the process of taking appropriate action. So FSOC has a number of different tools to deal with these risks, but I agree with you that risks have migrated to that sector and designation is an important power that needs to be in the toolkit of FSOC.

Senator VAN HOLLEN. Well, thank you, Madam Secretary. Look forward to working with you and I hope you will schedule that as soon as possible. My last question for this round relates to the debt ceiling.

My head was spinning this morning when I saw the speaker of the House say that the recent banking crisis made it even more important that we threaten the debt ceiling in order to achieve major budget cuts, the kind of cuts that have been outlined in the House, by House Republicans.

You are very aware, I think, of what the risks would be if the United States does not meet its full faith and credit. Do you believe that the recent uncertainty in the banking system means that we should threaten the full faith and credit of the United States in order to pass budgets that one of us on one side of the Capitol or the other may like?

Secretary YELLEN. The failure to raise the debt ceiling would cause an economic and financial catastrophe.

It would be a failure of the U.S. Government for the first time since 1789 to fail to pay bills that it had incurred, and it would cause a loss of confidence in the United States as the safest country, that our currency as a reserve currency used by the world—it would bring untold, unbelievable economic damage.

I think this is something that just can't be contemplated. It is a fundamental, basic responsibility of Congress to pay the Government's bills. And I call on Congress to expeditiously raise the debt ceiling.

Senator VAN HOLLEN. Well, thank you, Madam Secretary. Senator Hagerty.

Senator HAGERTY. Thank you, Chairman Van Hollen. Before I get into my line of questioning, I just want to clarify on the debt ceiling piece. Secretary Yellen, do you think it is not possible to negotiate in any respect the spending package that has been put forward? Is it possible to set aside and agree that our Nation's debts will be paid, that we will pay the interest on our debt, and set that component aside and agree to that before we get to any discussion on specific spending reductions?

Secretary YELLEN. I am not sure exactly what you are suggesting here. President Biden has indicated that he is more than willing to discuss an appropriate path for spending in taxes in the overall deficit, that it is important to have a fiscally responsible budget plan, and that these are certainly appropriate matters for discussion between the White House and Democrats and Republicans in the Congress, and he looks forward to doing that, but not under the specter of destroying the country's economic and financial—

Senator HAGERTY. I think the specter of this being presented is a false choice. And the specter that you present does not have to be that. We are facing an unprecedented spending epidemic. We are in a deficit spending situation.

We have \$31 trillion of debt moving higher that we are parking on the backs of the shoulders of our children. If we don't address it in a responsible manner ourselves, the capital markets will address it eventually, and I think that will be far more catastrophic. So, we have to find a way to talk about this that doesn't pit ourselves of this doom and gloom scenario and that we find a way to actually address that.

Secretary YELLEN. Senator Hagerty, President Biden has submitted to Congress a budget that has, over the next decade, \$3 trillion of deficit reduction. It invests in our workforce, in our economy—

Senator HAGERTY. And massively increases taxes at a time when we are trying to recover our economy. It is a nonstarter on both sides of the aisle, as you know, Madam Secretary. Let me get back to the questions that I wanted to entertain with you, though, today.

As I mentioned in my opening statement, I have been tracking the Silicon Valley and Signature Bank situation in very close detail. The situation was caused by a remarkable set of failures, in particular the Silicon Valley Bank situation, failures of management, failures of Federal oversight, and failures of how we responded to it.

Both President Biden and in your opening remarks just a few minutes ago, you unequivocally stated that no losses will be borne by the taxpayer for the actions that have been taken by the Fed, the Treasury, and the FDIC in guaranteeing that all insured deposits at Silicon Valley Bank and Signature Bank that followed the failed auction of SVB, that none of those will be borne by the taxpayer.

I understand why that claim is politically appealing, but it is impossible to square with how these programs actually work. As you know, the systemic designation used in the guarantee of SVB and Signature Banks' deposits relies on the FDIC, Federal Deposit Insurance Fund, which will be replenished in the case of a loss with a special assessment on banks across the Nation, which inevitably will be passed along to all bank customers, which, last time I checked, were American taxpayers.

So, as we saw with Signature Bank, the estimated cost to the Deposit Insurance Fund for this resolution alone is \$2.5 billion, which will be paid for by fees assessed to banks across the Nation. Is that correct?

Secretary YELLEN. There will be a special assessment to—so it is only an estimate, the \$2.5 billion. We don't really know what the final cost—

Senator HAGERTY. I understand.

Secretary YELLEN [continuing]. Will be but there will be a special assessment—

Senator HAGERTY [continuing]. If you add SVB, it is going to become much, much larger. And when you increase the cost of doing business, that cost is going to get passed on to customers. So, this number, \$2.5 billion plus and any future losses will be in fact borne

by bank customers across the United States. Again, American taxpayers, the last time I checked, is that correct?

Secretary YELLEN. But they may be borne by shareholders of the firms.

Senator HAGERTY. I think the fees tend to be passed on to the consumers. I would like to turn to news reports yesterday. The Treasury is considering whether the Administration can order an unprecedented expansion of FDIC coverage to guarantee all insured deposits.

As was reported, this facility would be backed by the Exchange Stabilization Fund, which was created to support the value of the U.S. dollar in international markets, not as a slush fund when consulting Congress may be inconvenient.

I am deeply concerned by these reports, that such a program would not only constitute a misuse of the ESF, but it would circumvent Congress's role in approving such an action. So, Madam Secretary, does insuring every deposit, every FDIC insured bank in the Nation over \$250,000 require Congressional approval?

Secretary YELLEN. This is not something that we have looked at. It is not something that we are considering. All that I have said is that when the failure of a bank is judged by supermajorities of the FDIC board, the Fed board, and myself in consultation with the President, when such a failure is deemed to create systemic risk, which I think of as the risk of a contagious bank run, then we are likely to invoke this systemic risk exception which permits the FDIC to protect all depositors, and that that would be a case by case determination—

Senator HAGERTY. I understand, and that—

Secretary YELLEN. We have not considered or discussed anything having to do with blanket insurance or guarantees of deposits.

Senator HAGERTY. Two points, Madam Secretary. One, I would encourage you, if you do consider something broader than the basic \$250,000, that you remind—to remind you that Congressional approval is required in the form of a joint resolution.

Two, the program that you just stated really suggests to many people in America, certainly people in my home State, that there is a two-tier system of insurance here in America. For those that are deemed to be systemically important at the time and those that are not. I think many Tennessee banks are concerned that they would not be deemed—

Secretary YELLEN. I would disagree with that, Senator Hagerty. And I said explicitly in remarks I gave yesterday to the American Bankers Association, which is mainly consists of community banks, that this is not a question of invoking it for large or medium sized banks only. That the failure of a small bank, of a community bank could likewise trigger a run-on other banks and lead to the same judgment that the failure of that community bank creates systemic—

Senator HAGERTY. I think more clarity here would be appreciated. Thank you. And I want to turn to one more point that you and I have discussed in a number of times before in a very short period of time that I have. This has to do with the ProPublica leak of taxpayer information.

We have met now, this is the fourth time you and I met about this. The fact is that ProPublica was a leaker, or somebody at the IRS, or somehow, they have—ProPublica has leaked confidential taxpayer information. It has been nearly 2 years since this occurred. Has anyone been held to account?

Secretary YELLEN. I am just as frustrated by the situation as you are. I would love to know who is responsible for that. And I am afraid that I know no more about this than I did when the leak first occurred.

We did what I believe is the appropriate thing, which is to refer this matter to independent investigators, the Treasury Inspector General, the IRS Inspector General, and the Department of Justice. And there are a lot of—

Senator HAGERTY. And no new reports?

Secretary YELLEN [continuing]. Independent investigations that follow their own timelines, and I can't tell you when they are going to be concluded. I would suggest that you ask those investigators when they think it might be concluded.

I would really like to get a report, and I think this was a very serious matter and deserves an independent and thorough investigation.

Senator HAGERTY. It damages the confidence of taxpayers in America.

Senator VAN HOLLEN. Thank you, Madam Secretary. As I said at the outset, the Appropriations Committee has a new Chair, and I am pleased that she is joining us today. Senator Murray.

Senator MURRAY. Well, thank you very much, Chair Van Hollen and Ranking Member Hagerty. As Vice Chair Collins, who is also here with us today, and I made clear when we announced our plan to return this Committee to regular order, we have a responsibility to deliver for the American people by working together to draft and pass funding bills that strengthen our economy and keep America competitive on the world stage, and make sure that our families here at home are financially secure and thriving.

This is no small feat, as we all know. But this hearing is really an important reminder that when it comes to keeping our Nation strong, secure, and competitive, it is not just about how much we spend on defense, which is important.

It is also important how strong our economy is, and I mean, on Main Street, not just on Wall Street. And as we have seen, the collapse of the Silicon Valley Bank and Signature Bank have been a really stark reminder of the important role Treasury does play regulating our banks, ensuring our economy is sound, and protecting American workers and savers from paying the price for Wall Street's mistakes.

And that is really critical because working families are the backbone of this economy. And that means when our families are less financially secure, our Nation is less financially secure. Strong funding for Treasury means strong enforcement of our sanctions against Russia and Iran, the drug cartels, and other dangerous actors. It also means when my constituents call the IRS with a question about their taxes, they can actually get a real person on the other end of the line.

And thanks to the funding the Democrats passed, the IRS is now answering 90 percent of its phone calls. That is a dramatic improvement from the 13 percent last year. But we still are playing catch up on these investments. The technology that handles Americans' tax returns, for example, is over 60 years old.

So, we need a modern IRS. And that won't just mean fewer tax cheats, stifling families when it comes to paying their fair share. It means that Americans' personal financial information is safer from cyber-attacks or nefarious actors.

And it will mean we could put more money back in families' pockets when it comes to the tax refunds and relief that they are entitled to, like the childcare tax credit President Biden proposes reinstating in this budget. Secretary Yellen, I asked you about the IRS spend plan for the IRA funding in our call when we talked last month.

Congress still doesn't have that. And I want to join Chair Van Hollen in saying the department has had enough time to produce it and we expect to see it. And lastly, families, of course, are also counting on us to raise the debt limit, you just talked about this, without drama, without delay.

And let me just be clear, as you were, that the full faith and credit of the United States, that is to pay our bills on time like every families expected to, is not something that should ever be held hostage to score cheap political points at the expense of working people in this country.

Not getting that done would be catastrophic for our economy, so I hope we can do this in a straightforward, bipartisan way, as we have many times under both Republican and Democratic leadership.

So, again, thank you for being here today and I just want to say I am going to be very closely paying attention to the work on the issues raised by the Silicon Valley Bank and Signature Bank, and I expect that you will keep us updated on this as we move along.

Secretary YELLEN. Yes, of course. I would be glad to.

Senator MURRAY. Thank you. In terms of questions, last year, I was able to pass a sweeping bipartisan retirement bill, in our SECURE 2.0 Act, that will increase families' financial resiliency and help more families save for a dignified retirement and make it easier for businesses to offer retirement plans. Can you tell us what resources Treasury will need to implement all of the SECURE directives in a timely manner?

Secretary YELLEN. Yes, there are some resources the Treasury will need, and they are included in the 2024 budget. My understanding is that the Bureau of Fiscal Services will need about \$10 million to complete their effort to digitize savings bonds.

The Office of Tax Policy will need about \$1.5 million to hire additional OTP, Office of Tax Policy Staff to write the regulations and rules. And IRS will be faced with implementation of many of the features of this.

And there is money included in the budget. I believe an additional \$10.5 million for IT funds. And an additional roughly \$5.5 million, and this would go from fiscal year 2023 through 2027 for additional lawyers in the Chief Counsel staff.

Senator MURRAY. Okay. Thank you for that summary, and I will be following that very carefully as we put this bill together. As I mentioned, I do expect from you a detailed plan about how the IRS is intending to use IRA money. Without that, we are hearing all kinds of conflated things about 87,000 people and an army kind of thing. But tell us when we are going to see that plan so we can see the detail of—

Secretary YELLEN. In a matter of weeks. I have seen a draft of the plan. It is not final, but you should see it very shortly.

Senator MURRAY. Okay, we need to see that because it is really important—

Secretary YELLEN. Of course.

Senator MURRAY [continuing]. For taxpayers to be able to call the IRS and get a response. It is really important for us to be able to have the new technology we need, but we need to see your spend plans so we have a real concrete—

Secretary YELLEN. You will see that.

Senator MURRAY. Okay. And finally, I know President Biden's 2024 budget is rightly called a blue collar blueprint to rebuild America, and that blueprint would not only help families with lower health care costs, but also invest in quality child care, ensure giant corporations and billionaires pay their fair share a lot more, but I wanted to ask you, do you think that the President's budget would increase inflation or put us on a fast path to fiscal ruin, as some of our colleagues have suggested?

Secretary YELLEN. No, I don't. It is—it does invest in America, in our people, in our economy, in ways that will make it more productive, but it proposes ways to pay for that. And, in fact, over 10 years, it involves deficit reduction amounting to \$3 trillion, so it puts us on a more secure and prudent fiscal path.

It—many of the investments that are proposed could be viewed as expanding supply. Senator Hagerty mentioned the importance of supply and inflation as a matter of supply and demand. And the supply side of our economy is important.

We know that private investment capital formation matters, and that is what traditional supply side economics has always focused on. I have coined the term modern supply side economics. I believe the supply side of the economy is important, but there are other kinds of investments that are also critical, and that is what is included in this budget.

Funding for education, human capital, investing in people, investing in cares for children, in childcare, early childhood education, enabling more people to work, investing in research and development that improve our technology and productivity.

So, there are some very significant investments in our economy that will expand its capacity and ability to supply goods and services.

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

Senator VAN HOLLEN. Thank you, Madam Chair. And now we will turn to the Ranking Member of the full Committee, Senator Collins.

Senator COLLINS. Thank you very much, Mr. Chairman. It is great to be here with you and the Ranking Member and appreciate

it. Secretary Yellen, I want to talk with you about the consequences of the decision that was made by Treasury in consultation with the Federal Reserve and the FDIC to use a systemic risk exception in the Federal Deposit Insurance Act to insure all of the deposits of Silicon Valley Bank.

Last Wednesday, the new CEO of this bank held a conference call for concerned clients, and he urged them to return all of their deposits to the bank. And here is what he said on that call, and I am going to quote it. "There is no safer place in the U.S. banking system to put your deposits."

I am very troubled by that comment because it invites deposit flows from well-managed, prudently invested community banks to a bank that was poorly managed, that took excessive risks.

And it seems to me by guaranteeing all of the deposits, that you are creating a situation where they are immune from losses, draw in deposits from well-managed banks in a way that puts the well-managed community bank at a competitive disadvantage.

So, I guess my question to you is, how is this fair?

Secretary YELLEN. Well, look, we invoked the systemic risk exception because Silicon Valley Bank had experienced a calamitous run, a run that was so enormous that it overwhelmed the liquidity of this bank, its ability to arrange liquidity.

And it created the potential for fear about the safety of uninsured depositors in many other banks. And a failure to protect those who were uninsured depositors in this bank at the time it was put into receivership would have led to fears by uninsured depositors at many other banks who really have no easy way of knowing what the status of their banks are and whether or not their funds are at risk.

It risked contagion throughout the banking system. We invoked this exception in order to try to contain the contagion that seemed to all of us to be inherent in these uninsured depositors being wiped out or severely gutted.

So, it wasn't a question of protecting that bank or that group of uninsured depositors, but rather the implications for the broader banking system because of the contagion potential.

Senator COLLINS. Well, I want to switch to relate it by different topics. But to me, it creates a situation where you are rewarding very wealthy depositors and you are creating the need for a special assessment that is going to be imposed on those well-managed community banks that don't take—didn't take those risks.

And from what the bankers I have talked to tell me, the majority of their depositors fall under the \$250,000 limit. Well, at Silicon Valley Bank, the opposite was true. But let me follow up on a point that Senator Hegarty made.

He asked you about the level of FDIC insurance. I remember in 2008 when it was raised from \$100,000 to \$250,000 during that financial crisis. Now, some of our colleagues, including Senator Elizabeth Warren, has recommended that we raise up to \$2 million or even up to \$10 million. Do you agree with that?

Secretary YELLEN. You know, what I am focused on right now is trying to stabilize the banking system. And I know our banking system to be sound, and I think right now we need to focus on improving the confidence of the public that we do have a sound bank-

ing system. And we can debate in the days ahead whether or not \$250,000 is the right level for deposit insurance, or whether that system could be—should be changed in some way. I am not going to weigh in on it.

I believe there is plenty of time to have reasoned discussions about that. For now, I want to use the tools that we do have at our disposal to improve confidence and make sure the banks that are faced with deposit outflows have adequate access to liquidity.

The steps that the Federal Reserve took in the aftermath of that bank failure to make liquidity more broadly available to support deposits, that is an important step that went with the steps that we took as well.

Senator COLLINS. Let me very quickly switch to a different issue. You said in your statement that the IRS is answering a million more calls than last year. That sounds good.

But the fact is that the Inspector General for Tax Administration calculates their own collar response figure based on the data they collect from the IRS, and for this filing season through March 4, the Inspector General calculates that the IRS has only responded to 52 percent of calls, and that if you add together both automated calls and calls answered by an IRS customer service representative, that the number of calls that are answered declines to even more, to only 29 percent of the calls are answered by an IRS customer service representative.

So, I hope we will follow up and try to get to the bottom of that. I can tell you, based on the casework in my offices in Maine, and I have six offices, that they are having an extremely difficult time getting answers from the IRS.

Secretary YELLEN. Senator, I would be glad to look into that. I am not aware of the report that you just mentioned. We have been tracking on a weekly basis the IRS's performance during this tax season and it has been running between 80 and 90 percent. That is a very different number than you mentioned.

And I would be glad, I will ask my staff to try to reconcile that discrepancy. But I personally promise that this tax season, that—so I don't know if you are talking—are you talking about the entire year or the tax—

Senator COLLINS. The tax season through March 4. And it is a report by the Inspector General for Tax Administration.

Secretary YELLEN. I will look into that because I have been told its average is 85 percent, in line with the promise that I personally made.

Senator VAN HOLLEN. Senator, thank you. Thank you. Senator Heinrich.

Senator HEINRICH. Thank you, Chairman. Welcome, Madam Secretary. We have had some discussion here on the deficit, and I thought it might be helpful if you could remind us of the relative role of the Trump tax cuts in creating the current structural deficit.

Secretary YELLEN. Well, the Trump tax cuts added hugely to the deficit. I wish I recalled, it was something like \$2 trillion over 10 years. And so that is a major contributor to the deficits that we have.

Senator HEINRICH. Pivoting quickly to the banking situation, as Chair designate of the Joint Economic Committee (JEC), I was very

pleased that the Administration acted quickly to ensure that small banks and depositors don't take the brunt of the Silicon Valley Bank failure.

But I also suspect that this is a disaster that could have been prevented. When Congress voted to roll back key regulatory provisions back in 2018, I was also Vice Chair of the JEC at the time, and I warned that weakening these rules put the health of the banking system at risk.

And in fact, I have released a report, a JEC report, that named SVB Financial Group specifically as one of the banks that would face nearly none of the enhanced regulations originally put in place in the Dodd-Frank legislation.

How can regulators shore up confidence and stability in this asset class of banks? And do they need additional tools in order to improve the stability throughout the entire financial system?

Secretary YELLEN. So, I absolutely think that it is appropriate to conduct a very thorough review of what factors were responsible for the failure of these banks. And it is true that there was legislation that weakened bank regulation, and there were also regulatory decisions by the Federal Reserve and other banking agencies.

There is also a question of supervision in how that is conducted. I was pleased to see that Vice Chair for Supervision, the Fed's Vice Chair for Supervision, Michael Barr, is undertaking and will report by May on an investigation of what is involved.

And certainly, we should be reconsidering what we need to shore up regulation to prevent this. This was a very unusual set of circumstances the Silicon Valley Bank faced. It appears that they had seen a significant interest rate risk that they were subject to, and an exceptionally high, over 90 percent of their deposits were uninsured. And that is, you know—

Senator HEINRICH. That number is well outside of the norm.

Secretary YELLEN. So, in that sense, this was an unusual bank, but I think it is appropriate to review all of that.

Senator HEINRICH. Do you have any thoughts at all on the nature of—I mean, this is basically our first digital bank run in a way—the way that the fire sort of spread.

Secretary YELLEN. Yes.

Senator HEINRICH. How should we be thinking about that in the role of providing proper oversight and de-risking these financial institutions going forward, given that that is very much the world we live in now?

Secretary YELLEN. So, this was an overwhelmingly rapid run on a bank. To the best of my knowledge, we have never seen deposits flee at the pace that they did from Silicon Valley Bank. Now, many of the depositors were, you know, startup tech firms that work with venture capitalists that also bank.

And there was, as you say, on the Internet essentially shouting fire in a movie theater. And it perhaps it is the case that now in the world we live in, that although this was a small community with a disproportionate share of Silicon Valley Bank's deposits, this kind of thing may more readily happen now.

And it means that in general, when we do liquidity stress tests on banks, where we think about liquidity requirements, perhaps some of the assumptions that go into modeling the pace at which

deposits might flee, maybe some of those need to be updated and rethought. But this is a new phenomenon and we haven't seen this before.

Senator HEINRICH. I think it is an important question——

Secretary YELLEN. We need to rethink it.

Senator HEINRICH. It is the world we live in today. Some House Republicans recently introduced a bill that would force Treasury to prioritize covering debt held by foreign debt holders like the Chinese government before financing Department of Defense, the VA, really every Federal funding priority outside of Social Security and Medicare.

You have referred to this plan as default by another name and have pointed out that it is really not logistically feasible for Treasury to prioritize payments given how Treasury operates. What do you think of this plan to prioritize things like foreign investments over current and former service members and other obligations that we have as Federal Government?

Secretary YELLEN. Well, we have a set of bills that come due, and it is our obligation and my obligation as Treasury Secretary to see that those bills are paid, and not some of the bills, and to decide which bills are more important than other bills, simply to pay the bills for programs in spending that Congress has authorized.

That is why I say prioritization is default by another name. Not paying any of our bills is default. And when you think about the pain that it would cause to Social Security recipients, to food stamp recipients, you name it, people to vendors who supply services to the Government and have their own payrolls to meet, to be told they are not going to be paid, the Government isn't going to honor those bills.

That is a default. And reading rating agencies, particularly Fitch, has already clearly indicated that a failure to pay all of the government's bills when they are due would certainly compromise our credit rating. So, this has never been tried. It has been rejected by all past Treasury secretaries.

And I would say our systems, or payment systems, are simply set up to pay all the government's bills when they come due. They are not set up to divide payments into different types as a general matter and to be able to say, yes, this, this, this and this we are paying.

And these other things we are holding back for many agencies, payments of all types are all mixed together in ways that couldn't be disentangled.

Senator HEINRICH. Thank you, Chairman.

Senator VAN HOLLEN. Thank you, Senator Heinrich. Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman. Welcome, Madam Secretary. Madam Secretary, isn't it a fact that the President's proposed budget for next fiscal year is a half a trillion dollars more than this fiscal year?

Secretary YELLEN. On the spending side?

Senator KENNEDY. Yes, that is what a budget is.

Secretary YELLEN. Yes. It is about \$400 billion——

Senator KENNEDY. It is about \$500 billion more, right?

Secretary YELLEN. It is about what?

Senator KENNEDY. \$500 billion more, right?

Secretary YELLEN. About that.

Senator KENNEDY. Isn't it a fact that since 2019 until today, I am not including the extra \$500 billion that you all want to spend, since 2019 through today, U.S. population has increased 1.8 percent and the Federal Government's budget is up 55 percent. Isn't that a fact?

Secretary YELLEN. But we had a pandemic.

Senator KENNEDY. Isn't that a fact, though? I mean—

Secretary YELLEN. I don't know those numbers.

Senator KENNEDY. You don't know? You never looked at that?

Secretary YELLEN. I don't have those numbers in my head. Well, I am not disputing them.

Senator KENNEDY. Okay. Isn't it a fact that the President's proposed budget proposes \$4.7 trillion in new taxes?

Secretary YELLEN. It does propose significant additional taxes, yes.

Senator KENNEDY. \$4.7 trillion.

Secretary YELLEN. Something like that, yes.

Senator KENNEDY. Okay. You talked about reducing deficit. Isn't it a fact that under President Biden's proposed budget, that gross debt will rise from \$32.7 trillion at the close of this year to \$51 trillion by 2033?

Secretary YELLEN [continuing]. What number did you give me for—?

Senator KENNEDY. The President's proposed budget will increase gross debt from \$33 trillion at the close of this year to \$51 trillion in 2033? Isn't that correct?

Secretary YELLEN. Well debt held by the public, which is—

Senator KENNEDY. No, ma'am, that is gross debt. Isn't that a fact?

Secretary YELLEN. That is probably a fact.

Senator KENNEDY. So, you haven't reduced the deficit, have you?

Secretary YELLEN. The deficit, the debt and deficits are reduced by the President's budget.

Senator KENNEDY. How can you go from \$33 trillion to \$51 trillion and call that a reduction in the deficit?

Secretary YELLEN. Because that is a calculation for which you need a baseline. And then you compare the budget and the deficits and debt in the budget with the baseline in which there are none of the changes either in revenues or in spending that are—

Senator KENNEDY. Here is my baseline—and here is my baseline, at the end of this year, we project—people a lot smarter than me, probably not than you but smarter than me—say that gross debt is \$33 trillion. They say if the President's budget is implemented by 2033, it will be \$51 trillion. Isn't that a fact?

Secretary YELLEN. If the President's budget is not implemented and none of the changes are made, it will be worse than that. And so, the President's budget has improved the fiscal outlook relative to what we would have without the President's proposals.

Senator KENNEDY. Even though it raises a gross debt from \$33 trillion to \$51 trillion, you say that is an improvement?

Secretary YELLEN. It is. It is an improvement because it raises taxes by more and it leads to—

Senator KENNEDY. That includes taxes. In what world is that an improvement other than Washington and la la land?

Secretary YELLEN. It is an improvement in that the revenue increases far exceed proposed investments.

Senator KENNEDY. Okay. All right. Let me ask you this, isn't it a fact that in January of 2019, the Federal Reserve issued a warning to Silicon Valley Bank over its risk management systems?

Secretary YELLEN. I have no idea. I am not responsible in any way.

Senator KENNEDY. But you are in charge of the banking bailouts and the crisis, right?

Secretary YELLEN. I am not involved in banking supervision and I don't have access to any information about the supervision of Silicon Valley Bank.

Senator KENNEDY. Okay. So, you don't know whether or not the Fed, you haven't looked to see whether or not the Fed issued a warning, what, 4 years ago to the bank over its risk management systems?

Secretary YELLEN. That is not public information and it is not for me—

Senator KENNEDY. Sure, it is—Wall Street Journal.

Secretary YELLEN. Well, it may be in The Wall Street Journal, but it is not public information and it is not information that I have access to.

Senator KENNEDY. Well, I will give you a copy of this article.

Secretary YELLEN. I read the article, but—

Senator KENNEDY. The Fed issued a matter requiring attention, and it said your risk management practices are terrible and you need to improve them.

Secretary YELLEN. That is what the article says.

Senator KENNEDY. All right. Isn't it fact that months before SVB went under, that the bank disclosed that its market-to-market value of its bonds was \$16 billion less than their balance sheet value?

Secretary YELLEN. They did make such a statement.

Senator KENNEDY. Did the people at the Federal Reserve just not read it?

Secretary YELLEN. I am not in the Federal Reserve.

Senator KENNEDY. I know.

Secretary YELLEN. I was at the Federal Reserve—

Senator KENNEDY. But you are in the Treasury and you are in charge of the banking crisis. Let me ask you—

Secretary YELLEN. I am not in-charge of the supervision of the bank.

Senator KENNEDY. Let me ask you this. Senator Heinrich talked about the 2018 amendments to the Dodd-Frank Act. Isn't it a fact—now SVB was not stress tested in 2022, 34 banks were. Here is the Fed's report. Isn't it a fact that if SVB had been stress tested, it would have passed?

Secretary YELLEN. Stress tests look at capital of a bank.

Senator KENNEDY. Here is the—yes, ma'am, under the stress test. Isn't it a fact that SVB would have passed?

Secretary YELLEN. I don't know—it wasn't stress—

Senator KENNEDY. Well, you need to look into that, Madam Secretary.

Secretary YELLEN. I said this is not my job, this is the Federal Reserve's job.

Senator KENNEDY. Isn't it a fact that when the Federal Reserve stress tested in 2022, it only stress tested credit risk and didn't stress test duration risk. Isn't that a fact?

Secretary YELLEN. You know, I believe the stress tests in general partially address and take account of interest rate.

Senator KENNEDY. No, ma'am. I have read it. Here it is, bigger than Dallas.

Secretary YELLEN. Well, to the extent that there are assets held in an available for sale portfolio that would suffer losses due to changing interest rates, that would be captured in the banks—

Senator KENNEDY. No, ma'am, it is not there. I have read it.

Senator VAN HOLLEN. Senator Kennedy, I have allowed people to—the Secretary to stray over answers that were asked before the time went out, but not a series of questions after the time went out, but—

Senator KENNEDY. Sure, I get it. I understand, Mr. Chairman.

Senator VAN HOLLEN. Thank you. And thank you, Senator Kennedy. And let me, I worked together with Senator Kennedy on lots of things. We have got a good working relationship. I am pleased to have done it.

We have some disagreements, and some of those questions have prompted me just to ask you some follow up on some of these issues. I just want to underscore the point you made, that the President's budget, President Biden's budget reduces the deficit over the next 10 years by \$3 trillion relative to if we did nothing. Is that right?

Secretary YELLEN. That is correct. That is what I think I said in answer to Senator Kennedy.

Senator VAN HOLLEN. Right.

Secretary YELLEN. We need a baseline. Then you look at the budget, and you compare deficits and debt in the two scenarios. And in that sense, there is a \$3 trillion reduction in deficits relative to the standard.

Senator VAN HOLLEN. Right. I mean, if the Congress packed up its bags and left, which maybe some—lots of people would want us to do, and the President took no other action, the reality is 10 years from now, the deficit would be \$3 trillion higher than if than it is today.

Secretary YELLEN. Yes.

Senator VAN HOLLEN. And isn't it a fact that one quarter of the total accumulated national debt was incurred during the 4 years of the Trump Administration?

Secretary YELLEN. Yes.

Senator VAN HOLLEN. And isn't it a fact that during the 4 years of the Trump Administration, Congress passed the debt ceiling increase three times without a lot of drama?

Secretary YELLEN. Yes.

Senator VAN HOLLEN. And Senator Heinrich asked you some questions about the proposal coming out of House Republicans for

some kind of debt prioritization. And you made very clear that that is just default by another name, right?

Secretary YELLEN. Yes. Yes. It is not paying our bills.

Senator VAN HOLLEN. Right. And isn't it true that back in 2011—I am having a sort of this is flashback on steroids. We were just getting close to that waterfall in the debt ceiling—

Secretary YELLEN. Yes.

Senator VAN HOLLEN. Led Senators to lower the rating of U.S. credit, right—

Secretary YELLEN. Yes. And that is why I have asked Congress to raise the debt ceiling expeditiously. We don't want to get to the X-date and push this because damage can occur and we could be downgraded if Congress looks like it is not willing to.

Senator VAN HOLLEN. I really hope, Madam Secretary, that we won't do that. I do welcome a vigorous debate with my colleagues on the budget issues. Whether you make spending cuts, whether you make revenue increases, people can have a healthy disagreement on that front.

But that also does raise the issue of the IRS budget and the \$80 billion that was presented, provided with the IRA for a number of functions, one of them being to allow the IRS to collect revenues that are already due and owing and not paid.

Now, I have a couple of questions regarding that, Madam Secretary. One is you have directed the IRS and the Treasury Department that you will not increase audits above any historical level with respect to small businesses or taxpayers under \$400,000, right?

Secretary YELLEN. I issued an order to that effect. I have told the IRS that they must not increase the audit rates on either individuals or small businesses earning under \$400,000.

Senator VAN HOLLEN. And I think it was maybe—I think it was Jesse James who said when he is right—when he robbed banks, he said that is where the money is. Where the money is in uncollected taxes is in very wealthy, wealthy folks who are not paying their taxes on time, right?

Secretary YELLEN. That is right. It is wealthy individuals, complex partnerships, corporations, where there is particularly unreported income.

Senator VAN HOLLEN. Right. And I know that the Administration and the IRS have calculated hundreds of billions of dollars of lost income annually from this tax gap. But the Congressional Budget Office (CBO) has a more conservative number, but it has a number nevertheless from the enactment of the Inflation Reduction Act.

And it also calculated that the first act, I think it was the first act of the of the House under new leadership of Speaker McCarthy when they repealed the Inflation Reduction Act, according to CBO, that would increase the deficit relative to where we are today by \$114 billion, right?

Secretary YELLEN. Yes. The money that we spent on—that you appropriate to the IRS, whether it is the discretionary budget or the additional long term mandatory investment in the IRS, this is money that brings in net more tax revenues.

In that sense, it is not really costly. It generates more money for the taxpayer by enabling the IRS to collect the taxes that are owed than you are spending in appropriations on the agency.

Senator VAN HOLLEN. Right. So, you know, I hope in the coming weeks we can have a sober conversation up here about the budget and deficits, because it is one thing for our House colleagues to say they care about the debt ceiling, the deficit, and another thing for their very first action to be to increase the Federal budget deficit by over \$114 billion over the next 10 years.

Senator KENNEDY. Mr. Chairman, can I ask a personal—

Senator VAN HOLLEN. Let me just ask my last question. I am happy to entertain the question if my other colleagues are willing. So, Madam Secretary, in terms of the IRS funding, in addition to trying to collect taxes from wealthy tax cheats, we have seen an improvement in IRS performance when it comes to answering constituents' calls. Is that not, correct?

Secretary YELLEN. That is certainly the reports that I have gotten, that the response rate has been between 80 and 90 percent this tax year—

Senator VAN HOLLEN. And we are going to look, as Senator Collins raised some important questions here. It has definitely improved. Whether it has improved to that extent, according to the Inspector General, we will have to take a look at that.

But I do think that making sure that folks who, especially very wealthy folks pay their taxes on time is important. And I am just going to, in closing here, refer you to a letter that a group of us sent on March 20, myself, Senator Warren, and others regarding abuses of trust that allow very, very wealthy individuals, billionaires to pass on lots of money without any taxation.

They have very high-priced lawyers, which in our view are skirting the law, certainly the intent of the law. And we are asking you to take a look at that when you do that.

Secretary YELLEN. Yes, we actually have some proposals in the Green Book to clamp down on that type of abuse, and we would be glad to discuss further things we can do to prevent that kind of abuse.

Senator VAN HOLLEN. Got it. Senator Kennedy, it is up to Senator Hagerty, but I am happy to—

Senator KENNEDY. Well, I just wanted to ask, this is a question, not a comment, are we all going to—I mean, my colleague here hadn't had a chance to answer and ask any questions, but will we have a chance to follow up as well with the Secretary?

Senator VAN HOLLEN. Sure. Everyone is—we are doing another round. We have 7 minutes each. Absolutely. Absolutely. Senator Boozman.

Senator BOOZMAN. Thank you. Thanks for the pep talk. Thank you, Madam Secretary, for being here. And I would like to ask some questions that my community banks in Arkansas are concerned about.

It is important to remember that Silicon Valley Bank and Signature Bank took on unique risks and were materially different from most U.S. banks, especially rural community banks are safe and sound.

In light of those unique risk profiles, and I'm understanding that you aren't the FDIC chair, when determining whether to invoke the systemic risk exception, what specific data points, metrics, and factors do regulators focus on?

Secretary YELLEN. Well, we were very focused on the potential for the failure of these banks and losses to uninsured depositors in the banks to trigger runs on other banks. And we looked at things like deposit outflows from other banks, anecdotal reports that we heard.

I will say that many mid-sized banks expressed great concern that they have uninsured deposits. Often these are local businesses that can't operate within the insured deposit limits. And these banks felt seeing many uninsured depositors having the view, the only place you are safe is in the largest banks, many of these banks felt very skittish about their potential to suffer runs as well.

And I have heard this in many banking context that my staff and I have had in recent days, that there is concern. We can see that banks across the country are shoring up their liquidity. They are very worried about contagion from the troubles of Silicon Valley Bank and Signature Bank.

And the steps that we took were designed to improve the confidence of all depositors that they are safe in banks. And, you know, depositors often don't know about what the specific situation is of their bank, whether it is a mid-sized bank or a community bank, and if they become worried, they can pick up their deposits and go someplace they think is safer.

And we did not want to see contagious runs that could have impacted many banks, including community banks.

Senator BOOZMAN. Very good. While Silicon Valley and Signature's uninsured deposits will be paid for by the Deposit Insurance Fund, banks will replenish the fund via a special assessment.

In reality, those costs will be passed down to customers via higher banking costs, and I am concerned that Arkansans will have to subsidize Silicon Valley Bank and Signature Bank's deposits, and maybe others that come forward.

What specific legal authority exist for Treasury, FDIC, and, or the Fed to exclude certain banks from being charged the special assessment, and will the community banks get charged that special assessment?

Secretary YELLEN. I don't know what the rules are around that precisely. I think the FDIC may have some ability to determine which banks are charged. I believe it is up to the FDIC to make that determination.

Senator BOOZMAN. And again, absent Congress passing a new law, what specific authority does Treasury, FDIC, and, or the Fed have to guarantee, even temporarily, all insured deposits of open banks?

Secretary YELLEN. Well, I mean, the FDIC, if it wished to put a program in place like the Tag Program that I think was instituted in 2008, that requires Congressional approval.

Senator BOOZMAN. Okay. Very good. Thank you. Turning to a different issue, can you provide a timeline for when Treasury, and, or IRS will write any further rule makings, guidance, or notices re-

garding the Inflation Reduction Act's direct pay provisions relating to tax exempt entities?

Secretary YELLEN. Are you referring—you are referring to the IRA?

Senator BOOZMAN. Yes, ma'am.

Secretary YELLEN. We have many rule makings we are required to do to implement the features of the IRA, and we are frankly working 24/7 to get them done as rapidly as we can. I can't give you an exact date, but I can tell you that we are working on it very hard. We are full tilt. These are some rather complex rules, and we are working very hard to get them out.

Senator BOOZMAN. Good. Thank you. The CDFI Fund is in the process of finalizing changes to its CDFI certification application. What analysis has Treasury done to understand the impact that the application changes will have on currently certified CDFIs? How will the changes impact recipients of Emergency Capital Investment Program (ECIP) funds?

Also, will depository institutions be less likely to meet certification requirements under the new standards? And if so, what impact will have on the—will that have on the Fund's ability to support investment and access to capital in underserved communities?

Secretary YELLEN. So, I really need to get back to you on that. I am not knowledgeable about the details of the change in—that you are referring to. Certainly, the CDFI Fund is trying to get money into the hands of CDFIs to lend in underserved communities, and certainly not to make it harder. And my staff will get back to yours, if that is okay—

Senator BOOZMAN. Yes, ma'am.

Secretary YELLEN. On the details of the question you asked.

Senator BOOZMAN. Well, thank you very much. Thank you, Mr. Chairman.

Senator VAN HOLLEN. Thank you, Senator Boozman. Senator Hagerty.

Senator HAGERTY. Thank you, Chair. And—just a couple of follow up questions. One, I would like to follow up on the point that Senator Kennedy touched, Secretary Yellen, and that has to do with the crisis that we just experienced with the banking community here. It is—the mantra of Washington seems to be never let a good crisis go to waste.

There have been calls now that there need to be reregulation, that the tapering, I was not here when this was passed, but that the tapering that Senator Kennedy mentioned back in 2018, S. 2255, it was meant to take the one size fits all regulation and try to in some way make that better fit the market.

That that is the reason for the failures that we have seen. What we have seen is a failure of management, as I mentioned earlier. You have got a management that was asleep at the wheel and out to lunch. They left their Chief Risk Officer position stay open for 8 months up to the failure.

I am not aware of anything in S.2255 that would have fixed that problem. Are you, Madam Secretary?

Secretary YELLEN. Look, you know, we need to do a thorough review of what happened in the case of these bank failures, and I am

not prepared to weigh in on precisely what the causes were at this point.

Senator HAGERTY. I will weigh in a little bit further and if you will accommodate me. There was also a failure at the San Francisco Fed in terms of the oversight that they should have been providing. Again, they were getting detailed liquidity reports, I believe, on a monthly basis about what was happening in Silicon Valley Bank.

Yet they didn't seem, you know, they didn't seem to identify the problem nor did they address it in time. And I think the most disappointing failure of all is what happened during the weekend that the auction should have taken place. Rumors were rampant about slowness of the process, whether people were being encouraged or dissuaded from bidding.

And at the end of the day, my understanding from FDIC official was that they did have a bidder, but they were not able to conclude the auction. We would be in a far better place right now had the FDIC concluded that auction.

We were talking about a new buyer of the bank and we were in a position at this point to have contained the loss to, again this is the example of Silicon Valley Bank, as opposed to finding ourselves in a position where we have a much broader situation, where there is a precedent has been set now that, again, make many people in America wonder whether every deposit in America has been, you know, in some agreed to be backstopped or guaranteed.

You have articulated the decision process that you would go through on a case-by-case basis, but I think, again, as I mentioned earlier, the bankers in my home State of Tennessee are very concerned whether they would be included or not.

And there is a lot of uncertainty that we are going to have to get to the bottom of there. From that point, though, I would like to turn to just another issue, Secretary, and that has to do with the President's budget.

The new budget lays out another \$2.5 trillion of spending increases and going to the Treasury Green Book that you just mentioned a few minutes earlier, another \$4.7 trillion of tax increases as well. Those tax increases, in my view, as you look at the Green Book, will have a lot more complications.

We have already got an overcomplicated tax code. I think this promises to overcomplicate it further. The most recent estimate that I have seen shows that individuals and corporations spend 6.5 billion hours on tax filing and reporting already, and it is hard to imagine a system as complicated, as bureaucratic as it already is, getting more simple with the addition of another \$4.7 trillion of new taxes.

And my question of you, and you may need to get back to me on this, is how many more forms or instructions are going to be required from the IRS to the American public to address this. How many more hours will be required to fill out new forms and new overhead to address this massive new tax increase?

Secretary YELLEN. Well, I can't give you an estimate at this point of the number of hours or forms, but if Congress would consider seriously the proposals, we would be able to make estimates of those things.

Senator HAGERTY. I will certainly consider it seriously, but it is clear to me that it is not going to get any less complicated. It is going to be more complicated considerably by the way it is moving.

Now, I just finish with this. I am very concerned again that the Green Book calls for more than \$100 billion in targeted tax increases on fossil fuels, and talking about further increases on fossil fuels, further complicating that business at a time when our economic security and our national security are in such a grave situation.

I think it really doubles down on the weaponization of our tax code against industries that are out of disfavor by this Administration, and it weakens us as a Nation. Anything that would lower investment in energy production right now will weaken our national security, so it is a grave concern.

Secretary YELLEN. I would say that fossil fuels have benefited from many special tax features that really are tax expenditures. They have benefited from that for decades. And at a time when we need to make a shift over time to clean energy, to be spending money to subsidize fossil fuels through the tax code is something that doesn't seem to our Administration to be appropriate.

Senator HAGERTY. Anything that increases the cost of producing energy right now, at a point we have had massive inflation in energy cost, and we are at a point right now where we cannot fulfill our obligations to our allies.

It is putting our Nation at a point of weaker, weaker economic security, weaker national security. I think we should not be doing that. Thank you, Madam Secretary. Appreciate you being here. Mr. Chairman, thank you.

Senator VAN HOLLEN. Thank you, Senator Hagerty. And I am going to turn it over to Senator Kennedy. Just one piece of business before that. If I run out before Senator Kennedy is finished asking his questions, I just want scout's honor, you will stay within the time limit, number one. I know you will. Thank you, my friend.

And number two, in case I can't get back, let me just say, Madam Secretary, thank you for appearing before the subcommittee. And members will have one week to submit questions for the record due on March 29.

And we would appreciate if your office could respond to those questions as soon as possible. Again, I will be here unless I get called up away, right, to get my questions up in another hearing. Thank you, Madam Secretary. Senator Kennedy.

Secretary YELLEN. Thank you, Senator.

Senator KENNEDY. Scout's honor, Mr. Chairman. Madam Secretary, I thought I understood your proposed budget, and I want to walk you through it again. Isn't it a fact that the President's proposed budget increases spending by half a trillion dollars over the current budget?

Secretary YELLEN. There is an increase in 2024 over 2023 by about that much, and at least—

Senator KENNEDY. Isn't it a fact that the President's budget proposes new taxes of \$4.7 trillion?

Secretary YELLEN. That is probably right. Yes.

Senator KENNEDY. Okay. And isn't it a fact, I am talking about gross debt now, not public, not debt held by the public. Isn't it a

fact that under the President's proposed budget, gross debt would go from \$32.7 trillion at the close of this year to \$50.7 trillion by 2033?

Secretary YELLEN. It is subject to statutory limitation. Yes, would go, as you said.

Senator KENNEDY. So, the President's budget would increase our debt by \$18 trillion.

Secretary YELLEN. Which is \$3 trillion less—

Senator KENNEDY. Right.

Secretary YELLEN. Than it would increase without the proposals in the President's budget.

Senator KENNEDY. So, what the President saying is these were my words, not his, because of his budget, we are going to have three heart attacks and a stroke instead of four heart attacks and a stroke.

Secretary YELLEN. Well, I would not agree that we are going to have three heart attacks and a stroke because we have a very large economy. And while the numbers that you cite are very big numbers, the size of our economy is also extremely large.

And I think a better metric for assessing what the impact of the budget is on our economy and whether or not it is manageable is real net interest on—the real net interest payments that we have to make relative to the size of our economy.

And those real net interest payments run throughout the 10 years of the budget at around or under 1 percent of Gross Domestic Product (GDP), which is historically normal.

So, debt is increasing, the size of the economy is increasing, interest rates are moving back toward more normal levels after a period of many years in which they were exceptionally low. And yet overall, what you see in this budget is real net interest on the debt, stabilizing at about 1 percent of GDP, which is a manageable and historically normal number.

Senator KENNEDY. So, \$51 trillion of debt up from 33 trillion doesn't bother you?

Secretary YELLEN. I think the path that has been set out in the President's budget is fiscally sustainable.

Senator KENNEDY. Okay. How much debt is too much? Tell me that.

Secretary YELLEN. Well, I just gave you the metric that I think is best for assessing fiscal sustainability.

Senator KENNEDY. Let me ask it in simpler terms. I didn't follow you there. It is what percentage of our GDP—what debt as a percentage of our GDP is too much?

Secretary YELLEN. So, it depends on what interest rates are. And real interest rates have been extremely low. This budget and previous budgets have projected that they would move up toward more normal levels over time, but certainly not the levels that we saw several decades ago. And—

Senator KENNEDY. Could you just answer my question, Madam Secretary. What percentage of—what percentage of debt of our GDP is too much?

Secretary YELLEN. Well, this budget has debt held by the public moving up to around 109 percent of GDP.

Senator KENNEDY. And that is not too much, in your opinion.

Secretary YELLEN. Historically, it is a high level, but on the other hand, interest rates, real interest rates have moved down substantially in recent decades. And so higher levels of debt to GDP are sustainable with lower real interest rates. And on balance, as I said, the interest burden of the debt is at a level that is quite reasonable in historic terms.

Senator KENNEDY. Madam Secretary, are you a Keynesian?

Secretary YELLEN. Well, I don't quite know what you mean by that, but I certainly—

Senator KENNEDY. Do believe that it is acceptable, indeed it is admirable for government when you are in a slow period of recession or more than a recession to stimulate the economy by spending—by borrowing money and spending.

Secretary YELLEN. It certainly can be. I certainly—

Senator KENNEDY. That is what I mean by Keynesian. Do you support that?

Secretary YELLEN. Well, there are different tools that can be used to stimulate an economy that is in a downturn, and it is—monetary policy is an alternative tool. And—

Senator KENNEDY. But let me go back to my question. Keynes said that when you are in a recession, you can borrow money and spend it, government can, to stimulate the economy and get you out of the recession.

Secretary YELLEN. Well, I am not going to make a blanket statement that I agree with that.

Senator KENNEDY. Well, let me ask you if you agree with this, a lot of people who say they are Keynesians, and based on what I have read of your writings you are Keynesian, they forget the second part of what Keynes said. He said, after you get out of the recession, you pay the money back. Did he not?

Secretary YELLEN. I don't recall that he said that.

Senator KENNEDY. He said it. I will show you that one too.

Secretary YELLEN. Show that to me.

Senator KENNEDY. I promised the Chairman I wouldn't go over and I want to yield back 2 seconds.

Senator VAN HOLLEN. Thank you, Senator Kennedy. And I am hoping that you would agree that all economists would agree that it is a bad idea to default on our debt. As we still try to figure out how to deal with these budget issues, I look forward to a conversation. This has been a good, I think, good discussion for all.

Thank you to the Members. Madam Secretary, thank you. And the hearing is adjourned. Well, Madam Secretary, I have—Senator Manchin has just arrived. I am going to give him seven—I am going to, as I said earlier, Madam Secretary, I am going to have to depart.

My other colleagues here may have to depart. This is—we will give seven—thank you, Senator Kennedy. But, Senator Manchin, you have got 7 minutes here, and I am going to—you will close out the hearing, all right. Thank you.

Senator MANCHIN. Thank you so much. I am so sorry. Hello, everybody. I am so sorry. I am glad you stayed. Madam Secretary, I know we have an awful lot to talk about, and you have been so kind in sharing and giving me some of your time in the meeting with you. But I think on the record, I would like to have a few

things that we can talk about, on the record, and make sure that we do.

First of all, you know, with all this going on and there is a lot of talk about the bank and this and that, and I think it was Senator Hagerty who was talking about over the \$250,000. I have been talking to a few colleagues and we were just wondering if it is—and, you know, you said you haven't gotten to that point yet.

So, let's say 90 percent of my West Virginia deposits are under \$250,000. And now they are going to pay a little bit higher premiums, I guess, or higher bank fees or somebody is going to pay. Is the bank absorbing that or will be passed on to the consumer?

Secretary YELLEN. Well, it is not obvious that it would be passed on to the consumer. I suppose it could be, but it may also be absorbed by the—it is a special one-time assessment—

Senator MANCHIN. If we are assuming that could happen, and maybe it could be the consumers, okay. They understand, you know, the bankers, I had all the community bankers in. What they believe would be unfair, they said, listen, we are in good shape. We move money around.

So, if we have a depositor that has \$1 million, this one banker says, you know, I will call three of my friends and say, can I move \$250,000 to you, \$250,000 to you, and \$250,000 to you. We do that all the time to make sure everyone is covered. That is my response.

He said, that is my risk responsibility, which made all the sense in the world. So, I know a lot of tools that we already have, but sometimes it is just bad banking practices. They all come to the conclusion they felt the San Francisco Feds did not do their job.

They thought they were, you know, laxed in basically what they should have enforced. It was 8 months without a risk manager at the bank, SVB, that they knew of. Is that factual?

Secretary YELLEN. Senator Manchin, I am not involved—it is the Federal Reserve in California that are involved in the supervision of that bank. I am not involved. I have read some newspaper stories about this, but this is not in the public domain and I don't know.

Senator MANCHIN. Well, for the record, I think you did the right thing when you all made your decision on taking care of depositors, but not the bank bailout and not the shareholders and all that. And I think there is a claw back. There is—you understand there is legislation for claw back.

Secretary YELLEN. Yes.

Senator MANCHIN. Because we think that there were nefarious acts by those responsible to protect themselves and the heck with our depositors and all the other people have fallen prey to this. So, we are hoping that you all can look at that, maybe give us your blessing.

Secretary YELLEN. Yes, certainly.

Senator MANCHIN. And in the \$250,000 above, I was just going to ask you this, from \$250,000 and above, it was—to me the reasonability would be if I need to keep about \$2 million in the bank because of payroll and inventory reasons, and I normally secure it at what \$250,000.

I got a \$1,750,000 at stake. Could I be able—should I be able to buy or pay a little higher bank fee to get protection up to the

amount with a cap maybe at ten, something—I am just—we have been talking, some Senators have been talking back and forth. Could the FDIC, and I think they said it would take the legislation—

Secretary YELLEN. It would take a legislation.

Senator MANCHIN. I don't think we should do it without you all involved showing us how to structure that. But if I could go back to my bankers and says, for those businesses you might have and even rural areas—they have to keep large amounts of cash because they need that. Now that they know that they are exposed, they would be the first ones to move to the bigger banks.

Secretary YELLEN. That is exactly right.

Senator MANCHIN. So, they are worried about that. And they said if you could offer some type of insurance policy, that they would pay for. So, the \$250,000, 80 to 90 percent of in rural areas, aren't going to be saddled with accommodating somebody that needs that type of protection.

Secretary YELLEN. I think often the uninsured depositors, especially in community banks, are local businesses that have payroll and can't manage with—

Senator MANCHIN. Does that type of evaluation make sense to you? Does it make—

Secretary YELLEN. I think this is very worthwhile, you know, for you and your colleagues to be discussing what is appropriate here, and we would be more than willing to work with you to think this through. It is worthwhile. Look, we are for the moment, we are trying to stabilize the situation using the tools at our disposal. But there certainly are—

Senator MANCHIN. Yes, I mean, these are questions asked by reasonable people in the business and they are just saying—

Secretary YELLEN. Of course, yes—

Senator MANCHIN [continuing]. If you are going to do something, rather than just now saying—they think if you set a precedent now that they are expecting the feds to bail everybody out, and I don't think that is what our intentions are.

Secretary YELLEN. I don't think that that is going to be needed. But we don't want to see contagious bank runs and a loss in confidence in our banking system, especially when the banking system is overall for the United States, very sound.

Senator MANCHIN. And this—this subcommittee hopefully will have Mr. Jerome Powell of the Feds telling us basically what they have been able to do since the CBB has happened as far as to enforce the oversight by the San Francisco Reserve and all the different reserves we have around the country. If they are looking at their more troubled areas, if you will.

Secretary YELLEN. It has been announced that Vice Chair for Supervision, Michael Barr, will do a thorough review of the supervision of this bank.

Senator MANCHIN. Now, I know this is in your bailiwick, okay. I know that the White House is currently working with the EU on a limited trade agreement that will allow them to become eligible for the first half of the EV credits.

What we are concerned about is, you know, I know the EU and I am fine. I said, I don't have a problem with our allies. What I

have a problem with is going to countries that we don't have what we would call a secure supply chain.

So, when we wrote the bill, we wrote, as you know I have spoken about this before, we wrote it with free trade agreements for us to have a free trade agreement, we knew there had to be more of a—more of a confidence that we are going to have a pretty good supply chain and not be held hostage.

Some of these other countries where an awful lot of the minerals come from are not in the EU. If you are trying to expand and the White House tries to expand that beyond, we are back in that critical situation where we have unreliable supply chains, where the Chinas, the Russias, the Irans, the North Koreas, all the different people who have various trade activities, they sometimes use unscrupulous tactics to hold those people hostage.

And they have already had a pretty good stake in it. I can assure you that was not the intent of how we wrote the bill.

Secretary YELLEN. Senator Manchin, I understand that the intent of the bill is that we should have secure supply chains, and any agreements that we would look at, and of course we will consult closely with you and with Congress, would be meant to make sure that we are securing our supply chains as the legislation is—

Senator MANCHIN. Well, you have been—we might respectfully at times agree to disagree on some things, but at least you have been kind enough to sit down and work with me, and I appreciate that. And we want to keep that going. I think we have furnished you with the concerns we had—

Secretary YELLEN. Yes.

Senator MANCHIN [continuing]. With production, you know, sourcing critical minerals, and processing versus the manufacturing, and why we think there is a difference there, and why we think it is imperative we keep that difference, okay.

And if we don't keep that difference, then basically this material, that they're considering part of the processing, which goes in the manufacturing portion, does not go into the processing at all. Processing is taking the raw materials, raw minerals and processing them into a form, then goes into—

Secretary YELLEN. And using it—

Senator MANCHIN. Okay. That is the differences. And we think that is very clear. And more, hopefully, that before you all come out with the rule and all that, we have more input in that or we are on the same page because that one causes a lot of problems.

Secretary YELLEN. So, I believe we are on the same page. We are working very hard on the rule and have said that we will get this rule out by the end of March, where we are certainly trying to meet that deadline. And have been consulting with you and your staff and broadly understand—

Senator MANCHIN. One final question, since I haven't put the clock on myself right now, but I am watching them go—don't tell on me. One final question. Knowing what we have and how critical the financial situation can be and just what the bank thing, just that one thing, what it did to our psyche, if you will, and our whole, could have unraveled so many things, right, with the SVB and all that started.

When you don't have the financial house in order, right now I would venture to say, what would you recommend we evaluate in how we operate our Government and our finances of our Government right now?

So, we are looking at all these other things. I hear about stress testing and all the things that goes on to evaluate, are they in a critical position or not? What do you think we could do to look at how we operate here?

And I want to be very clear, the way that both sides, Democrats and Republicans, are approaching the debt ceiling, there is not one person as far as out of 100 Senators that I truly in their heart believe that we should not hold anything hostage about paying our debts, or missing that, or going into default.

I really believe that in my heart. With that, I do not believe it is unreasonable for my friends and colleagues on the Republican side to say, can we sit down. Now if they are going to say, I will not vote to raise the debt ceiling unless you pass this, this, and this, I would not agree. That is a wrong approach.

Would we sit down and we can agree that we should be looking at these portions of our debt and how we have accumulated so much debt so fast. We know what we did with COVID. Take COVID out of the picture. We know what—how the rest of it. Or do we know how the rest of it accumulated in such a short period of time, especially since 2001. But even looking at 2013, the last 10 years, it has been unbelievable.

And the projections from Office of Management and Budget (OMB) doesn't quit. So, it scares the bejesus out of me and all the trust funds. I am hopefully that we can come to an agreement. And if you all would be receptive to considering, should we come to an agreement, that we can basically look at all of these things and within a 90-day period, come back with some recommendations and get a vote either up or down?

We are not holding anything hostage. We are voting to pay our bills. And all we have agreed on is we are going to put a bipartisan, bicameral group together to look at trust funds and look at the different things that are very vulnerable, the same as you do with a bank when you send your examiners in.

Secretary YELLEN. Senator Manchin, I believe being on a fiscally sustainable course is critical for our Nation, and we should sit down and have a very reasoned discussion about what is necessary to accomplish that. The President has offered to have discussions, but not with the sword of Damocles—

Senator MANCHIN [continuing]. Put forward, if you don't go, if we don't—yes—

Secretary YELLEN [continuing]. We are going to not pay your bills and have financial and economic chaos.

Senator MANCHIN. If I was capable of bringing some people together on both sides and says, listen, let's sit down and talk about what we think, that we could basically come and look at over a 3-month period to come back with a guaranteed vote on the floor, if we make recommendations, you don't have to vote for it.

And I they think, oh, it might be too toxic. I don't care what you think, let's look and see how we get our finances in order, because

we are not right now. And knowing what happened to the banks, you put all this in a concern, could that happen to our country?

Secretary YELLEN. Well, we should be stress testing our fiscal just as we stress test banks. We should be looking at what we—

Senator MANCHIN. But we don't, do we?

Secretary YELLEN [continuing]. Think what will happen in a base case, and what happens—

Senator MANCHIN. In worst case—

Secretary YELLEN. In alternative better and worse scenarios—

Senator MANCHIN. But I have been here for 12 years, Madam Secretary, and I have not had that happen or anyone approached me with that. So, I am glad that you have said that. And I think that you are right on.

Well, I want you to know, I won't participate and will not participate by holding anybody hostage. I will vote for the debt ceiling. But I would vote with the understanding that at least we can have a conversation with a guaranteed vote in 90 days on changes we think need to be made.

And I think that is a responsible, reasonable approach. So hopefully you can talk to your—to the White House and I will be talking to them, too, and seeing if they would agree to something such as that.

Secretary YELLEN. I mean, I know the President is open to discussions on this topic.

Senator MANCHIN. Well, with that, sometimes it pays to be late. I had so many—I am so sorry to keep you this—but let me just say, I want to thank you, Madam Secretary, and your staff for being so accommodating and forthright with us and coming before and appearing before the subcommittee.

Our members will have one week to submit questions for the record, which are due March 29. I would appreciate if your office can respond to those questions as soon as possible.

ADDITIONAL COMMITTEE QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the agencies for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO HON. JANET L. YELLEN

QUESTIONS SUBMITTED BY SENATOR BILL HAGERTY

Question 1. The SEC's "dealer" proposal would create a quantitative threshold for the amount of Treasuries a firm could trade without being forced to register as a dealer. I have significant concerns with the negative impact this will have on Treasury liquidity. My colleagues and I have sent letters to the SEC and to you on this issue, but have not received sufficient responses.

—Secretary Yellen, may you please lay out the specific steps the Treasury Department is taking to ensure the SEC isn't damaging the Treasury market with this proposal?

Answer. Treasury is collaborating with its fellow members of the Inter-Agency Working Group on Treasury Market Surveillance (IAWG), which includes the SEC, to evaluate a range of potential policies to enhance the resilience of the Treasury market. In November 2022, the IAWG published a Staff Progress Report, outlining the significant progress made towards its goals and highlighting ongoing workstreams, including a discussion of the SEC's dealer and government securities dealer registration rule proposal. As indicated in the Staff Progress Report, the SEC's staff is considering comments received on this rule proposal in making recommendations for the SEC's consideration. Treasury will continue to work with the

IAWG on this and other policy options to enhance the resilience of the Treasury market.

QUESTIONS SUBMITTED BY SENATOR JOHN BOOZMAN

Question 1. FinCEN has received widespread criticism that its proposed rule concerning access to the beneficial ownership registry is not consistent with congressional intent when drafting the Corporate Transparency Act. This criticism has come from across the political spectrum and from the financial services industry, among others.

—Can you give me your commitment that you will work with me to resolve these concerns?

—Will you ensure that FinCEN works with stakeholders and takes into account the concerns raised by Congress, so they are faithful to Congressional intent?

Answer. Yes. FinCEN appreciates all the comments submitted in response to the beneficial ownership information access notice of proposed rulemaking. In total, FinCEN received more than 80 comments on the proposed rule and is carefully reviewing them. FinCEN is considering the concerns raised in the comments and intends to remain faithful to Congressional intent. FinCEN's priority is to implement a highly useful beneficial ownership reporting regime, while minimizing burden on reporting companies (particularly small businesses) and financial institutions, consistent with the Congressional intent set out in the Corporate Transparency Act (CTA). Because FinCEN is engaged in an active rulemaking process, we are unable to comment further on any particular policy decision at this time.

Question 2. Congress passed the Corporate Transparency Act (CTA) in 2020 to meet the goal of promoting financial transparency while eliminating duplicative reporting requirements and reducing unnecessary regulatory costs and burdens for financial institutions. As drafted, FinCEN's proposed rule creates a framework in which banks' access to the Registry will be so limited that it will effectively be useless, resulting in a dual reporting regime for both banks and small businesses.

—Will you work to ensure that FinCEN rectifies the redundancies and inefficiencies proposed under the current rule and establishes a more efficient framework that will allow financial institutions to fulfill regulatory requirements and better support AML/CFT compliance?

Answer. FinCEN's priority is to implement a highly useful beneficial ownership reporting regime, while minimizing burden on reporting companies (particularly small businesses) and financial institutions, as required by the CTA. FinCEN understands the concerns raised by commenters regarding access by financial institutions to beneficial ownership information, as well as concerns about the permitted uses of such information. FinCEN is reviewing comments to the beneficial ownership information (BOI) access notice of proposed rulemaking and is considering concerns raised by commenters as it works to finalize the rule. FinCEN is engaged in an active rulemaking process, so we are unable to comment on any particular policy decision at this point.

FinCEN also expects that many issues raised by commenters will also be considered in the future revision of its Customer Due Diligence (CDD) Rule. The CTA requires FinCEN to revise the CDD Rule within 1 year of the effective date of the final beneficial ownership information reporting rule. In revising the CDD Rule, the CTA directs FinCEN to reduce unnecessary or duplicative burdens on financial institutions and legal entity customers. FinCEN will consider revision of the CDD Rule through a future rulemaking process that will provide the public with an opportunity to comment on the proposal.

SUBCOMMITTEE RECESS

Senator MANCHIN. The subcommittee meeting will be adjourned on that.

Secretary YELLEN. Thank you.

Senator MANCHIN. Thank you.

[Whereupon, at 4:19 p.m., Wednesday, March 22, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2024

WEDNESDAY, JULY 19, 2023

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:45 p.m., in room SD-124, Dirksen Senate Office Building, Hon. Chris Van Hollen (Chairman), presiding.

Present: Senators Van Hollen, Durbin, Coons, Manchin, Hagerty, Collins, Boozman, and Kennedy.

U.S. SECURITIES AND EXCHANGE COMMISSION

OPENING STATEMENT OF SENATOR VAN HOLLEN

Senator VAN HOLLEN. This meeting of the Senate Appropriations Committee's Subcommittee on Financial Services and General Government will come to order.

I would like to begin by thanking our Ranking Member, Senator Hagerty, and the Members of the subcommittee for their input and work in getting the FSGG Appropriations Bill through our subcommittee and through the Full Committee last week.

I also want to take this opportunity to thank the Vice Chair of the Full Committee, Senator Collins, for working with the Chair, Senator Murray, to create the framework that allows us to proceed and conduct our business. So thank you, and to all the Members of the subcommittee and Full Committee, thank you.

I think Members of the subcommittee know full well that this subcommittee covers a broad array of agencies, lots of agencies under our jurisdiction, and while we will not be able to have an oversight hearing on every single one of those agencies, we will be working to conduct more oversight hearings over some of the biggest ones, including today, the SEC.

As part of the Appropriations process, we did not fully fund the SEC's request, but I worked with Ranking Member Hagerty to propose what we thought adequately supported the SEC's needs to ensure market transparency and ensure the integrity of those markets. The fiscal year Bill this Committee passed last week includes \$2.4 billion for the Commission.

Today, we welcome the Chairman of the SEC, Chairman Gary Gensler. Gary Gensler was born and raised in Baltimore City, and besides picking the right State to be born in, just a matter of good

fortune, Mr. Gensler also has many earned qualifications that bring him to the position he now holds.

Mr. Gensler served as the 11th Chairman of the Commodity Futures Trading Commission, CFTC, and has been a leading national expert on blockchain and other modern finance issues. He served as a professor of the Practice of Global Economics and Management at MIT. He also has considerable experience from his time in the private sector as a partner and co-head of finance at Goldman Sachs. Those are just a few of the touchstones of Mr. Gensler's experience that brings him to this position.

Chairman Gensler has led the SEC with a focus on transparency and adaption to changing market conditions. I particularly appreciate the updates he has made to insider trading disclosure with last year's revisions to Rule 10b5-1, on insider trading, an issue that Senator Fischer and I have worked on together.

I also appreciate Chairman Gensler's partnership in the implementation of the Holding Foreign Companies Accountable Act. This was bipartisan legislation. I was pleased to team up with Senator Kennedy, also a Member of this Committee, to require that all companies that are listed on U.S. exchanges comply with the same auditing standards that apply to U.S. companies.

Companies based in China had been playing by their own set of rules, and I want to commend Mr. Gensler and the team at the Public Company Accounting Oversight Board, PCAOB, for ensuring compliance with the requirements of this new law. I know, Mr. Chairman, that this is an ongoing effort.

Senator Kennedy and I also hope to ensure that Chinese companies that trade on our exchanges, and all foreign public companies trading on our exchanges are held to the same insider trading disclosure rules as U.S. companies, and we believe that the Holding Foreign Insiders Accountable Act will be part of this year's Senate National Defense Authorization Act we hope to pass next week. And again, I want to thank Senator Kennedy for his leadership in this effort.

Under the leadership of Chairman Gensler, the SEC has responded to changing market conditions, which are only becoming more complex. Industries like digital assets and crypto currencies have evolved rapidly, growing by billions of dollars, in large part due to everyday retail investors seeking to grow their wealth. It is critical that the Commission have the flexibility to pursue bad actors in our capital markets, like FTX, which reportedly profited by improperly acting as an exchange platform and defrauding countless investors.

I also know the SEC is taking lots of public input as it seeks to respond to the growing market demand for material information about environmental, social, and governance issues. Our institutional investment community has also asked for this transparency, and markets are responding and evolving, as should our regulators.

There are also many issues regarding new innovations, especially AI, that could impact the markets for good or for ill. Chairman Gensler gave an important speech about that, I believe just yesterday.

These, colleagues, are just some of the issues I hope we can cover today. And before I turn the floor over to Chairman Gensler, I rec-

ognize Senator Hagerty for his opening remarks. And again thank him for his help as we move this legislation through the Full Committee and onto the floor.

OPENING STATEMENT OF SENATOR BILL HAGERTY

Senator HAGERTY. Chairman Van Hollen, thank you. And I want to thank your staff as well for our partnership through this appropriations process. I think we have made a lot of progress and I appreciate you holding this important hearing today.

Chairman Gensler, I want to welcome you. I look forward to your opening statement as well.

Last week, the Full Committee approved the fiscal year 2024 Financial Services and General Government Appropriations Bill by a vote of 29–0, which is no small feat. The last time the Committee unanimously approved the FSGG Bill was in September of 2019. And interesting, that was the last time that the Chairman of the SEC came before this subcommittee. So we are pleased to see you here today.

As I mentioned, the last time the subcommittee met, my top priority as Ranking Member is to work with my colleagues to conduct rigorous oversight, strengthen U.S. financial markets, and ensure that taxpayer dollars are spent responsibly. The American Financial system is one of our greatest assets and advantages, and having access to deep liquid markets has been critical to our role as the world leader in innovation and economic prosperity.

Congress is currently debating the SEC's budget for fiscal year 2024, which is significant. I am familiar with the day-to-day administrative work of the agency and have great respect for the career staff. We need to fund that work. My concern, however, is when the agency diverts these resources and spends these dollars on initiatives not even within the authority of the SEC.

And here are a few specific examples. Chair Gensler, your climate change proposal, many sophisticated commentators believe that this is well beyond the SEC's authority. We know it is costly, meaning tens of billions of dollars, or more, as companies struggle to comply. We know small firms will, particularly, be hurt. We also know it is unlikely to provide meaningful insight for return-oriented investors, but it will be a bonanza for the lawyers who will have a new cottage industry.

Yet, the SEC blindly pushes ahead, consuming vast resources now, and that will be compounded when the inevitable lawsuits come pouring in.

Then there are the actions concerning shareholder proposals and proxy advisors. A study from Harvard Law School showed that five individuals account for roughly 40 percent of all shareholder proposals here. That is a remarkable concentration of power. Fifty million households have to consider the whims of five individuals.

The SEC had made progress on limiting this abuse of power, but this was reflexively undone in 2021 with no study, increasing the number of PEP proposals flowing in, and even allowing shareholder proposals that would require companies to break the law, because shareholder proposals are so inexpensive to create, because shareholder proposals are now flooding the zone, as a result, investors turn to so-called proxy advisors for voting recommendations.

Many, in effect, outsource their voting to these proxy advisors. The two leading firms are a duopoly, both foreign-owned, wielding vast influence over American public companies, which creates many obvious conflicts.

Mr. Chairman, your predecessor, Jay Clayton, after lengthy public comment, made changes to the regulation of these proxy advisor firms, requiring them to be more transparent and to give companies time to correct proposals' errors, including those that recommend votes for proposals that would require them to break the law. You took away that transparency and the opportunity for better information.

So by virtue of your actions, you increase the business of the proxy firms, made them less accountable, and reduced the quality of information available to shareholders. This too is now being litigated over whether, through this process, you failed to follow the Administrative Procedure Act.

Regardless of the outcome, I can tell you that these so-called "proxy advisors" are making our financial markets significantly weaker and less democratic.

There are other examples: shortened comment periods, creating related proposals as separate to avoid considering the cumulative and combined effects, introducing new Final Rules that include key points not in the proposal subject to public comment, the list goes on.

This issue is not unique to the SEC. Like Lina Khan at the FTC, ignoring procedural requirements and losing in court, seems to be worth the price to push our markets to the left. In fact, in the enforcement arena, it seems willing to bring cases that you must know have very high odds of losing. And perhaps you think making a statement is worth the loss.

Well, what do you say to the person who has to defend themselves in one of these messaging cases? Do you apologize? Do you thank them? There is no good answer here, because in America, we should never use our law enforcement authority on innocent people to make statements, and we certainly shouldn't hamper the efficiency and competitiveness of our capital markets to score political points.

While we need referees that enforce the market rules and punish bad actors, I am concerned that the SEC has moved well beyond its role as a market regulator, and is seeking to make policies that are both beyond its authority and destructive to our economy.

In summary, this Committee's job is to ensure the SEC has the resources it needs to fulfill its statutory duties, and that it is using those resources appropriately.

And your job, Mr. Chairman, is to be a responsible steward of those resources and stay within your boundaries.

I am concerned that that is not happening. This requires accountability, yet inadequate responses to Congressional directives and questions, including many that I have sent myself, suggest a resistance to accountability. And that makes today's hearing all the more important.

So I look forward to your opening statement, Mr. Chairman, and to the opportunity to discuss these matters further. Thank you.

Senator VAN HOLLEN. Thank you, Senator Hagerty, and I don't know if the Vice Chair wants to—okay, thank you.

So let me just turn the floor over to you now, Chairman Gensler, for your statement. If you could keep it within 5 minutes, that would be helpful to the Committee. And I should say, if you see Members popping up and down, we are going to have a series of five votes, so we will probably be playing a little musical chairs up here. But please begin.

STATEMENT OF HON. GARY GENSLER, CHAIRPERSON

Chairman GENSLER. Thank you and good afternoon, Chair Van Hollen, Ranking Member Hagerty, Vice Chair Collins, and Members of the subcommittee. Thank you for inviting me here to testify today on the Securities and Exchange Commission's fiscal year 2024 Budget Request.

And as is customary, I would like to note that my views are my own, as Chair of the SEC, I am not speaking on behalf of my fellow Commissioners or the SEC staff. I also wrote this myself; it was not done by generative AI. Just to make that clear.

I really, I want to thank this Committee for the approval last week of the funding the SEC at the levels that you just mentioned. While that funding would allow the SEC to continue to operate at its current level, it is \$73 million less than the fiscal 2024 request. Thus, I just want to—the testimony that I submitted for the record is the full President's budget request.

Just to put it in context, the difference, what it will mean is; we will not be able to hire additional staff. I think we put in for about 170 more people, and some additional important technologies to watch out for the investing public process tips, review public company disclosures. But again, I do appreciate it, and if it helps, getting a unanimous vote, I will come back any year you want, Chair Van Hollen and Ranking Member Hagerty.

To put all of this in context, the SEC now, though, is just about 3 percent larger than it was 7 years ago, in 2016, in terms of headcount. The bulk of this year's budget request would be to support currently authorized staffing levels given inflation. The SEC is critical to the American public. For 90 years, the Federal Securities Laws, and the work to oversee them, have played a crucial role in good times and in bad times, in times of stress, and the laws benefit investors, issuers, and the markets in the middle.

I think the core principles of U.S. Securities Regulation have contributed to America's economic success and geopolitical standing. And that is really the key for our future generations. The agency's clients are ultimately 330 million Americans, your constituents, who invest in their 401(k)s, IRAs, trade through brokerage apps, take out mortgages, auto loans, robo-advisers, and the like, and access the capital markets with good ideas to build businesses.

We have seen tremendous growth and change in our markets, and more people than ever participating. Just in the last 5 years, the number of clients of investment advisors grew 70 percent. During the same period, average daily trading in the equity markets have more than doubled.

Technology is also rapidly transforming our markets and business models, whether it is electronic trading, the cloud, artificial in-

telligence, of course, predictive data analytics. And the Chair also mentioned things about, what I would call, not your words, the Wild West of the Crypto Markets, rife with noncompliance, where investors have put hard-earned assets at risk in a highly speculative asset class.

Such growth and rapid change also means more possibility for wrongdoing. As the cop on the beat, we must be able to meet the match of bad actors. Thus, it takes a sense, takes time, and it makes sense for the SEC to grow along with the expansion. Again, we are just about the size we were 7 years ago.

With the Committee's help, this year, for fiscal 2023, we were able to get appropriated funds to add 400 positions that is on a base of about 4,500. And given the Appropriations' timing, the bulk of the hires are still being on-boarded during the second half of this year. Thus, the fiscal year 2024 request seeks the full-year funding for those staff, plus 170 more.

I also want to mention our efforts to reduce costs. We have worked with GSA to right-size our leasing footprint, and we will vacate one of our three headquarter buildings here in Washington; they are right by each other. But we think this is important. This will save about \$14 million per year in savings. We are looking at other right-sizing around our 11 Regional Offices.

As this committee continues its work, it is worth noting that the SEC's funding is deficit-neutral. We charge fees, and that covers our full cost. And this has been since the 1930s.

Two years into this role, I am so grateful to work alongside remarkable staff and my fellow Commissioners, to help maintain America's capital markets, the best in the world. We can't take the leadership for granted, though, and so the fiscal year 2024 budget request would give the agency the resources to better protect the American public.

I am pleased to take your questions.

[The statement follows:]

PREPARED STATEMENT OF GARY GENSLER, CHAIR,
SECURITIES AND EXCHANGE COMMISSION

Good afternoon, Chair Van Hollen, Ranking Member Hagerty, and members of the Subcommittee. Thank you for inviting me to testify today on the Securities and Exchange Commission's fiscal year 2024 budget request. As is customary, I'd like to note that my views are my own as Chair of the SEC, and I am not speaking on behalf of my fellow Commissioners or the SEC staff.

PROTECTING THE PUBLIC FOR 90 YEARS

The SEC is critical to the American public. For 90 years, the Federal securities laws—and our work to oversee them—have played a crucial role in good times and in times of stress. These laws, the first of which was enacted in 1933, benefit investors, issuers ranging from startups to multinational corporations, and the markets in the middle. The core principles of U.S. securities markets regulation have contributed to America's economic success and geopolitical standing around the globe.

This agency's clients are the 330 million Americans—your constituents—who invest in their 401(k)s and IRAs, trade through brokerage apps, take out mortgage or auto loans, or use robo-advisers. They're also Americans accessing the capital markets to fund their businesses from small to large, their new ideas and innovations. We oversee broker-dealers; stock exchanges; clearinghouses; investment companies, such as mutual funds and exchange-traded funds; investment advisers; and public company issuers, among other participants in our financial markets.

It's for the investing public and issuers that our staff must continue to drive efficiencies, help promote for financial stability, and modernize our rulesets for today's

\$100 trillion capital markets as well as today's technologies, in a manner consistent with our Congressional authorities.

Growth and Change in the Markets

We've seen tremendous growth and change in our markets. More people than ever are participating—trading and using tools and technologies that were unavailable even a few years ago.

For example, from 2017 to 2022, the number of clients of registered investment advisers grew nearly 70 percent from 34 million to 57 million. During that same period, average daily trading in the equity markets more than doubled from more than 30 million transactions to more than 77 million.

Technology is rapidly transforming our markets and business models. These changes range from electronic trading and the cloud to artificial intelligence and predictive data analytics, just to name a few. There has been dynamic change in communications to and among investors, from Reddit forums to celebrity influencers. Further, we've seen the Wild West of the crypto markets, rife with non-compliance, where investors have put hard-earned assets at risk in a highly speculative asset class.

Such growth and rapid change also mean more possibility for wrongdoing. As the cop on the beat, we must be able to meet the match of bad actors. Thus, it makes sense for the SEC to grow along with the expansion and increased complexity in the capital markets.

I am proud of this agency. I am proud of our dedicated staff. It has done remarkable work with limited resources. With funding to meet the scale of our mission, we can be an even stronger advocate for the American public—investors and issuers alike.

Further, while recent market volatility raises many important issues for policymakers and the American public, it is also a reminder of the SEC's need to be adequately resourced.

BUDGET REQUEST

I am pleased to support the President's fiscal year 2024 request of \$2.436 billion for SEC operations, to put us on a better track for the future. The bulk of the increase would be to support currently authorized staffing levels given inflation. In addition, we've requested \$39.6 million for needs supporting General Services Administration (GSA)-led real estate projects.

Though in this testimony I'm discussing the full request, I want to thank this Committee for its bipartisan approval last week on the bill that would fund the SEC at \$2.364 billion, which would allow the SEC to continue operating at its current level.

To put this in context, with this Committee's help, fiscal year 2023 funding for the first time would bring the agency's staffing back above where we were 7 years ago. The SEC this year is expected to be approximately 3 percent larger than it was in fiscal year 2016. Meanwhile, the demands on our talented staff have grown dramatically.

The agency's oversight function is vast. In addition to the approximately 40,000 entities I mentioned above, we oversee credit rating agencies, the Public Company Accounting Oversight Board, the Financial Industry Regulatory Authority, the Municipal Securities Rulemaking Board, the Securities Investor Protection Corporation, and the Financial Accounting Standards Board.

In fiscal year 2023, the number of positions funded by Congress was 5,303, a much-needed increase of 400. We're now in the process of filling those positions. The fiscal year 2024 request seeks funding for an additional 170 positions, as well as full-year funding for those staff hired in fiscal year 2023. Considering full-time equivalents (FTEs)—or actual time worked—the fiscal year 2024 request would support 5,139 FTEs.

As this Committee considers its work, it's worth noting the SEC's funding is deficit-neutral; appropriations are offset by transaction fees.

The SEC has 30 Divisions and Offices across our 11 regional locations and Washington, DC headquarters. I'm summarizing below the budget requests for our six Divisions and will briefly touch on technology and real estate. For further details as

well as a review of the other offices of the SEC, please reference the fiscal year 2024 Congressional Budget Justification.¹

Full-time equivalents (FTEs) at the SEC and in individual Divisions. Overall SEC FTEs include all Offices and Divisions.

SEC FTEs (FY 2016 - FY 2024)

| | FY 2016 Actual | FY 2022 Actual | FY 2023 Enacted | FY 2024 Request |
|----------------------------|-------------------|-------------------|--------------------|--------------------|
| SEC Overall | 4,554 | 4,547 | 4,685 | 5,139 |
| Enforcement | 1,380 | 1,311 | 1,325 | 1,434 |
| Examinations | 1,023 | 1,051 | 1,061 | 1,144 |
| Corporation Finance | 477 | 395 | 404 | 454 |
| Trading and Markets | 258 | 262 | 271 | 309 |
| Investment Management | 183 | 205 | 209 | 238 |
| Economic and Risk Analysis | 151 | 146 | 161 | 198 |

ENFORCEMENT AND EXAMINATIONS

The Divisions of Enforcement and Examinations account for about half of the SEC's staff. Without examination of compliance with and enforcement of our rules and laws, we can't instill the trust necessary for our markets to thrive. Stamping out fraud, manipulation, and abuse lowers risk in the system. It protects investors and reduces the cost of capital. The whole economy benefits from that.

Division of Enforcement

The SEC received more than 35,000 separate tips, complaints, and referrals from whistleblowers and others in fiscal year 2022. To give context, this is more than double the number we received in fiscal year 2016.

During the same period, the Division shrank 5 percent.

Even with limited resources, the Division brought more than 750 enforcement actions in fiscal year 2022, a 9 percent increase over the prior year. Our actions resulted in orders for \$6.4 billion in penalties and disgorgement.

Meanwhile, rapid technological innovation in the financial markets has led to misconduct in emerging and new areas, not least in the crypto space. Addressing this requires new tools, expertise, and resources.

The additional staff will provide the Division with more capacity to meet these challenges, investigate misconduct on a larger scale, and accelerate the pace of enforcement investigations to resolution.

This year's request would grow the team and get the Division to just 4 percent more than it was in fiscal year 2016.

Division of Examinations

The Division of Examinations serves on the front lines to help ensure firms comply with the law.

In fiscal year 2022, we conducted more than 3,000 examinations across our tens of thousands of registrants, from investment advisers to broker-dealers to exchanges, to ensure they are following their legal obligations to customers, including seniors and other vulnerable investors.

Importantly, the Division is the first line of defense for the investing public relying on investment advisers. Their numbers have grown significantly in the last 5 years. Registered investment advisers grew by 20 percent—to about 15,000, up from approximately 12,500 in 2017. During the same period, the number of private funds advised by registered investment advisers increased by 50 percent to approximately 50,000. This stretches thin the limited resources of the Division.

¹ See Securities and Exchange Commission, "Fiscal Year 2024 Congressional Budget Justification" (March 10, 2023), available at https://www.sec.gov/files/fy-2024-congressional-budget-justification_final-3-910.pdf.

Further, we work in parallel with self-regulatory organizations to examine registered broker-dealers; in each of the last 5 years, we jointly examined nearly half of them—even as the number of daily transactions in the equity markets more than doubled.

Our fiscal year 2024 request would help the Division grow to 1,144 FTEs, allowing it to keep pace with the market challenges of the last decade. The majority of this increase relates to full-year funding for those staff positions authorized and hired in fiscal year 2023.

These additional resources would strengthen the Division’s ability to protect American families by addressing risks in the crypto markets, cyber and information security, and the resiliency of critical market infrastructure.

PROGRAMMATIC DIVISIONS

Next, I will turn to our three programmatic Divisions.

Corporation Finance

The Division of Corporation Finance oversees the disclosures of public companies so that investors can make informed investment decisions. It’s important for investors to receive useful, timely, and accurate disclosure.

During the last 3 years alone, the number of reporting companies the Division oversees has increased by 18 percent to 7,836, primarily due to initial public offerings. In addition, merger activity has more than tripled 2020 levels in the last two fiscal years. In contrast, the Division’s staff is still approximately 17 percent below fiscal year 2016.

Today’s budget request would grow the team to 454 FTEs. With this increase, the Division still would be 5 percent smaller than it was in fiscal year 2016. Nonetheless, additional resources would allow the Division to serve investors more ably as markets grow and evolve.

Investment Management

The Division of Investment Management oversees the funds and advisers that steward nest eggs for millions of American investors.

It oversees more than 30,000 registered entities, including more than 17,000 registered funds and 15,000 investment advisers.

As discussed earlier, we’ve seen significant growth in the number of investment advisers and private funds. Further, the assets managed just by private funds, now at approximately \$25 trillion in gross assets, have surpassed the size of the entire U.S. commercial banking industry of approximately \$23 trillion.

Overall, the combined assets managed by registered investment companies, private funds, and separately managed accounts the Division oversees has surpassed \$100 trillion. Given this growth in the markets, we’ve asked for funding to support 238 FTEs.

Trading and Markets

The Division of Trading and Markets serves on the front line for maintaining fair, orderly, and efficient markets. Market monitoring and supervision are essential parts of the Division’s activity—especially during times of market stress.

The markets and the market participants we oversee represent a significant and growing number of market transactions as well as volume of trades. The Division oversees more than 3,500 broker-dealers, 24 national securities exchanges, 99 alternative trading systems, 50 security-based swap dealers, and seven active registered clearing agencies, among other entities. Further, the Division is responding to an increasing number of public inquiries, up by more than 67 percent since fiscal year 2019 to approximately 20,000 inquiries in fiscal year 2022.

In fiscal year 2024, we’ve requested 309 FTEs to support this important function of the Commission.

ECONOMIC RISK AND ANALYSIS

Economic analysis is critical to all of the agency’s work. The Division of Economic and Risk Analysis supports the Commission in every role, whether it’s enforcement or examinations, monitoring the markets, or rulemaking.

In the Enforcement context, the Division’s staff is instrumental in identifying potential wrongdoing, assessing ill-gotten gains, and working to return funds to harmed investors.

The Division’s economists are involved in every aspect of the agency’s rulemaking. Proposing and adopting releases include economic analyses that consider the costs and benefits of our rules as well as their effects on efficiency, competition, and capital formation. Those analyses are included in proposing releases that are put out

for public comment, and staff throughout the agency actively engages with the public to receive input, including on the economic analyses.

Fiscal year 2023 has gotten us to modestly above where we were in 2016 for FTEs. Given the critical nature of the Division's work, though, for fiscal year 2024, we've asked for funding to support 198 FTEs.

ADDITIONAL MATTERS

Technology

We live in transformational times. The amount of data analysis that the SEC processes in the Division of Enforcement alone has grown 20 percent year over year for the last 3 years. Cyber threats have placed our financial sector on high alert. As technologies evolve, it is important that the SEC's information technologies follow suit.

Thus, we have requested \$393 million to support the Commission's data analysis, cybersecurity, and other IT needs. This request assumes full use of an additional \$50 million from the SEC Reserve Fund for multi-year IT projects and programs. To put these figures in context, this spending is dwarfed by what some of the biggest market participants spend in a month on technology.

Real Estate

Another important part of our budget is for offices and leases. We have offices in Washington, DC, and 11 other places. The total cost in fiscal year 2023 was 5 percent of our budget.

Over the years, we've worked with the GSA to rightsize our leasing footprint. In the last 9 years, we have shed 140,000 rentable square feet across our facilities. We are in the process of shedding another 30,000 rentable square feet in our San Francisco and Fort Worth regional offices.

Further, we are preparing to vacate one of our three headquarters buildings in Washington, DC, by the end of this fiscal year, resulting in a reduction of 210,000 square feet of space and approximately \$14 million per year in savings.

The GSA also secured a new lease to move the SEC headquarters in Washington to another building. The separate fiscal year 24 request of \$39.6 million would support GSA's work on buildout and move-related costs for this effort and for the replacement lease for our Atlanta office. The SEC proposes to offset these costs with fee collections and return any unused amounts to fee payers or the Treasury after project completion.

With the finalization of a new Collective Bargaining Agreement, we look forward to reassessing our facility needs and working with GSA on efforts to relinquish additional space it deems marketable in the coming years.

CONCLUSION

Two years into this role, I am grateful to work alongside this remarkable staff and my fellow Commissioners to help maintain America's capital markets—the best in the world. We can't take our leadership in capital markets for granted, though.

The SEC is working hard day in and day out to keep pace with the dramatic growth and change in the markets. This fiscal year 2024 budget request would give the agency resources to better protect the American public.

I thank the Committee for providing me the opportunity to summarize this budget request. I am pleased to take your questions.

Senator VAN HOLLEN. Thank you, Chairman Gensler. And I think what we will do, is we will have 6-minute rounds of questions. And if people want more than one round, we will try and accommodate that as well.

So Mr. Gensler, you talked a little bit about the “Wild West of Crypto Currencies”. I would like you just to take a few minutes to talk about some of the fundamental issues at stake here, and the issues of jurisdiction regarding the SEC, the CFTC, which you used to chair, and how we deal with these entities that people are trying to figure out whether they are fish or fowl.

Chairman GENSLER. I thank you for that. The investing public, not just here in this country, but around the globe, has taken an interest in these crypto assets, the so-called crypto tokens or cur-

rencies. And generally speaking, there is some, group of entrepreneurs behind those projects.

And what we have in America is laws that are clear, that are on the books, that if you are raising money from the public, and the public is anticipating profits based on the efforts of others; that comes under the Securities laws. This is something that was written in the 1930s, but as recently as Supreme Court Justice Thurgood Marshall wrote an opinion about 40 years ago, that Congress painted with a broad brush to protect the investing public.

And so at the core, that is a question: How many of these 15- to 20,000 tokens have attributes that they are investment contracts under the law? Investment contracts are part of the Securities Law, and many of them have a group of entrepreneurs in the middle, and investors are anticipating profits based on the efforts of that group of parties.

And then there are the companies that then are facilitating investment in it; they can call themselves crypto lending, crypto trading, and the like. We at the SEC have very robust authorities around these platforms. You asked me about my current job—my former job, a great agency, I was so proud to chair that agency too, the CFTC, doesn't have similar authorities.

So to the extent that some tokens are not what I might call crypto security tokens, but they are non-securities, our sister agency, our sibling agency, under Chair Benham, has authorities over there, but they are not, they are frankly not as robust as what we have.

We are a disclosure-based regime, and if I can close on this, we are a disclosure-based regime, and so when the investing public is anticipating profits based on the efforts of others, it is best that those others, you know, give full, fair, and truthful disclosure. This is a field that has been rife with fraud, and scam, and hucksters, there are also good-faith actors.

Our goal at the SEC is to bring the field into compliance within the Securities Law where these tokens—and not prejudging any one of them—where they are securities, and then the platforms themselves, that they come into compliance, rather than what they are doing, often now, out of compliance, is not protecting the investing public against fraud manipulation, commingling their functions, and often in conflict with their investors, trading against their investors.

Senator VAN HOLLEN. Well, as you know, I think we, on a bipartisan basis, think this is an important, ongoing conversation about the contours of policy. I just want to express my thanks to you and your team at the SEC, for being important cops on the beat, and exercising the authorities that you do have under current law, to go after bad actors that are attempting to defraud investors and the public. We talked a little bit earlier, offline, about the issues of whether or not your budget can accommodate new technology investment, right?

And we are talking about cryptocurrency, which we weren't talking about, at least here on the Hill, 10 years ago. Technology obviously is always on the move. I guess my question to you is where do you see the SEC's budget capacity going when it comes to keep-

ing up with technology? And if you could also take a moment to comment on the AI, both risks and/or promise.

Chairman GENSLER. So as you mentioned, we have about, for 2024, looking for about looking for about \$2.4 billion, all paid for by transaction fees. But only about one out of 6 dollars, or about \$400 million of that is technology. Often to keep up with the Legacy systems that we have, and we could, certainly, with this Committee's help in Congress' helped, use more in the technology area.

In terms of artificial intelligence, I think it is the most transformative technology of our times, every bit as transformative as the Internet in the 90s, but the mass production of automobiles in the 1920s. I mean, I think it will change the job markets, it will be—have to be consideration for other members, and other responsibilities around national security, and geopolitical competition, and so forth.

But as it relates to finance, just as it relates to the SEC, I would mention three quick things: One, fraud is fraud. If you use artificial intelligence to deceive the public, it is still under the Securities laws. Two, with the algorithms, parties are now thinking about optimizing the communications to investors, not just on what is good for the investors, but maybe what is good for the advisor or broker-dealer. And it will still have to put the investor first, not the robo-advisor, or robo-broker first.

And thirdly, I do think, longer-term, it is going to create fragility, and the financial crisis of 2028 or 2033, somebody is going to turn around and say, well, I didn't realize that all these algorithms are based upon some base foundation model, and the mortgage market all went one way, maybe, or this market.

I am not trying to predict which market, but these, the economics of artificial intelligence, I think, will lead to one, two, maybe three base models. And it is simply because it takes so much computational power, so much data, and what is called network effects. And artificial intelligence is really going to drive a lot of efficiency. It will probably boost some productivity, boost our economic growth, but there are also these challenges.

Senator VAN HOLLEN. Well, thank you. We hope we can work with you to get ahead of them as much as possible.

Senator COLLINS.

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

Chairman Gensler, you have stated in the past that you believe that there is benefit to being in the office. Today you told us that the SEC will be getting rid of one of its three buildings in which its employees work. And in February, the SEC's employee union reached an agreement with the agency that requires employees to return to the office only 2 days for each pay period, that is 4 days per month.

Now, I will quickly concede that there are some jobs that can be done remotely, but when you are serving the public, when you are helping to protect consumers, when you are dealing with large financial firms, you need people to be at work. You need people to be in the office. You need people to benefit from the conversations that they have with their fellow staff members and regulators.

So I guess my question would be, why did the SEC agree to a policy that is going to result in so few employees actually coming

to work only 4 days a month? That strikes me as not serving the public.

Chairman GENSLER. So if I might, I appreciate the question, and let me just start with, the workforce, the staff, I couldn't be prouder of the SEC workforce. We have had a very robust work-from-home policy before COVID that was not as—not the one that you just mentioned, but was 6 days in the office out of a pay period and so forth. And then COVID came, and we actually found that the staff could be quite productive.

And then the bargaining unit, in good faith, bargaining with management, we ended up, this is a matter of record, at impasse over these matters, and the impasse panel came out with where we are, which you accurately said, 2 days at a minimum in the office. But there are also provisions in the arrangements that, for examinations, for enforcement, for other parts of the agency, where it is appropriate, management can call in and we do on-site examinations of financial advisors and—I am sorry—investment advisors and the like.

So we have found, during this period, this sort of forced-upon-us period in 2021 and 2022, that our productivity was quite strong, and the staff, the dedicated staff, continued. But, as I say, we did end up bargaining in good faith, and this is where we landed.

Senator COLLINS. Well, this does not strike me as a good deal for the taxpayers or for the consumers that you are charged with protecting. I understand that some employees are at the job site; that makes sense to me. I also understand that there are some jobs that can be done effectively, fully remote, and under this employee contract, individuals who are in positions that are fully remote will not be required to return to the office at all. Surely, there is a need even for fully remote individuals to come to the office for meetings occasionally.

I am just concerned as we have seen at the IRS, and the Social Security Administration, that what happens is consumers get the short stick, and that the individuals, the companies, and financial advisors whom you are regulating are going to find it difficult to get information. And many of them have brought their employees back to work, and they are certainly back to work more than 4 days per month. So I want to express directly, too, my deep concern and disappointment about that agreement.

I want to turn quickly to another issue, and that has to do with your rulemaking process. And I would associate myself with some of the comments made by the Vice Chair on whether stakeholders are being given adequate time to respond to new rulemaking, whether provisions are being included in the Final Rule that were not in the Proposed Rule, and whether or not there is sufficient input going from the public and from the regulated into your rulemaking.

So if you could respond to how your current process tracks with your prior SEC practice.

Chairman GENSLER. We put proposed rules out to notice and comment, according to the Administrative Procedures Act, and we put economic analysis in. On average, I am just looking at some notes here, but on average, from the time that we vote on something, it has been about 70 to 75 days out to public comment.

What we also find during that two or two-and-a-half months, that is kind of the first deadline, but there are some people that will continue to send in comments, and we do, as best we can, to continue to take meetings and talk about. And this is just an average, just to give you a sense. But on average, it is about 13 months between proposing a rule and finalizing a rule.

Now, some of them take a-year-and-a-half, some we never finalize, but I am just saying, on average, it is about 13 months. And so, on average it has been about two-and-a-half months that the formal period is, and then we continue to take meetings and have input. We document it in the file, of course. Even these discussions here today, only one of five Commissioners, but the discussions we will have here today will influence me as a Commissioner, as we think about that Final Rule.

Senator COLLINS. Thank you, Mr. Chairman.

Senator DURBIN. After the questioning by Senator Collins, I want to say for the record that Senator Van Hollen is here today. He had to go vote on the floor, and he will be returning.

Senator Manchin.

Senator MANCHIN. Thank you, Mr. Chairman. And Chairman Gensler, thank you for being here. I think you know, I sent a letter to you concerning on the SEC's ruling, if you will, or presumed ruling, and we talked briefly about that. So what I really wanted to do is make sure that we have the Scope 3 emissions.

I have a big—I have really hard concerns about the ESG because if ESG is not taken with the same light that, basically, geopolitical unrest that we see around the world, you are putting us in a very unfair advantage—or disadvantage—can be very harmful. I say that because friends that I have over the UK, when it came to survival, when it came to freezing to death, or basically being able to maintain any type of quality of life with all the stresses because of the Ukraine war, they threw all caution out the window.

And I think, you know, because they were just trying to survive, so the environment took a way, way far back seat. And if we do it properly, if we have a balance between the energy and the economy, we should never get in that disproportionate, unbelievable situation.

So on that, really, my letter addresses those concerns, and if you all could give it to consideration as far as the Scope 3 emissions, it could really be devastating to the smaller operations; and if I am understanding, you all have already, I think, evaluated. You have, of the 500 largest Russell 1000 Index companies, 90 percent of them already published, substantially, sustainability reports calling into climate.

So it is putting a lot of burden on the food chain way down low, and people are just going to—you know, we are hearing an awful lot of comments on that; so if you want to just say something about that, or if you are aware of that, and considering that.

Chairman GENSLER. I thank you for the question. We just, I want to say this as I have said before, we are merit neutral at the SEC. Congress debated this 90 years ago; it is a really important feature, investors get to decide what investments they make, and we are a disclosure-based agency.

And like the statistic, you said, investors are already relying on climate risk disclosures by companies. Well over half of the top-thousand companies already make disclosures, not because we mandated, Senator, but they are making it because their investors want that information to make investment decisions.

So we took it up to make a proposal to bring some consistency and comparability to a lot that is already happening. To your question, if I might say, about so-called “Scope 3”, this is for the other senators and Members, this is like supply chain, greenhouse gas emissions, or customers, you know.

Senator MANCHIN. Correct. We take it, and the chicken, and chicken houses occur from the chicken, and you know what, all the way up to the—where you eat the chicken.

Chairman GENSLER. I think that is a good way to say it, Senator.

Senator MANCHIN. Thank you.

Chairman GENSLER. I have got, I think I have got it. And we, when we made a proposal, we even thought that it was this so-called “Scope 3”, was at a different stage of development, different stage of disclosures, fewer companies making the disclosure. We took a tiered approach at that time.

Senator MANCHIN. Okay.

Chairman GENSLER. But I would say this; we have heard the feedback, and it is from the agriculture community, it is from the small- and medium-sized enterprises, and around Scope 3 discussions, and I ensure you that we only have, you know, a rule that we are trying to finalize to bring comparability and consistency about the public companies. And a lot of comments came in about alternatives to ensure that we don’t inadvertently somehow, that the reach of the rule doesn’t go to the nonpublic companies, which I think is, that is your consideration.

Senator MANCHIN. Yes. The small, the small end farmers, the small end producers, those people who are beholden to the larger corporations, and they really dictate to them what they do and how they do it, anyway. And they are under the gun no matter what. But you put an extra burden on them, and they are marginal sometimes now.

Chairman GENSLER. But I assure you, we have heard loud and clear. I can’t prejudge where we will end up. I mean, staff has to pull this together. We have got 15–16,000 comments on this one, so it is likely to take more than that, average 13 months—

Senator MANCHIN. We can get you a lot more if you need them.

Chairman GENSLER. What is that?

Senator MANCHIN. We can get you a lot more if you need them.

Chairman GENSLER. All right.

Senator MANCHIN. I will give you all the ones we are getting, and we will get—transfer them to you. I understand that under your tenure, the SEC has proposed twice as many rules as your predecessors. In the spring of this year you announced your intention to finalize more than two dozen of these rules.

My colleagues on both sides of the aisle, as well as businesses of all sizes have expressed concern SEC has provided insufficient time for public comment. These are probably things you have heard anyway, particularly given the significance of many of the rules. Constituents and companies affected by these rules believe comment

periods should fall in the projection of 60- and 90-day range. However, under your tenure, 74 percent of the rulemaking has been a 30-day comment period.

So given the importance of providing maximum certainty to the public in changes in the financial markets, will you commit to adhering closure to the traditional public comment periods for future rulemaking, which the people think they just need to get a proper cross-section?

Chairman GENSLER. So I am sure your staff did very good work, but if I can just—

Senator MANCHIN. Well, you can correct it, sometimes, you know, we even make mistakes.

Chairman GENSLER. No, no, I am not suggesting that at all. But my predecessor, Chair Clayton, finalized 64 rules, our docket is looking to do 50 to 55. We have finalized about 19; we have about 35 proposals outstanding right now, and so we are in that same zone. Two, in terms—now, there might be different types of rules—

Senator MANCHIN. And so I just think it is the same period, right?

Chairman GENSLER [continuing]. Yes, over a 4-year term. We may have gone a little bit sooner in the 4-year period, but the whole docket is about—

Senator MANCHIN. But his was—if I am understanding, his was a 60- 90-day, you know, comment period.

Chairman GENSLER. So in terms of the comment periods, our average period from the time we voted and put it on our website to literally the close of the comment period has been, I think, 74 days. Now, what we do is, because there is a period of time before it gets in the Federal Register, we generally put things out, we say it will be no less than 60 days from the time we vote, or later if it takes long to get in this Federal Register.

Senator MANCHIN. Okay.

Chairman GENSLER. But for instance, in some really, you know, important rules around equity markets, we put that out for 105 days. The climate rules that you mentioned were out, though I don't have the notes here, well in the high double-digits days. We have also reopened between a dozen and twenty rules where we get further comments.

And as I say, because it tends to take between a year and 20 months to finalize, we continue to take meetings, we continue to take input, because these are important matters, as you say.

Senator MANCHIN. Thank you, sir.

Senator DURBIN. Senator Hagerty.

Senator HAGERTY. Thank you, Mr. Chair.

Chairman Gensler, I would first like to just start out by commenting on the fact that yesterday, the SEC refrained from inserting itself into an ongoing court case regarding the determination of syndicated loans as securities. And as you know, this is a well-functioning market, it has got sophisticated market participants, and I was glad to see the Commission resist to adding any uncertainty into such an important part of our credit markets.

I would like to turn now to the SEC and its agenda. As I mentioned in my opening statement, many of the rules promulgated

under your tenure have crept well beyond the SEC statutory mandate. And we are not talking about just a few rules; it is an eye-watering number. You just talked with Senator Manchin about the number of rules that you have undertaken so far, and you have pointed back to the fact that this is in line with what your predecessors have done.

But I would look back at the last 27 months of your two predecessors and the pace that you have undertaken here. And during the 27 months that you have been Chairman of the SEC you issued—you have issued 58 rule proposals. That is nearly equal to the proposals by both Chairs Clayton and White combined during their first 27 months.

The sheer volume of this isn't the only problem, though. And again, you touched on this with Senator Manchin, the speed with which these new rules are developed and imposed on the market is just as important. And here again, it feels that you are moving at an extremely rapid pace.

This raises an obvious question then, how does the volume and speed of rulemaking impact the quality of these rules? Well, here are just a few issues that were raised by SEC managerial employees that came directly from the Inspector General Report that was conducted last October—that was printed last October.

And I will run through a few of them, and these are direct quotes. "Shortened timelines during the drafting process; limited time available for staff research and analysis, limited feedback during the rulemaking process, shortened public comment periods, increased litigation risk, difficulties managing resources, and other mission-related work." These are direct quotes from that OIG Report.

So my first question is, do you agree with the statements of the SEC Managerial Staff that were in this report that state, quote, "The more aggressive agenda, particularly as it relates to high-profile rules that significantly impact external stakeholders, potentially; one, limits the time available for staff research and analysis; and two, increases litigation risk"?

Chairman GENSLER. Again, I am very proud to be part of such a dedicated staff. And I think they are doing excellent work. It is what we benefit from when we put these proposals out to public comment, and we hear back, whether they see something that we didn't get accurate in the economic analysis, the legal analysis, the policies.

In terms of the staff, I am also pleased to say that we have, for a number of years been very—the survey is done by the Partnership for—the Partnership for Public Service that we tend to be very highly ranked by our own staff about the work at the staff. But in terms of the rules—

Senator HAGERTY. I am talking specifically about the OIG Report, and here, what they are citing is not a process substance that you are talking about. It is talking about concerns with the process itself. Again, the speed and the volume that you are moving forward on; and here, it seems to me that it is a recipe for disaster moving at this pace, at this volume, particularly when you hear these types of complaints coming back from the staff. And the real

victims here are the Americans whose livelihoods depend on returns from the marketplace.

Chairman GENSLER. You know, I appreciate that, but it is also we put out to public comment. We have a rule docket that is these 50 to 55, or so, and that is, we have been candid with the public through the administrative process about that is our docket, these 50 to 55 proposals, and we get the comments back, and we adjust. I mean, the final proposals—I mean, the final adoptions reflect a lot of the comments that we have received.

Senator HAGERTY. If I could come back again where I started here, in terms of the tendency to exceed the mandate of the SEC. The regulatory agenda that you have laid out, the increased budget requests that you have laid out raises complicated but particularly germane questions. Like, how much funding would the SEC need if it weren't trying to do the job of the Congress, the EPA, the banking agencies, if it weren't bringing enforcement actions that are likely to be lost?

Rather than struggle for the answer here, let us—we will get through that, so the question is for the record, but that is a very obvious question. I mean, if you look beyond the mandate activities, we are funding those.

What I do want to ask you is this: Do you keep a tally of the cost of lost cases, when you bring enforcement action and lose? Have you kept track of the expenditures, the cost of that, both to the SEC and to those who have to defend against them?

Chairman GENSLER. We bring a—we either settle or bring between 7- and 800 actions a year, and that is being a cop on the beat, and we lose very few, Senator, but we are going to it from time to time. That is the nature of our processes. So too would any law enforcement, we are a civil law enforcement agency. But it is really to protect the investing public, and protect those firms that are trying to access the capital markets. And so we bring cases, whether it is Ponzi schemes, or pump and dump schemes, or accounting fraud, insider trading, and—

Senator HAGERTY. I am talking about the statement cases, the cases that are meant for messaging. That is my great concern. And I don't think it is right to put American taxpayers on the hook for defending themselves in these cases when you know that there is a high odd—high odds of losing. That is the point here.

Chairman GENSLER. To say—

Senator HAGERTY. And I will come back with questions for the record. We are out of time on this round. But I will come back with questions for the record to try to get at this cost.

Chairman GENSLER. If I might just say, we only bring a case if we think that it is—the facts and the law dictate it, and it is really within the facts. We take it, our five-member Commission votes on every one of these. We end up voting between 15 and 30 of these a week, and we take this very seriously. We don't, we don't bring cases if we don't think there has been real wrongdoing.

Senator HAGERTY. Thank you.

Senator VAN HOLLEN. Senator Durbin.

Senator DURBIN. Thank you, Mr. Gensler, Chair Gensler, for being here. What percentage of Americans—are in the stock market?

Chairman GENSLER. Well, it is—there is at least 52 million Americans that have investment advisors advising them. There is even more than that number, and I will have to get back to you, that actually invest in mutual funds or have brokerage accounts, but it is—it is well over half, but we will get you the exact statistic.

Senator DURBIN. I have heard it was around half, if you could give me some specifics, it is helpful. The thing that surprises me, when I read and learned that one out of five Americans invested or traded cryptocurrency; are you aware of that?

Chairman GENSLER. I have seen some of those statistics.

Senator DURBIN. One out of five.

Chairman GENSLER. Again, I can't vouch for the surveys. It is not done by the SEC, or this Committee.

Senator DURBIN. So this is an industry which you have said is, quote, "Rife with fraud, scams, and abuse." Did you say that recently?

Chairman GENSLER. I would say it in this live hearing; it is a field that is rife with fraud, scams, and abuse, and there are a lot of actors in this field that are international, offshore, but they are still tapping on the American public's wish for a better future.

Senator DURBIN. According to one estimate in 2022 alone, fraud schemes involving cryptocurrency totaled more than \$9 billion. Does that surprise you?

Senator DURBIN. No. It could be larger, sir.

Senator DURBIN. I could go through the list of outrages involved in this industry. Celebrity endorsers, Matt Damon, noted financial advisor; Larry David, another financial advisor with trust implicitly; Tom Brady, who can't even get paid for doing the commercial; Kim Kardashian, and on and on. They spend billions on sports arena or stadium naming rights deals to gain misguided credibility with everyday Americans.

They manipulated prices with phony tokens of no underlying value, fail to protect and segregate investor funds. This is happening over and over again. This doesn't sound like America. What is missing here?

Chairman GENSLER. Well, it is a real pattern. I mean, there is a technology underlying it, a ledger technology called blockchain technology. There may well be a particular value in some of these use cases, but the American public is not getting the proper disclosure to make their investment choices. And then the companies operating in this space, as you say, are bundling and co-mingling services that we would never allow.

We would never allow the New York Stock Exchange to also trade against their customers. We just, we don't, we haven't for decades. And here, there is all this bundling and co-mingling. And what is more, there is this tremendous amount of bad actors in the field as well, a lot of them offshore preying upon U.S. investors.

Senator DURBIN. And a lot of them are looking for a home in our political system, are they not?

Chairman GENSLER. That is not our jurisdiction, but I have read some of those articles.

Senator DURBIN. I went to a hearing like this, walked out in the hallway, the reporter said, "How much money has your campaign fund taken from the cryptocurrency business sector? And I said,

“None. I have nothing to do with him.” She said, “You are wrong. It is \$20,000, and I can show you.” I hadn’t asked for it, didn’t realize I had received it. But they are playing everywhere they can to buy influence in the process. What is the best way for us to protect American consumers from cryptocurrency in the future?”

Chairman GENSLER. Well, I think that we have robust authorities at the SEC. I think our sibling agency still does—I have said this often—the CFTC may need additional authorities, because some of these tokens are not under our jurisdiction. I think it is very few, but I am not trying to prejudge any one token. But our authorities at the SEC are quite robust. We could always use some more resources.

Senator DURBIN. That is a question I want to get to, because I am on the Agriculture Committee too, and there is an ongoing debate among some quarters as to whether the CFTC has any authority in this industry. Do you think they do?

Chairman GENSLER. Well, there are some tokens that—and Bitcoin, I will just stay with that, Bitcoin itself doesn’t have the attributes of an investment contract under the Securities laws; but many tokens, without prejudging any one, have the attributes of an investment contract. Meaning there is a group of individuals that the public is investing based on anticipation of profits based on their efforts.

But as it relates to this, the Bitcoin, as I understand it, under the Commodities and Exchange Act, there is anti-fraud and anti-manipulation, but they don’t have what is called plenary rule-writing authority. But I am sure Chair Benham could better answer some of those questions.

Senator DURBIN. So when it comes to appropriated funds, do you have enough in the SEC, personnel, and resources to deal with the cryptocurrency business?

Chairman GENSLER. If this committee were to see fit, and want us to have more resources, we could use them. Part of this \$73 million, I know, and I really do thank the committee to come, unanimately, to fund us. But that we were hoping to add another 170 people; some in disclosure review, some in examination, but certainly some of them in enforcement. And you know, that cuts back on our ability to do this.

Senator DURBIN. Thanks, Mr. Chairman.

Senator VAN HOLLEN. Thank you, Senator Durbin.

Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman. And Mr. Chairman, welcome.

Chairman GENSLER. It is always good to see you, Senator. I have enjoyed our times in our private talks, and in these hearing rooms.

Senator KENNEDY. The feeling is mutual. Mr. Chairman, why did you and the SEC allow the FTX fraud to happen?

Chairman GENSLER. The crypto field is often one that is co-mingling and bundling services, as I said earlier, and often, also offshore; and it is rife with abuses and fraud, it also takes time to thoughtfully, and by the book, and by the law build investigations and bring actions. There is a public figure, on average about 23 months from start to either settlement or bringing an action at the SEC.

We did bring actions over the course of the last 5 years on 150 companies, or a—

Senator KENNEDY. But the cow was out the barn? I mean, here—I follow your remarks, Mr. Chairman, because I have great respect for you, and you have said repeatedly before FTX blew up that the SEC has the authority to regulate cryptocurrency.

Now, here you have this company, FTX, run by a young man who has more zeal than wisdom. He prides himself looking like the fourth runner-up in a John Belushi look-alike contest. He prides himself on being under-dressed and over-haired, reeks with arrogance. You could have sent down one investigator from the FTC with an ego like Mr. Bankman-Fried, and Sumler, send someone down from the SEC, and let them just watch you for a day. And he probably would have welcomed you in.

I mean, his dad is a chaired professor at Stanford Law School. Where was Stanford? But where was the—where was the SEC? I mean, this was an accident waiting to happen, and I don't understand where the SEC was.

Chairman GENSLER. So sir, I would say that the whole field has hurt more Americans than it should.

Senator KENNEDY. Yes, but I am talking about FTX. I mean, we look back at FTX. I mean, Senator Durbin made this point, and we have this elaborate, complex regulatory machinery, the SEC, which I support, which is supposed to guarantee transparency and combat fraud. And any fair-minded person has to look at FTX and Mr. Bankman-Fried and these kids, and go: What in God's—where were—where was everybody? Where was the SEC?

Chairman GENSLER. And I would say where we were is, my predecessor, and also under my honor to be Chair, we have brought 140 or 150 actions. There are 15 to 20,000 tokens, and there are dozens of—

Senator KENNEDY. Yes, but that was after the fact, Gary. I mean, here is this young man; he did everything but bomb Mount Rushmore. Weren't you all curious? Where is this guy getting this money?

Chairman GENSLER. I would say that in the summer of 2021, when we Wells noticed a very large crypto exchange in the U.S., they went on Twitter and said that we were sketchy. When we subpoenaed Do Kwon, and this is all public, so I can say it; when we subpoenaed—we gave him a subpoena; he fought us in the District Court, he fought us in the Appellate Court.

Senator KENNEDY. I know that. I know that. But I am not talking about how many lawyers can dance on the head of a pin. I am talking about why didn't you send somebody down? I guarantee you, with his ego, Mr. Bankman-Fried would have welcomed you. Okay. He probably would have asked you to bring a film crew.

You just send an investigator down, spend a half a day with these young people, come back, and go get an injunction. Shut them down, until they can answer some very basic fundamental questions. Like, for example, were they co-mingling funds? Why didn't we do that? Why didn't you do that? That is what we pay you folks to do.

Chairman GENSLER. Again, I can't—

Senator KENNEDY. I mean, I get all the Wells letter and all that. We have got—we have got tens of thousands of people that lost a lot of money, and they look, they look at this young man, and they will go: How did the—how did the regulatory authorities allow this guy to function? I mean, your Secret Service name is Butthead. That is how bad he is. Where was the SEC?

Chairman GENSLER. And again, sir, I can't speak to one enforcement matter like that, but let me just broadly say this whole—

Senator KENNEDY. Well, it is a big one.

Chairman GENSLER. This whole field, the whole crypto field, is built on models that we wouldn't allow in traditional securities markets of co-mingling. The co-mingling that you are mentioning—

Senator KENNEDY. And why did you allow FTX?

Chairman GENSLER. And we have—

Senator KENNEDY. Why did you allow FTX?

Chairman GENSLER. We have vigorously—we investigate by the book. You, I am sure, and the American public, want us to follow the facts, follow the law, properly give people subpoenas, they get lawyered up, they give us replies, they do effectively burn clock, and on average it takes time—

Senator KENNEDY. You could have gotten an injunction half-a-day.

Senator VAN HOLLEN. Senator?

Senator KENNEDY. Thank you, Mr. Chairman.

Senator VAN HOLLEN. Thank you, Senator Kennedy.

Senator Coons.

Senator COONS. Thank you, Chairman Van Hollen; Ranking Member Hagerty, thank you.

Chairman Gensler, as the questioning of my colleague indicates, there is widespread interest in and concern about not just the years of alleged fraud carried out by Mr. Bankman-Fried at FTX, but concern about the whole sector, about the safety and security and transparency of crypto transactions. You have said the '33 Act and the work of the SEC is critical to providing protection for the half of all Americans who invest and who are at risk.

I am glad, that on a bipartisan basis, this Committee is coming forward to support a level of staffing, and resources, and technology needed to deal with emerging challenges, like how to effectively regulate crypto. And your funding is deficit neutral. I mean, one of the great things about it is we are not expending more taxpayer dollars.

Is there one critical area you would point to briefly where you think either staffing, technology, or resources are lacking, and you would urge us to prioritize investment beyond the agreement that is been reached by this subcommittee?

Chairman GENSLER. I thank you for that question. I think that our full funding request, which is about \$70 million more than you were able to come together on, would provide about 170 more people.

Senator COONS. Yes.

Chairman GENSLER. And that is across our examination, our disclosure review, which is a really important piece where issuers need feedback and enforcement, but it is also technology. And a big

piece of it is, at give or take \$400 million, we are really—most of that technology spend right now is about our Legacy systems and technologies changing so rapidly. And even just data storage costs a lot more, just sheer volume of data. I think that would help us be better—

Senator COONS. That is my hope, it will be—

Chairman GENSLER [continuing]. Cops on the beat, and better—but just even be more responsive to market participants wanting to get their filings reviewed.

Senator COONS. How many rule proposals do you currently have under development, and how many of them might be finalized later this year?

Chairman GENSLER. I believe sir that we have thirty-four—or five proposals that are already out public but not yet adopted, and we have maybe a handful, five, six that are still being considered to be proposed, but that is our whole docket. In terms of timing, it is really when the staff is ready; and the Commission is ready, but it will take more than through the end of this year.

Senator COONS. I joined a dozen of my colleagues in sending a letter just encouraging you, given the suite of rules in proposal development, to just make sure you are providing sufficient time for notice and comment on the proposed rules. I don't believe we got an answer. What is your answer to concerns that the aggregate impacts on the market, of such a broad range of proposed rules, need to be taken into account?

Chairman GENSLER. Well, in each of these rules, we do take into consideration the economic analysis, and then sometimes there are some interactions, and we note those in those rules. But we benefit from the feedback, whether it is from large market participants, their trade associations, individual investors, and then we take that into consideration.

And as I said earlier, on average, these rules from proposal to final, take a year to a-year-and-a-half, but the formal comment periods have been about two to two-and-a-half months from when we voted out, we put it on our website, we start getting feedback.

We have also reopened our—more than a dozen, I think it is 20 of them, to get additional comment, and sometimes we update economic analysis and put that further out, and where appropriate we make adjustments in the Final Rules.

Senator COONS. I do think it is important to regulate in a wise, and transparent, measured way so that the regulations are both effective and sustain. A last question about a specific proposal, swing pricing as an option used by funds currently. How many funds have actually utilized swing pricing since it was authorized in 2016?

Chairman GENSLER. Sir, I would have to get back to you in detail, but I think very few. I mean it is—while it is voluntary, I am not sure, so this is on mutual funds for this, sir.

Senator COONS. Yes. I would appreciate an answer back in terms of how you think the proposal for a hard close would impact the use of swing pricing, and whether or not this is going to have an undue market impact. It strikes me my—what I have heard is that it is a tool that is very rarely used. And so perhaps the analysis needs to—

Chairman GENSLER. No, no—that is correct. I don't know the exact number, but it has been very rarely used. It is open-end bond funds work for the American public, really in many ways it is a very good product, because you can get the benefit of low-cost and diversification. In times of stress, there have been times, and we saw it in 2020, in times of stress where we rely, ultimately, on the Federal Reserve, the Fire Department, so to speak, to come in and support the markets. And so we are just—we are trying to build a little greater resiliency into the markets in those times of stress.

Senator COONS. Thank you. Thank you for your testimony. Thank you, Mr. Chairman.

Senator VAN HOLLEN. Thank you, Senator Coons.

Senator BOOZMAN.

Senator BOOZMAN. Thank you, Mr. Chairman, very much; and thank you all for holding this really important hearing.

It wasn't too long ago that I was chairing this Committee, and you were chairing the CFTC, and the one thing that I want to compliment you on is that you have always been good to come and testify, and are very approachable, so we appreciate that.

Chairman GENSLER. I thank you. And I want to compliment you. It has always been good to get on the phone, or come to your office, even if we might have differences of policy, but we always—I learn from it, and we try to narrow the differences.

Senator BOOZMAN. No, I appreciate that very much. One of the things that I have a lot of concerns about is the SEC's custody proposal. You know, it undermines CFTC customer protection rules, conflicts with global margin treatment, what happens in the derivatives and treasury markets, and adds complexity to institutional, investment advisors, and qualified custodians. Even worse, in response to questions from my staff, both CFTC and Treasury staff said the SEC did not coordinate with either agency, which is unacceptable.

The impacts on the derivatives, commodities, and treasury markets could cause systemic harm, and I strongly urge you to withdraw the proposal or completely rework it. Now, it is difficult. The SEC is such an important entity, and yet it is hard for us to, you know, give you the means that you need when you come out with this kind of stuff. I don't know how to say that in a nice way, but again, you know, this is—this rule is not a good rule. It has the potential of creating a lot of problems; and then, also, not working with CFTC and Treasury, which it affects in a great way, could it affect in a great way.

Chairman GENSLER. If I might, just put it in context; we have had a custody rule, and this is about investment advisors holding assets for their customers, since the 1960s, but then the Bernie Madoff events happened. They were terrible, really. And Congress came together and put a provision in, that Reform Bill, Dodd-Frank, that specifically addressed that we, the SEC, would have not just new authorities but should address the safeguarding of all client assets.

It was no longer just the securities and funds held, or on behalf of customers, but all client assets. That was in 2010, and here we are in 2023, 13 years later, and we hadn't taken it up. So it is one of the remaining, I would say we had about 8 of these when I came

on board, 8 of 54 things we are working on were left—still left over from Dodd-Frank.

And we have got a lot of public feedback. It is important to take that feedback. We have met with the Commodity Futures Trading Commission; we have met with the Futures Industry Association about some of their comments, and we are taking those into consideration.

Senator BOOZMAN. No, we appreciate it. But the reality is the markets have been very resilient, and again, we want to allow our farmers and others to manage risk, and our concern is this would blow up those markets, and the agency, again, you should consider, you know, making significant changes based on all the conversations that you have had.

The Fed has recently warned of a potential credit crunch and further slowing of the economy, during the pandemic we saw lenders use a single-name CDS to hedge against credit drawdowns; however, many believe the SEC's Proposed Rule 10b-1 would hurt liquidity, and cause lending pullbacks, which is exactly the Fed's concern. We are in a high rate environment, and the Fed is warning against credit pullbacks. Yet, the SEC proposals, such as Treasury market reform, applying Rule 15c2-11 to fixed income, the dealer proposal in the Rule 10b-1 would all be major overhauls that could reduce access to credit.

So I guess the question I would have, would you conduct a publicly available economic analysis of the cumulative effects of your SEC proposals on U.S. credit markets? And will you commit to coordinating with the Federal Reserve about the cumulative effects of SEC proposals on U.S. credit markets?

Chairman GENSLER. So thanks for the question. There are a number of proposals that you mentioned related to the U.S. Treasury market, so there were three or four of those that you mentioned, and we have been in consistent dialogue with the U.S. Treasury, the issuer of U.S. Treasuries, on behalf of us, the American public, and the Federal Reserve because they use Treasuries to conduct monetary policy, and the various rules. So we have been in very good, close discussions with them.

Second, we do have economic analysis on—in each of those; one is a Treasury market clearing; one is about Treasury dealers, and each of those we have robust economic analysis but also have gotten feedback. What is the issue we are trying to deal with? We are trying to deal with resiliency in the 2020 dash for cash, during the starting part of COVID, there were really significant issues in the U.S. Treasury market, than there were in the fall of 2019, and in part, what supported the Treasury market was the Federal Reserve buying a couple trillion dollars, give or take, of Treasuries.

So it has really, it has been an effort to have a little greater resiliency and competitiveness in that market. We, the taxpayers, ultimately benefit from that.

Senator BOOZMAN. We appreciate it. Again, fragile economy; we just want to make sure that access to credit is not impaired even more. Very quickly, you know, you mentioned that you got feedback regarding Senator Coons' question about rushing rules, and so you know the feedback we are getting is from the IG, and they said, the IG report found that staff had limited time for, quote, "Re-

search and analysis”, end quote, meaning their economic analysis were rushed.

So you know, we need to sort that out. And I know that you are working hard in that regard. You are trying to get a lot done, but that is the feedback that we are getting.

Chairman GENSLER. I thank you for that feedback, sir.

Senator BOOZMAN. Thank you.

Senator VAN HOLLEN. Thank you, Senator, Boozman. So here is how we are going to proceed. We are going to have one more round of questions for interested Members of the Committee. That is going to be 5-minute rounds.

So Mr. Chairman, you have discussed in your appearances before the Banking and Housing Committee, my belief that investors and the public have a right to know when corporations are taking big risks through the use of offshore tax havens. Jurisdictions around the world, especially Australia and the European Union, are moving in this direction, giving their investors the information they need to assess the tasks risks of their portfolios, including offshore tax havens.

I have introduced legislation, the Disclosure of Tax Havens and Offshoring Act. Right now, as you know, the Financial Accounting Standards Board is looking at this. I am going to submit some questions for the record on the subject for you to take a look at, so we can, hopefully, move forward.

I do want to ask you a question about proxy advisors, and I clearly have a difference of opinion from my colleague, the Ranking Member, on this. But tell me where I am wrong in this logic.

I am T. Rowe Price, or I am another company, I choose to hire, with my own money, proxy advisors to give me guidance and advice on how I should proceed on different proxy votes. I use the example of T. Rowe Price; they are a Maryland-based company, and they both provide advice and they also pay proxy advisors for advice in some cases.

So it seems to me that for those of us who do believe in a market system, and for the ability of private parties to make choices of their own within the law, that trying, by Government Fiat to stop a private entity from hiring a proxy advisor to make recommendations on decisions, seems kind of a violation of market principles and freedom of choice. What do you think?

Chairman GENSLER. The investors in this case, in your hypothetical, T. Rowe Price, a Maryland firm, but it doesn't matter what State they are in, but that investor has, as an investment advisor, a fiduciary duty to their ultimate investors. And that fiduciary duty, they have to decide, as part of that fiduciary duty, how to vote on a board of directors, maybe on mergers, and maybe on other matters before them.

It tends to come in a short season in the spring, and so there has developed, in the last 20 to 30 years, these outside advisory firms that—firms like you just mentioned, but other investment advisors turn to. But it is still, ultimately, in your hypothetical, T. Rowe Price's fiduciary obligation to decide whether they support or object to whatever the vote is.

In terms of the rulemaking that we did, we had a number of people that came into us, it was early in my tenure, that said that

they thought that we should take this up. And we took the time to put it out to notice and comment. We got comments back, and based upon the record and the Commission's consideration of it, we have finalized some changes as our predecessor had made other changes.

Senator VAN HOLLEN. Right. But don't you think that any company should be able to, with their own money, pay somebody for proxy advice which they can take or leave without anyone trying to pass a law or regulation to prevent them from using their own money in that way?

Chairman GENSLER. Yes, I would broaden it; investment advisors, small and large, use outsourcing. They hire others for their technology, they hire others for pricing services, they hire others for proxy advice. I mean, there is dozens and dozens of things that they use outside advisors and we, we are neutral to that. We allow that.

They still retain their fiduciary obligations and all of their other obligations that an investment advisor is safeguarding the assets that we were talking about earlier.

But the use of outsourcing is a robust part of our economy, not just for investment advisors, and at least at the SEC, there is no—and that has facilitated—it promotes efficiency.

Senator VAN HOLLEN. Thank you. Thank you, Mr. Chairman.

Senator Haggerty.

Senator HAGERTY. If the Chairman might accommodate me to go outside of the 5-minute limit for a minute because I would love to—this is a very healthy conversation and to share my perspective on it.

One, my conversation with Chairman Gensler, really has to do with transparency and disclosure regarding the advisory firms, not whether or not you can hire them, but transparency in terms of what these firms do; these firms not only work for the T. Rowe Prices, in your example, they also can work for activist investors, and they can be deployed to go out and put proposals in place that suit the desires of those activist investors.

In fact, activists are in the ownership structure of these offshore firms. It is a duopoly. Two firms they say control 97 percent of the proxy advisory services. I don't know who the other 3 percent are controlled by, but these two large firms.

In my own private sector experience, I have dealt with these firms. As a member of the New York Stock Exchange traded company, experienced a proposal against, recommending against management, and what happens next is a phone call comes to management saying that our consulting arm—I am sure there is a Chinese wall there—but our consulting arm will help you get to a better answer.

And after paying hundreds of thousands, sometimes millions of dollars in consulting fees, you can get the proposal recommendation for management as opposed to when it was against it. And as I mentioned, there are even circumstances where these firms are recommending four actions; that if management were to take them, would cause them to violate State or Federal laws.

So there is a real problem. I think this goes back to our whole discussion about the volume of rules coming down the pike and trying to deal with the proposals that are now so easy to issue.

As I mentioned earlier, the Harvard Law School Study indicated that there are five individuals that are launching over 40 percent of all these proposals. They are easy to do, and they are just inundating companies with this. And I think there needs to be—I think we should take a hard look at how these proxy proposals are put forward too. This is outside the realm of the advisors, but boy, they generate a lot of business for the advisors.

Thanks for that diversion, but I think that is a healthy, a healthy conversation for all of us to have. And that is where my concern lies.

To come back to some questions I wanted to discuss with you, Chairman Gensler, I would like to come back to crypto and the blockchain technology markets for a moment. In your conversations with Senator Durbin, you talked about a robust, a robust set of rules that you have—a robust set of tools, I should say, that you have to deal with this. What I have seen happen, just this year alone, is that U.S. share of stablecoin volume has gone down. U.S. blockchain developers' jobs have decreased here in America, and I think what is happening is that industry players are migrating overseas to other jurisdictions where the rules of the road are clearer for them.

And when you think about the rules of the road here in America, the rule set is anything but clear. And what is occurring here, much more often than not, is regulation by enforcement, if you will. And I think that is creating a great deal of uncertainty in the market.

What worries me is that we are losing out on technology development and innovation that I would like to see happening here, and I think it might make your job more challenging, as I think about your conversation with Senator Kennedy, because the company he is concerned about, FTX, is a Bahamian company. It is not an American company. And these companies like FTX are searching for jurisdictions that probably allow them to do what they want to do.

The question I raise is if we had a robust rule set here, would we have the ability to attract the licit actors to operate here in the United States of America? And is there a way to put clarity? I mean, I would be interested in your concerns on that, yes.

Chairman GENSLER. So I actually think there are robust rule sets at the Securities and Exchange Commission, and it is outside of my—our jurisdiction, but over at the Treasury Department, and anti-money laundering, and financial crimes, enforcement network, and so forth.

Senator HAGERTY. Yet these firms are moving offshore.

Chairman GENSLER. Yes, because this is a field that, in part, is built on a business model of, catch us if you can. It is built in part, not everybody, but in part on a model of preying upon the investing public's desire for a better life and future, and the hype around these tokens, these 15- or 20,000 tokens.

And like most of venture capital, and I know, Senator, I respect you were in the venture capital field, most venture capital invest-

ments fail, just statistically, to many of these tokens, you know, if you think of them like startups, are likely to fail. And yet, they are not making full, fair, and truthful disclosures to the investing public. And you are absolutely right. There is a bit of regulatory arbitrage. I will set up in Malta. I will set up in the Bahamas. I will set up in, you know, some tax haven or offshore where they don't have the robust rules of the road that we have in our securities markets or the robust enforcement we might have around anti-money laundering.

Senator HAGERTY. To come back to, to the timing here, because I just a couple more questions to, to touch on, and we are running short. I would just strongly encourage, rather than regulating via enforcement, to think through the rule set that would create clarity in the marketplace. Because when I talk to market participants, they tell me that there is a lack of clarity here. And that is a, I think, a laudable goal to achieve.

I have got a couple of other quick points. One of them goes back to what Senator Coons touched on in terms of not getting a response back, what I mentioned myself in terms of not getting responses back, fulsome responses back from the SEC when we send questions in. And this comes back to specifically two letters that you received from House Committee Chairman McHenry, Jordan, and Comer; Chairs McHenry, Jordan, Comer, asking about providing specific certifications regarding any use by you, or your direct reports, or personnel there at the SEC using their own personal, either off-channel or all-platform methods, to communicate or conduct SEC business.

I am talking about personal phones, using Signal, WhatsApp, those types of communications. In your written response to the first letter, you talk about the operation, you mentioned a number of areas, but you don't specifically respond directly to the five clear requests that were made in the SEC off-platform letter that came forward. And it includes providing specific certifications regarding the SEC's, and your personal compliance with Federal record-keeping requirements.

So I think those requests are straightforward. I think it would be appropriate to address those, and I would just ask you now if you; have, you yourself, been involved in using your personal device, or off-platform devices for SEC business?

Chairman GENSLER. I have disclosed here; I think Senator Van Hollen still might call me on my cell phone. I have known him for 23 years, but when I get—

Senator HAGERTY. I am talking about the concern that was raised by—

Chairman GENSLER. No. I don't use. I occasionally—it is very rare these days, but I occasionally get an email from somebody, and then I just forward it over to the SEC.

Senator HAGERTY. I would just encourage you to please respond to these questions again. I have expressed the same frustration that my colleagues do in that regard. I think a response would be warranted there.

One last area I will touch on, and I will deal with the rest of this to questions for the record; when you were speaking with Senator Collins about work from home, when you and I talked about this

yesterday, it raises the question of what the impact might be on your office footprint.

And there has been news, a lot of news related to the GSA announcement on your new headquarters' lease. I have seen different estimates for the cost of that lease to the taxpayer. But what would you expect over the next—do you have an estimate of what the next 25 years that building cost would be?

Chairman GENSLER. I think we need to get back to you, but I would say this, that our needed footprint has come down from when that was initially put out for a request for quote, now I think it was 4 years ago; it was pre-COVID, and so we—

Senator HAGERTY. At least we are trying to do it after COVID—

Chairman GENSLER [continuing]. We have actually worked with the General Service Administration and said, and we were—we had a right, under our agreement with GSA, we had a right to downsize with them, and we did about a year ago downsize with GSA. But we would have to get back to you on this specific question about—

Senator HAGERTY. Yes, and just, again, just thinking about the expense of these buildings, and as you described, a very different sort of work pattern. I would think that would have an implication on this.

Chairman GENSLER. We are actually looking at it across all 12 of our offices, and where we can, to prudently and thoughtfully, shed space.

Senator HAGERTY. Well what; if I could work with you—if your staff could work with mine to just get us any sort of internal analysis that you have done, any fair pricing analysis that you have done, I would very much appreciate that.

Chairman GENSLER. I will ask staff to coordinate with yours, and some of this information is over at GSA, and not ours, but okay.

Senator HAGERTY. Okay. Thanks for coordinating with us on that. And I will submit the rest of my questions for the record. Thank you, Mr. Chairman.

Senator VAN HOLLEN. Thank you, Senator Hagerty. Thank you, Chairman Gensler, for being before the subcommittee. We look forward to continuing to be in touch on issues that were raised today.

ADDITIONAL COMMITTEE QUESTIONS

Senator VAN HOLLEN. Our senators on this Committee will have one week to submit questions for the record. That means they are due July 26.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

No questions were submitted for the record.

SUBCOMMITTEE RECESS

Senator VAN HOLLEN. And with that, this subcommittee meeting is adjourned.

[Whereupon, at 4:45 p.m., Wednesday, July 19, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2024

TUESDAY, SEPTEMBER 19, 2023

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:35 p.m., in room SD-124, Dirksen Senate Office Building, Hon. Chris Van Hollen (Chairman) presiding.

Present: Senators Van Hollen, Manchin, Hagerty, and Kennedy.

U.S. FEDERAL COMMUNICATIONS COMMISSION

OPENING STATEMENT OF SENATOR CHRIS VAN HOLLEN

Senator VAN HOLLEN. This Committee, the Subcommittee on Financial Services and General Government Hearing will come to order.

I would like to begin by thanking my Ranking Member, Senator Hagerty, and other Members of the Committee for our continued oversight efforts of agencies under our jurisdiction.

We are very grateful to be joined today by the Chair of the U.S. Federal Communications Commission, Jessica Rosenworcel. Welcome to you.

The FCC has a very important set of responsibilities, from working to provide access to affordable high-speed Internet to keeping spectrum licensing competitive, and much more. The mission of the FCC is essential to ensuring that the United States remains on the cutting edge of communications' technologies in the 21st century, and that, in turn, is essential to the success of our country, our economy, and important, of course, to national security.

I am pleased the Senate confirmed President Biden's nominee, Anna Gomez, to the Commission earlier this month, bringing the FCC to its full contingent of five Commissioners.

And I would like to applaud Chair Rosenworcel and the entire FCC team, including all the Commissioners, for their rapid response to the disasters in Hawaii and Florida. Their work in the early days of the disaster helped save lives by ensuring that survivors could stay connected to their loved ones and to emergency response teams. Tragedies like this show us just how essential access to broadband is in our modern life. It is not a luxury; it is a necessity.

And if we did not know that before the pandemic, we certainly know it now. America scrambled to get online; Zoom became a verb, and Congress worked through a number of measures to try to address these issues and get more Americans connected. Before the pandemic struck, I had introduced legislation to close what we call the “homework gap”, because students without access to broadband were put at a big disadvantage when doing their homework, compared to their peers who were connected. But with the pandemic, now the homework gap became a full-blown learning gap. As classes went online, students who were unconnected were bound to fall even further behind.

Many States and local jurisdictions used the emergency school funding they had through the CARES Bills to help their students connect with remote learning. But there was not a dedicated program until, as part of the American Rescue Plan, we established the Emergency Connectivity Fund, a critical lifeline to students around the country.

And that Emergency Connectivity Fund has helped more than 18 million students connect to the Internet by providing them with Wi-Fi hotspots, modems, routers, and Internet-enabled devices, as well as Internet service to those devices.

This was an emergency measure, and its dedicated funding will run out in December. But it has established a strong foundation that we can build on by modernizing and adapting the E-Rate Program. We need to ensure that the E-Rate Program can provide connectivity beyond the walls of our classrooms and our libraries. And I know Chair Rosenworcel is passionate about this issue, and I salute you for your efforts.

We must, of course, not only connect students to broadband but every American household and small business, no matter where they live—in rural, suburban, and urban areas. Nationwide, tens of millions of Americans remain without access to broadband, but thanks to the passage of the Infrastructure Modernization Bill, we are well on our way to connecting them. That law launched and funded the Broadband Equity Access and Deployment Program, known as the BEAD Program, to connect America.

But the BEAD Program and other Internet connectivity programs would be flying blind if it were not for the FCC’s broadband mapping program. For years, the FCC had a broken mapping system. Many Americans were told they were connected to the Internet when, in fact, they were not. By creating an interactive system, the FCC has dramatically improved the mapping process so we can implement plans to connect all Americans. There are still issues, and we are working through them, but it is much better today than it was, much better.

My home State of Maryland received nearly \$268 million to expand access to affordable, reliable, high-speed broadband across our State, and the FCC’s map is providing crucial data to aid in the implementation of that effort. But we all know that getting people physically connected to the Internet won’t do them any good if they cannot afford to pay the bill for services. That is why the Infrastructure Modernization Bill also launched the FCC’s Affordable Connectivity Program.

This program provides eligible low-income households with high-speed Internet plans at little or no cost. In my home State of Maryland, over 255,000 households have already enrolled in ACP, and more than 20 million households in every part of the country have enrolled in the program, and enrollment is growing by the day. The Affordable Connectivity Program has been vital to ensuring equitable access to high-quality, modern broadband infrastructure, especially in rural areas, and low- and moderate-income communities.

And today, we will discuss the importance of providing ongoing support for that program.

Turning to another area of FCC responsibility, it has been 6 months since the FCC's Spectrum Auction Authority has lapsed, the first time the FCC has not had this authority in over 30 years. This is on Members of Congress to address, but we look forward to Chair Rosenworcel's comments on that matter.

Colleagues, we need to quickly come to agreement so the FCC can conduct auctions that are necessary to ensure the United States remains on the cutting edge of global communications, technology, it is important to our economy and our national security.

Today's hearing will give us an opportunity to learn more about that and other issues, and inform the work we are doing together on behalf of the American people.

So with that, I will now turn to Senator Hagerty for his opening statement; Senator.

OPENING STATEMENT OF SENATOR BILL HAGERTY

Senator HAGERTY. Well, thank you, Chairman Van Hollen, for holding this hearing. As the Ranking Member, I look forward to working with you on this subcommittee and with all of our staffs to continue to make certain that our tax dollars are spent effectively and efficiently.

Chairwoman Rosenworcel, welcome to you. It has been good to get to know you by phone. I am glad to see you here today and looking forward to your testimony.

As with the airwaves that are broadcasting this hearing, the FCC's influence on the economy, our national security, and the daily routines of American life is paradoxically both ubiquitous and invisible. The FCC regulates the non-Federal use of the electromagnetic spectrum that we rely upon for mundane activities, like our garage door openers, all the way to the global delivery of events that shape the world and allow us to witness history as it unfolds, in real time. And not just on television, but over mobile devices now.

The FCC also regulates speech, specifically children's programming, campaign advertising, and indecency. But today, that is only for broadcasters. Whether the FCC should, or should not, or to what degree, regulate the speech of social media platforms is currently under debate.

Personally, I have introduced legislation, the 21st Century Free Speech Act that would ensure that all Americans have reasonable, nondiscriminatory access to Big Tech speech platforms. It would also limit the ability of Big Tech platforms to discriminate against free speech on ideological or political grounds.

That is because I believe that Americans, rather than Big Tech companies, should determine what information to consume, what information to share, and what information to believe.

The FCC also, in coordination with other Federal agencies, has a role in regulating communications equipment, equipment that may pose an unacceptable national security risk, which means the FCC can prohibit the sale or use of domestic or foreign-made equipment in the United States. We are in an information age that depends on reliable and secure data, video, and voice transmissions, as well as reliable and secure networks and devices. We all experience that first-hand during the pandemic, trying to work from home while sitting around the kitchen table with our children who are trying to attend classes remotely.

The FCC's highest priority, according to a strategic plan, is to help bring affordable, reliable, high-speed broadband to 100 percent of the population. Once upon a time, back in the 1950s, the FCC's highest priority was to bring telephone service to 100 percent of the population. Telephones, then rotary ones, were considered a necessity that should be provided to all.

The FCC has come close, but still hasn't achieved ubiquity. As technology change, the definition of universal service has changed as well, to encompass wireless service, and now it includes broadband. I will also add that the definition of broadband has changed. At one point, it was the 10:1 standard; now it is 25:3, and in the future, it could be 100:20.

In other words, as long as the definition and measure of universal service in broadband keep changing, then the goal of 100 percent connectivity is practically unattainable. One thing, however, that has not changed, nor will it ever, is that resources are limited. The FCC relies on fees to pay for its operations. In Federal budget parlance, these costs are offset, which was often mistaken for free.

These costs are not free. They are ultimately paid by the consumer. And it is this subcommittee's prerogative and duty to limit these costs, which are growing. If the FCC's full budget requests were enacted, then the FCC's costs will have grown by 26 percent or 8 percent annually on average since fiscal year 2021, excluding mandatory funding.

As a former businessman, I want to see evidence of a corresponding increase in output or productivity for that type of investment.

Chairwoman Rosenworcel, I am certain that you will address these concerns today in your testimony. I look forward to hearing you.

Thank you, Mr. Chairman.

Senator VAN HOLLEN. Thank you, Senator Hagerty. We have been joined by Senator Kennedy.

And now I am going to turn it over to Chair Rosenworcel. And we will not go through your long and very impressive biography, but just to say that the Chair has over two decades of communications policy and public service experience, including as the Senior Communications Council for the United States Senate Committee on Commerce, Science, and Transportation.

And with that, let me turn it over to you. If you could try to keep your opening statement to about 5 minutes; and then we will take questions. Chair Rosenworcel.

STATEMENT OF HON. JESSICA ROSENWORCEL, CHAIRWOMAN, U.S. FEDERAL COMMUNICATIONS COMMISSION

Chairwoman ROSENWORCEL. Thank you. Chairman Van Hollen, Ranking Member Hagerty, Senator Kennedy; thank you for the opportunity to appear before you today, and for providing full funding for the FCC in your fiscal year 2024 bill.

As a fee-funded agency, the FCC has worked hard to develop a budget that maximizes benefits to consumers while remaining fair to those responsible for funding our requested appropriation. We do this because the work of the FCC matters. Communications technologies power one-sixth of the economy, and I believe everyone needs access to these technologies to have a fair shot at 21st-century success.

Although this is not my first hearing before this subcommittee, it is a first in other ways. It is my first presentation of the agency budget under my leadership, and the first time in our Nation's history that a woman has permanently led the FCC.

So let me draw attention to some of the recent efforts of the agency. First up, our Affordable Connectivity Program, it is the largest broadband affordability effort in the history of the United States. It now helps 21 million households get online and stay online. But for this program to continue to do this good work, we will need additional funds because support from the Bipartisan Infrastructure Law will run out as early as April of next year. We have come too far to turn back. Keeping this program funded needs to be a priority.

Of course, this program is not the only one to help get broadband to those who need it. I want to acknowledge that the Emergency Connectivity Fund, championed by Chairman Van Hollen, has also been instrumental in closing the digital divide, especially for students.

Second, the FCC launched its Space Bureau. The space economy is growing fast, and the agency's satellite licensing policies need to keep up. I want to thank the subcommittee for supporting this reorganization.

Third, we have modernized our regulatory fee structure to be more transparent and fair.

Fourth, we have developed the National Broadband Map. It is a detailed effort to identify where broadband is and is not all across the country. This effort is iterative; it is improving all the time.

Fifth, we implemented the Pirate Act. The budget increase you provided has made it possible to enforce this law.

Sixth, the FCC is working to connect the most vulnerable. We are implementing the Safe Connections Act to assist survivors of domestic violence. We are also implementing the Martha Wright-Reed Just and Reasonable Communications Act to ensure that the rates for prison pay phone calls are truly just and reasonable. On top of this, we took steps to ensure video conferencing services have those that have become ubiquitous, like Zoom, Teams, and WebEx, are accessible to people with disabilities.

Seventh, we are doubling down on our efforts to stop scam robocalls and robotexts. We have new technologies to cut them off and new legal procedures to stop carriers from sending along these scams, and our efforts are beginning to bear fruit. For instance, we were able to shut down a major auto warranty robocall scam, but we are going to need new tools from Congress to continue to keep this junk off the line.

Eighth, we are connecting people to emergency services. We set up 9-8-8, the new three-digit easy-to-remember number to call or text the Suicide and Crisis Hotline.

Ninth, we are focused on network security. We have updated our rules to improve the reliability of wireless networks during disaster, and for the first time in history, we have revoked the authorization to provide telecommunications services for Chinese communications providers. We have also set up the Secure and Trusted Communications Networks Reimbursement Program to remove and replace insecure equipment in our Nation's networks. To fully fund this effort, we will need additional funds.

And tenth, we are focused on spectrum policy. We are identifying airwaves in the 7 to 16 gigahertz span to ensure the United States leads in 5G, 6G, and beyond. We have also put a premium on ensuring Spectrum reaches Tribal communities. As a result of our work, today, more than 80 percent of federally recognized Tribes have access to licensed spectrum.

But as we plan for the future, we need Congress to restore the FCC's Spectrum Auction Authority. For 3 decades the agency has had the power to auction airwaves for commercial use. During that time, we have held 100 auctions and raised \$233 billion for the United States Treasury. Letting this authority lapse jeopardizes our wireless leadership and ability to compete in a global economy. Simply put, we need this authority back.

Thank you again, to the subcommittee for your support for the fiscal year 2024 bill. And I look forward to answering any questions you might have.

[The statement follows:]

PREPARED STATEMENT OF JESSICA ROSENWORCEL

Chairman Van Hollen, Ranking Member Hagerty and Members of the Financial Services and General Government Subcommittee, thank you for this opportunity to appear before you today.

I want to start by thanking the Subcommittee for its decision to provide full funding for the Federal Communications Commission in your Fiscal Year 2024 FSGG bill.

The work of the Commission matters. Communications technologies power one-sixth of the nation's economy—and everyone needs access to these technologies to have a fair shot at 21st Century success. As a fee-funded agency, the Commission has worked hard to develop a reasonable budget that maximizes benefits to consumers, while remaining fair to the industries responsible for funding our requested \$410,743,000 appropriation. Your support will go a long way toward ensuring that the Commission meets its statutory mandates and upholds the core values of our laws—consumer protection, universal service, competition, national security, and public safety—all while keeping pace with ever-changing and advancing technologies.

Although this is not my first hearing before the Financial Services and General Government Subcommittee, it is my first presentation of the budget as Chairwoman, and the first woman to permanently lead the agency in our Nation's history. I'd like to highlight some the Commission's recent work, made possible by your support of our budget, under my leadership.

First, the Commission's Affordable Connectivity Program, the largest broadband affordability program in our Nation's history, now helps 21 million households pay for high-speed Internet service. Across the country, I have met with people who have been able to get online and stay online thanks to this program for work, school, healthcare, and more. Our current projections indicate that the appropriated funds provided through the Infrastructure Investment and Jobs Act to keep these households connected will run out as early as April of next year. I strongly support identifying a way to fund the Affordable Connectivity Program into the future to help more families get and stay connected to the high-speed Internet they need to participate in modern life.

In addition to the Affordable Connectivity Program, I want to note the work the agency did with the Emergency Connectivity Fund, a program Senator Van Hollen championed. This one-time effort developed during the early days of the pandemic was designed to assist students and library patrons with access to connections and devices. To date, more than 18 million students have benefited from Emergency Connectivity Fund support. It has helped close the Homework Gap, ensuring that kids everywhere have the ability to get online for schoolwork both in the classroom and at home.

Second, we are doing our part to keep pace with rapid development of the satellite sector and the growing importance of space-based communications. I want to thank the Subcommittee for supporting our ability to do this by approving the Commission's request earlier this year to establish the Space Bureau. The space industry has entered an era of unprecedented growth, which is fueling an increase in both the complexity and the number of applications for space services before the Commission. The Space Bureau is up and running and already hard at work. The Commission is preparing for the coming convergence of satellite and terrestrial convergence—we call it Single Network Future. And later this week, the Commission will vote on new rules to streamline our satellite policies and expedite the processing of space and earth station applications as well as a new licensing framework for commercial space launches.

Third, the Commission made the regulatory fees that support our work more transparent and more fair. In August, we unanimously adopted a long-overdue, comprehensive review of our internal regulatory fee process that aligns the assessment of regulatory fees more closely with the burden of the work being performed by Commission employees in each category.

Fourth, the agency's work to create the National Broadband Map—the most accurate broadband map ever created—will help close the digital divide. For decades, the Commission produced broadband maps based on Census blocks. In practice, this meant that if there was high-speed Internet service in a single location in a Census block, the agency assumed there was service throughout the area. Needless to say, this methodology overstated service nationwide. Following the Broadband DATA Act, in November 2022, thanks to the appropriated funds you provided—\$98 million total—the FCC developed its first location-based broadband map to paint a more accurate picture of where broadband is and is not available across the United States. This new map identifies every household and small business in the country that should have access to high-speed Internet service. For context, on how much more granular this is than what came before, in our current mapping effort the Commission identified over 114 million locations where fixed broadband could be installed compared to data from just 8.1 million Census blocks in our prior maps. We will keep iterating and improving this map and look forward to using this data to help efforts all over this country to bring broadband to everyone, everywhere. Given the time, effort and money that went into starting it up, we need to make certain that we have the resources to continue to update and maintain our maps well into the future.

Fifth, we implemented the Pirate Act and enhanced our protections of licensed broadcasters from pirate radio. We did this with a \$5 million budget increase to our base appropriation to support this resource-intensive, on-the-ground work. In addition to tougher fines on those who violate the spectrum rights of broadcasters, the law requires the FCC to conduct periodic enforcement sweeps, and grants the Commission authority to take enforcement action against landlords and property owners that knowingly permit illegal pirate radio activity on their properties. In March, we proposed over \$2 million in fines against violators. And in 2023 so far, we've issued 24 notices to property owners warning them of apparent pirate radio broadcasts from their property. At the current spending level approved by this Subcommittee, we will be able to continue this important work.

Sixth, the Commission is working to connect the most vulnerable. This past February, the Commission took steps to implement the Safe Connections Act. Under this new law, the Commission now has authority to help survivors of domestic abuse

to swiftly and securely separate from communications contracts like family plans and receive emergency communications support from Lifeline or the Affordable Connectivity Program for up to 6 months.

We are also implementing the Martha Wright-Reed Just and Reasonable Communications Act. We are going to use this new law and the expanded authority it provides to ensure the rates for prison phone calls—both interstate and intrastate—are just and reasonable. We are going to use it to address advanced communications services like video. And we are going to use it to ensure access to these communications by those with disabilities.

In addition, in June, we took steps to make the video conferencing services that have become ubiquitous more accessible to people with disabilities.

Seventh, we are doubling down on our efforts to stop scam robocalls and robotexts. Robocalls and robotexts aren't just exasperating, they are a pathway for fraudsters to harm consumers. So, we have been attacking them from all angles—cutting off bad actors from our networks, requiring providers to block unwanted calls, and mandating technology to stop call spoofing. Some of our efforts are beginning to bear fruit. After we identified the companies behind the auto warranty robocall scam, we told the rest of the industry to cut them off and auto warranty calls fell by over 90 percent. We used the same method to reduce student loan scam calls by 88 percent. And because this is problem that requires coordination among law enforcement, we now have a memorandum of understanding with Attorneys General from 47 States.

Eighth, the Commission is helping connect people to emergency services. This past July was the first anniversary of 988—the three-digit, easy-to-remember number you can dial to reach the Suicide and Crisis Lifeline. Thanks in part to the Commission's work, if you text or dial 988, you will now be connected to professional, compassionate support for mental health emergencies.

Ninth, the Commission is doing more than ever before to keep your communications more resilient and secure. For example, we have updated our rules to improve the reliability and resiliency of wireless networks during emergencies. We launched the Mandatory Disaster Response Initiative, which promotes service continuity through coordination, assistance, and information sharing during emergencies and disasters. And we opened up our Network Outage Reporting Systems and Disaster Information Reporting System for sharing with Federal, state, Tribal and territory access. Sharing this information will enhance the ability of these agencies to respond more rapidly to outages and help save lives.

And under my strategy of “deter, defend, develop”: deter bad actors, defend against untrusted vendors, and develop a market for trustworthy innovation, the Commission has taken a number of actions to protect our networks from national security threats. For the first time in history, we have revoked the authorization to provide telecommunications services for four Chinese communications providers. In addition, the Commission adopted my proposal to regularly review foreign companies' authorizations to provide telecommunications services in the United States. On top of this, we have launched the Secure and Trusted Communications Networks Reimbursement Program to remove Huawei and ZTE equipment in our communications networks. This is important for our domestic security and also sends a signal to the world that going forward we will not support insecure equipment in essential infrastructure. However, the \$1.9 billion previously appropriated to operate the Secure and Trusted Communications Networks Reimbursement Program is not going to be enough to secure our networks. After receiving and reviewing applications, we currently face a more than \$3.08 billion shortfall to fully reimburse participating carriers for removal, replacement and disposal of the problematic equipment. The Commission has received its first reimbursement requests from participants and, unless a further funding source is identified, will only be able provide forty cents on the dollar to those companies in reimbursement.

And tenth, we are finding more ways to use spectrum to support wireless communications into the future. We are working to free up more spectrum to serve as a launching pad for new technologies. We have already identified the 7–16 GHz band as prime mid-band airwaves for 5G, 6G and beyond. That is why I proposed making 550 megahertz of spectrum in the 12.7–13.25 GHz band available for new commercial mobile use. And we're not stopping there, the FCC is already looking to what a 6G future could look like including its impact on the digital divide, machine learning, how it could make life easier and more efficient for consumers, and new ways to connect industries, technology, and communities. Those communities include Tribal communities, and as a result of our work in the 2.5 GHz band, today more than 80 percent of federally-recognized Tribes have licensed spectrum. That is real change—and real opportunity.

But as we plan for the future, we also need to be mindful of the spectrum demands in the present. And one thing that absolutely needs to happen is the restoration of the FCC's spectrum auction authority. For three decades the FCC has had the authority to auction off airwaves to commercial actors to use to deploy, create, and innovate. But on March 9 of this year, that authority expired for the first time. As this Committee knows, if this is not corrected, it could have a tremendous impact. Over the past three decades, the FCC has held 100 spectrum auctions and, in the process, raised more than \$233 billion for the United States Treasury.

Restoring this authority will provide the United States with the strongest foundation to compete in a global economy, counter our adversaries' technology ambitions, and safeguard our national security. Most importantly, we cannot afford to wait. The global wireless community is convening for the World Radiocommunication Conference at the end of this year. It is where we set the future of spectrum policy. Restoring the FCC's auction authority is the first step in doing that, and it is my hope we can do it soon.

So that's ten things the FCC is doing to bring high-speed connectivity to everyone, everywhere that is secure, resilient, and ready for the future. The budget that this Subcommittee has provided in its FY2024 FSGG bill will help to support these critical efforts into the future. Thank you for the opportunity to join you today to share these details about the Commission's ongoing work. I look forward to your questions.

Senator VAN HOLLEN. Thank you. Thank you, Madam Chair.

And I am going to start where you left off on the issue of spectrum authority and just get your sense of what the harmful impact is to our economy, to our national security, to a whole range of issues because that authority has now lapsed? And if you could just provide your impressions about how we can best navigate a solution, which of course does need to come from Congress.

Chairwoman ROSENWORCEL. Thank you. The United States is a wireless leader. The smartphone started here, the application economy began on our shores, and we have powered this wireless revolution with spectrum. We have been able to take airwaves and repurpose them for new commercial use and hold commercial spectrum auctions. Those auctions have been a model for the world, and they have been lucrative for the United States Treasury. Like I just mentioned, we have raised \$233 billion.

But for the first time in 3 years, we don't have that authority. And this year is an especially important year because we are going to the World Radio Conference. That is a conference where global spectrum authorities gather every 4 years to discuss their plans for the wireless future. And in the United States, we now do not have the authority to hold commercial spectrum auctions, and we lack a commercial spectrum pipeline.

So what I am concerned about is that the future won't look like the past, and our leadership is less secured than it should be.

Senator VAN HOLLEN. Well, thank you. Thank you, Chair Rosenworcel. And just, to my colleagues here, we have really got to resolve this. I mean, as you know, it expired in March and, you know, we are just hurting our own country and our economy. So I hope we will all figure out a way forward on this.

If I could turn now to trying to connect all of America to high-speed Internet, and really ask you to focus on two programs that both you and I mentioned in our opening statements. One is the Affordable Connectivity Program. How many people are on it? How many people do you expect to join in the coming weeks? And what would be the consequences of Congress failing to provide additional funding for that program? And actually, I will wait until you answer that one before I ask a second question.

Chairwoman ROSENWORCEL. All right, it gets complicated fast. The Affordable Connectivity Program is the largest broadband affordability effort in our Nation's history. It is the byproduct of the Bipartisan Infrastructure Act. The FCC runs it; it means low-income households in every State can get access to support for basic broadband service. It is helping 21 million households across the country get online and stay online.

Right now, our best estimate is that the funding provided in that law will run out in April, and by April, we might have as many as 25 million households that are connected to this program. We have come so far; we can't stop now. We absolutely need another direct appropriation from Congress to continue the good work this program is doing. It has been of extraordinary benefit to people around the country who can now go to work, go to school, take health care appointments, and participate in their communities because they have reliable Internet access.

Senator VAN HOLLEN. Well, thank you. As you said, I think 24 million people and in every State around the country, this would obviously be a huge blow to our effort to really connect people, because physical connection is important, but if you can't afford it, it doesn't do you much good.

On the homework gap issue, but as you indicated during the pandemic, we put in place the Emergency Connectivity Fund. Those funds will—those dedicated funds will expire at the end of this year. There was an emergency program, but we are hopeful that you will be able to adapt the E-Rate Program to make sure that we don't lose the ground we have gained and instead build upon that foundation. Can you talk about some of your ideas for doing that?

Chairwoman ROSENWORCEL. Sure. The E-Rate Program is a quiet powerhouse. Since 1996, we have been able to connect schools and libraries across the country to high-speed Internet. We lead the world in our efforts to do so. And what we need to do now is update that program for the moment we are in. So I have proposed what I call Learn Without Limits, where we use the E-Rate Program and modernize it. For kids in rural America who spend lots of time on a school bus, we propose to use the E-Rate program to develop Wi-Fi on Wheels, to hook those school buses up to the school network so kids who spend time on those school buses can get some school work done.

I have been on buses in rural communities that have it; it is pretty dramatic, and those buses were funded by the Emergency Connectivity Fund, so we know it works.

Now, the other part of Learn Without Limits is making sure every school library and library in this country has wireless hotspots to loan out. I think the E-Rate Program is well suited for doing both of those things, and in the process, it can help us solve that homework gap you and I have talked so much about.

Senator VAN HOLLEN. Thank you. And we look forward to working with you on those initiatives.

Senator Hagerty.

Senator HAGERTY. Thank you, Chairman Van Hollen.

And welcome again, Chair Rosenworcel. We have talked about National Security before. I would like to talk with you about it

again today. We all know that Chinese technology is a threat not only to the Federal Government but to private industry here in America, and the FCC's covered list effectively bans the sale, bans the use, and the importation of certain communications equipment and services. I think it is a very potent tool.

One of the things, and you and I have touched on this before, is it seems that the list is quite narrow, and so just as an opening question, I would like to ask you. Is the Commission being deliberately cautious here, or is there something that is holding you back?

Chairwoman ROSENWORCEL. That is a really good question, Senator. The covered list is a list of equipment that our Nation's National Security authorities have found to be insecure, and as a result, it cannot be used for any FCC expenditure. So if you get money from us to help you build your network, you cannot use it to purchase any of that equipment.

We update it from time to time, but we only are permitted under the law to update it if national security authorities identify additional companies. And so on a fairly regular basis, we reach out to those national security authorities enumerated in the law, like the FBI, like the Department of Justice, like the Office of the Director of National Intelligence, and ask for updates. And recently, we even wrote them with the names of two companies that had been brought to our attention by some Members of the House of Representatives and asked for their assessment on it.

So if I could ask you to do one thing, it would be to make sure that those national security authorities get back to us and help us keep that list up to date.

Senator HAGERTY. That is a very helpful suggestion, and I think our work right here on the Appropriations Committee, we may be able to help in that regard.

Staying on this, the covered list, what would be the implications of a more extensive list, even a retroactive list? How would that help you utilize the covered list to the fullest extent?

Chairwoman ROSENWORCEL. Well, a covered list has other values too. I just want to acknowledge that when we publicly produce a list of equipment that we believe is insecure that the government won't support we are also telling the private sector this isn't stuff you should be buying or using.

Senator HAGERTY. It is an important message.

Chairwoman ROSENWORCEL. And we are also telling the global economy that we don't trust this equipment. So I do want to acknowledge that that list has power beyond just the FCC and our immediate programs. I think it is narrow because our national security authorities are careful, which is appropriate, but I also think we can't let this list wither. We need to update it from time to time and reaching out to them regularly as we do has been useful, but of course, you also pointing out that this should be a priority would be helpful as well.

Senator HAGERTY. And amplify the point you just made; when I was serving in a previous role as United States Ambassador to Japan, the third largest economy in the world, we were able to get them to block untrusted carriers because of what had happened here. Our ability to point to that, and the example that we set, as

you say, can have repercussions around the world. So thanks for that to continue.

Chairwoman ROSENWORCEL. Absolutely. That is absolutely correct.

Senator HAGERTY. The strength of the covered list rests with the Commission's Equipment Authorization Program, and that predates the covered list. And my question is if — you had the Equipment Authorization Program, are there other FCC programs that are already in place that might serve as a foundation for addressing national security concerns beyond the covered list?

Chairwoman ROSENWORCEL. We have been exploring what kind of certifications might be necessary from applicants before the FCC.

Senator HAGERTY. Mm-hmm.

Chairwoman ROSENWORCEL. For instance, if you are about to bid in a spectrum auction in the future, should you certify that none of your funding comes from countries whose revenues and governments we have concerns about? We have also been exploring whether or not when we give you an authorization to participate in our economy, what kind of national security questions we should ask at the outset, including what equipments might be used in your networks, and what kind of managed services you might get from some foreign-provided company.

So we are looking across the board for other points to create opportunities for certification to make sure that networks in this country are secure.

Senator HAGERTY. As you think about the national security ramifications of what you do, and I am sure you do this every day, know that our staff stands ready to work with you, and that I would be very interested in any thoughts that you might have in terms of looking at existing authorities and new ways to utilize those. And frankly, if there is any way we can support you in that, or if you need our support, letting us know.

Very quickly, I would like to turn to the satellite industry. It is growing; it has an incredibly important role in communications. The creation of the Space Bureau is intended to align the Commission's resources with its responsibilities. And I just want to get an update from you on what the current status of the space Bureau is, how you are going to know if the reorganization that you are undertaking is a success? How will you measure that?

Chairwoman ROSENWORCEL. Sure. First of all, I want to thank the subcommittee for supporting this reorganization. When I got to the agency and I saw the backlog we had of satellite applications, I felt that we had to reorganize to address them more rapidly. Just this week, the agency will be voting on an effort to streamline the application process. We also have a transparency initiative.

And then globally, we are leading with what I call the "single network future" because we are trying to develop a framework for figuring out how terrestrial wireless services can combine with new satellite services in the phones in our pockets and the devices on the ground. So I think we are actually making great strides. The challenge now is to continue and to hire people who can help us with all the applications we have before us.

Senator HAGERTY. And I would think you will find great opportunities as well for cost savings when you think about your connectivity objectives as well, utilizing this, as you call it, the “single network” approach—

Chairwoman ROSENWORCEL. The future.

Senator HAGERTY [continuing]. Future. Thank you.

Thank you, Mr. Chairman.

Senator VAN HOLLEN. Thank you Senator Hagerty. We have been joined by Senator Manchin, who has agreed to defer his opportunity to question first to Senator Kennedy.

Senator Kennedy.

Senator KENNEDY. Okay. Thank you, Senators.

Madam Chair, welcome. You have been on the FCC for a while, haven't you?

Chairwoman ROSENWORCEL. Mm-hmm.

Senator KENNEDY. You know what I am talking about then when I refer to the C-band.

Chairwoman ROSENWORCEL. I do. I do.

Senator KENNEDY. Yes, I bet you do. That is sort of the part of the spectrum that the companies that want to roll out 5G cell phone service really need; am I right?

Chairwoman ROSENWORCEL. It is mid-band airwaves that are like Gold Coast territory for wireless.

Senator KENNEDY. All right. I am going to call them the C-band. You will remember then in 2018, I certainly do.

Chairwoman ROSENWORCEL. Mm-hmm.

Senator KENNEDY. Not you, but some of your colleagues on the FCC decided they were going to give the C-Band away, my words, not yours. At the time, that C-band, we didn't know how important it was. It was licensed to some foreign satellite companies.

Chairwoman ROSENWORCEL. That is right.

Senator KENNEDY. And we discovered how valuable that C-band was. And the 5G telecommunication companies, mostly American companies, were really anxious to get it. And some members of the FCC, and frankly some senators, came up with a proposal to give that C-band to the foreign satellite companies and let them sell it to the 5G companies and keep the money.

And I didn't like that, and neither did Senator Cantwell, and neither did Senator Schatz. And we called the President and insisted that—and the President called the FCC and said we need to bid this out. Do you remember all that?

Chairwoman ROSENWORCEL. I do, Senator. Yes.

Senator KENNEDY. And we saved about \$81 billion. Now, you have been auctioning the C-Band out. You held an auction in September, did you not?

Chairwoman ROSENWORCEL. Yes.

Senator KENNEDY. Number 107, I think it is called.

Chairwoman ROSENWORCEL. I believe that is right. Auction 107 as referenced here involved the auction of the C Band (3.7 GHz band), but that auction took place between December 8, 2020 and February 17, 2021. Auction 107 garnered over \$81 billion for the U.S. Treasury and no longer has outstanding applications on file. Auction 108 (2.5 GHz band) occurred from July 29, 2022 to August 29, 2022 with the winning bidders published on September 1, 2022.

Auction 108's licensing process was incomplete when the FCC's auction authority expired under Section 309(j) of the Communications Act.

Senator KENNEDY. Okay. The problem, that we have got two problems here, your authority to hold auctions has run out.

Chairwoman ROSENWORCEL. Yes.

Senator KENNEDY. And number two, more immediately, you conducted some auctions in September, awarded some licenses to the C-band based on auctions, highest bidder.

Chairwoman ROSENWORCEL. That is right. The licenses in question are for the 2.5 GHz band. The licensing process for the winning bidders cannot be completed due to the expiration of auction authority under Section 309(j) of the Communications Act.

Senator KENNEDY. Took those companies' money, and then your authority ran out.

Chairwoman ROSENWORCEL. That is right.

Senator KENNEDY. And the FCC hadn't given them the licenses.

Chairwoman ROSENWORCEL. That is right.

Senator KENNEDY. Why can't you give them the licenses, they paid for it.

Chairwoman ROSENWORCEL. I agree with you, the situation is unfair. They paid for it. They deserve to have that license.

Senator KENNEDY. So why can't you give it to them?

Chairwoman ROSENWORCEL. So the Communications Act is very straightforward. It says: Our authority to grant licenses expired on March 9, 2023. We got a lot of laws before us that are tortured and confusing, but this is a straightforward provision; it expired.

Senator KENNEDY. Okay.

Chairwoman ROSENWORCEL. And so we are going to need your help getting rid of that expiration.

Senator KENNEDY. What if we did two things? What if, number one, to solve the immediate problem, we passed a bill that said, only one time, short-term basis, we are giving you, Madam Chair, and the FCC, the authority to go ahead and award those licenses that people have already paid for? That is the first bill. The second bill would be to renew your authority to hold auctions. Would you have any objection to us doing those two things?

Chairwoman ROSENWORCEL. Sure. I don't object to you trying to be specific about the licenses in your bill. But I want to emphasize how much we do need that authority back.

Senator KENNEDY. All right. Tell me. I mean, this sounds very, very simple when we talk about it here, tell me, tell me who is pushing back on reauthorizing your authority to hold auctions?

Senator KENNEDY. Well, that is happening in Congress. I certainly have uniform support among my colleagues at the FCC for getting auctions reauthorized.

Senator KENNEDY. But who is—who is against it? And I am not asking personalities, I am asking what interest groups are against it?

Chairwoman ROSENWORCEL. Well, you know, the way that we auction spectrum, and have in the last several years, the C-band being an exception, is we frequently identify airwaves with Federal users, from the Department of Defense, or the Department of

Transportation, and we say, perhaps they could do the same function with a little less spectrum.

And then we identify a way to take some of that spectrum, repurpose it for new commercial use. And then with the revenues from our auctions, we make the Defense Department or the Department of Transportation whole by giving them funds from the auction—

Senator KENNEDY. So you are getting pushed back from the Defense Department and the Department of Transportation?

Chairwoman ROSENWORCEL. Well, those are the two largest Federal authorities with airwaves below 6 gigahertz, so I focused on them here. But the reality is we are putting more stuff in our skies for communication than ever before, they all have to—

Senator KENNEDY. I know. But you can't say this, but I can. You are getting pushed back from Defense and Transportation. We have got a turf battle here. What can we do to sit down with DOD, and Transportation, and the FCC and work this out? We are all for national defense.

Chairwoman ROSENWORCEL. Absolutely.

Senator KENNEDY. We are also for 5G. So what can we do to get this worked out?

Chairwoman ROSENWORCEL. Well, I could offer the services of my office and my whole agency to assist you because I want to make clear that when our commercial wireless economy grows, technology expands, and the U.S. does better. That is true across the board.

Senator KENNEDY. If our Chairman called a meeting and tried to get everybody together, would you come to it?

Chairwoman ROSENWORCEL. I would.

Senator KENNEDY. And would you bring your colleagues on the FCC?

Chairwoman ROSENWORCEL. I would. Absolutely.

Senator KENNEDY. Okay. We need to get this battle worked out.

Chairwoman ROSENWORCEL. I agree with you.

Senator KENNEDY. Thank you, Mr. Chair.

Senator VAN HOLLEN. Senator Kennedy, before I turn it over to Senator Manchin, I say, amen, to everything you said, both in terms of making sure that those companies that have already paid for their spectrum should get it. But they could also get that if we just reauthorize the—write the authority to enter into these contracts.

I talked to Senator Cantwell about this issue today, who chairs the Senate Commerce Committee with authorizing jurisdiction. Not a long conversation. But I agree with you. We need to get this done in the coming weeks because it is hurting all of us. Thank you.

Senator Manchin.

Senator MANCHIN. I also agree. Let me just say this, the fiscal year 2021 Omnibus Bill appropriated \$1.9 billion to carry out the Secured and Trusted Communications Networks Reimbursement Program, which is also known as a Rip and Replace Program.

Chairwoman ROSENWORCEL. Yes.

Senator MANCHIN. For all the people that we say are out there that we got to get off these services. Where do you stand on that?

What are the security implications that we are not fully aware of, and we are not—

Chairwoman ROSENWORCEL. Well, there is insecure Chinese equipment—

Senator MANCHIN. Right.

Chairwoman ROSENWORCEL [continuing]. And many of our Nation's smallest wireless carriers, and Congress provided us with \$1.9 billion to take it out so they could replace it.

Senator MANCHIN. Right.

Chairwoman ROSENWORCEL. But as I have told the authorizing committees, we need an additional \$3.08 billion to fully take that equipment out securely and place—

Senator MANCHIN. We are paying for all, the Federal Government is paying to reimburse those who were led to believe this is safe and secure and it is cheaper.

Chairwoman ROSENWORCEL. That is exactly right. I think we have decided that this equipment is insecure—

Senator MANCHIN. And so would you—

Chairwoman ROSENWORCEL [continuing]. And we need to take it out at all costs. And the smallest carriers have it in their networks with the least resources and the fewest companies—and the fewest customers.

Senator MANCHIN. Okay.

Chairwoman ROSENWORCEL. So Congress set aside funding for it but those funds are not sufficient to fully fund reimbursement.

Senator MANCHIN. Madam Chairwoman, then talk to me about your FCC's budget for 2024.

Chairwoman ROSENWORCEL. Yes. Our budget maintains—

Senator MANCHIN. Is it in there? Is your request in there?

Chairwoman ROSENWORCEL. Our request is not part of our budget. That funding was set aside in the Infrastructure Investment and Jobs Act, Division J, Title IV.

Senator MANCHIN. The reason I am saying that this is — everything we are talking about is extremely important. That was one of the most offensive things that we had found out about all the different users that we had using something that could be detrimental to all of us and our security.

Chairwoman ROSENWORCEL. Yes.

Senator MANCHIN. So to me, that would be a high priority. That I think if you don't identify it, I can guarantee you, they won't come forward and just say: Oh, yes, we still think that is needed. But it must not be your highest priority because it is not in your budget request.

Chairwoman ROSENWORCEL. Well, we have—I have written to Members of Congress on this on five or six different separate occasions asking to be able to have this funding made available. So we have made it a priority, and we are working with the carriers that have it in their networks right now to try to identify what our funding stream options are.

Senator MANCHIN. What are your highest priorities right now within your budget request; as far as the mission of the FCC?

Chairwoman ROSENWORCEL. I think we have got to make sure that we figure out a way to get broadband to everyone in this country. We have got to make sure that our maps can actually be accu-

rate and help with that process. We got to make sure that wireless services reach everyone and that we get our spectrum authorities back.

Senator MANCHIN. How do you, how do you in rural areas such as mine, in Louisiana, and Tennessee, and on, and on, and Maryland even has some rural areas that I am very familiar with, how do we make sure that the carriers who have exclusive rights in those areas, who have had rights, and have told us everything in the maps would have been totally erroneous, or maps when they protect their territory? How can we make sure that they are doing what is needed?

I had a person call me today, one-half mile from where Frontier was going eight homes down over, and they won't come. How can it be—

Chairwoman ROSENWORCEL. Yes. No, we hear stories like that all the time.

Senator MANCHIN. Yes.

Chairwoman ROSENWORCEL. What we are trying to do with our maps, and this is a process, it is not something that happens overnight, as we build the kind of database where consumers, States, and municipalities can come to us and say: This information's not right. I live here, and in my own backyard, let me tell you, you have got it wrong. And what the carriers are telling you isn't right.

And I think you know we have been working with the West Virginia Broadband Office to do a lot of that work, and a lot of State broadband offices have really stepped up to help us understand where our data is right and where it is wrong. And I just got to tell you, we are going to have to commit to that process for the long haul to make sure that things like those BEAD monies that are being spent right now get spent in the right places.

Senator MANCHIN. Do you have enough resources to do the mapping and making sure the maps are accurate and followed as we designed?

Chairwoman ROSENWORCEL. We do right now, but in the next fiscal year we will have to ask for an additional appropriation to keep those maps up and running, and continue to improve them.

Senator MANCHIN. My recommendation would be, based on what we talked, with the Huawei's, and all the concerns we had, that we just mentioned, that that be a high priority of yours to ask in your budget?

Chairwoman ROSENWORCEL. Yes.

Senator MANCHIN. And so for the additional background on this because just in common sense, I tell people back home, and they remember their grandparents, or great-grandparents talking about when they had no electricity, in 1936 we had the rural broadband electrification. I could never figure how we got into so many hollers and up so many creeks and everything else. I never could figure it out. And then I heard about co-ops.

Chairwoman ROSENWORCEL. Yes.

Senator MANCHIN. And it was people who didn't basically look at anything except the service they needed, and they gathered as a co-op and was able to take it the lowest cost. Is that type of a model still available for broadband when we can't get the big guys to go because they say, well it is not—there is no return on investment,

so why are you forcing me to go up this hollers, or down this road here, and there is only five people?

Chairwoman ROSENWORCEL. I think we have a perfect analog with the Rural Electrification Act. I mean, there was a time where we thought we could only bring electricity to the cities; you weren't going to turn the lights on in parts of rural West Virginia.

Senator MANCHIN. There is not that many rural co-ops still left.

Chairwoman ROSENWORCEL. And what we did was we mapped where electricity was and was not, and then we identified where commercial actors could take it, and where commercial actors wouldn't take it, we developed public-private partnerships to deploy in those communities.

Senator MANCHIN. So we can go—we can identify some areas ourselves where they are just, they just cannot get service. I mean, I am sure that John, I am sure that all of us here have that same problem, and if we can identify that to where you will assist and help them put a collective together?

Chairwoman ROSENWORCEL. Absolutely. What you have to be mindful of, is some State laws prevent some of those municipal deployments, and you need to make sure that the State legislature does not stop those activities from happening. But you know history shows that when we didn't have barns, or roads, or bridges, we came together as communities to build them.

Senator MANCHIN. Sure.

Chairwoman ROSENWORCEL. This, to me, feels exactly the same.

Senator MANCHIN. Well, we have got one shot, because you have put a lot of money on it right, and if we don't follow through we will not have it.

Chairwoman ROSENWORCEL. You are right. The BEAD Program is a-once-in-a-lifetime kind of effort.

Senator MANCHIN. Thank you.

Senator VAN HOLLEN. Well, thank you, Senator Manchin.

And as the Chair Rosenworcel said, in some of these areas and, you know, because we have had conversations in Western Maryland; in some of the areas there has been local resistance to allowing a municipality, for example, to simply, you know, start their own broadband service, if there is no other provider, and some State laws preempt it, but I look forward to working with you on that.

Let me just say with respect to Rip and Replace, right, this was our effort to improve the security of our own networks, there were a number of networks around the country that had ZTE and Huawei, part of it. As part of the 2021 Omnibus, we collectively, Congress provided \$1.9 billion in mandatory funding to rip and replace those funds. So it has never been part of the baseline, it was considered a one-time expenditure. It was not enough. So my understanding, and correct me if I am wrong Madam—Chair Rosenworcel, is that it requires another approximately \$3 billion to finish the job; is that right?

Chairwoman ROSENWORCEL. That is correct.

Senator VAN HOLLEN. And we are hoping that that might be included as part of an effort to extend the—your authority when it comes to—you know, when it comes to the sales, leasing of the spectrum.

Chairwoman ROSENWORCEL. That is right.

Senator MANCHIN. Mr. Chairman, can I just follow up on?

Senator VAN HOLLEN. Yes.

Senator MANCHIN. Is that only for domestic?

Chairwoman ROSENWORCEL. Yes.

Senator MANCHIN. Rip and Replace is just for a domestic?

Chairwoman ROSENWORCEL. Just for carriers in the United States.

Senator MANCHIN. The United States, because we have an awful lot of our allies who really follow—

Chairwoman ROSENWORCEL. Absolutely; but only carriers in the United States, yes.

Senator MANCHIN. Got you.

Senator VAN HOLLEN. Let me turn quickly to the question of robocalls. And we are obviously going to do another round of questions for any members who are interested.

Robocalls are obviously a constant challenge for consumers, and it is always a bit of a cat and mouse game, trying to keep one step ahead of the robocallers who are violating the law. So if you could speak to two things, one the challenge of collecting fines that have been leveled against violators and whether we can be helpful in any way, or whether they are sort of fly-by-night operations.

The second as you mentioned in your testimony the need for Congress to help you fill a loophole in the law, my understanding is there has been a recent lawsuit, and maybe current law does not cover texting. So if you could cover those two issues.

Chairwoman ROSENWORCEL. Sure. Robocalls are annoying, robotexts are irritating. We need to do everything we can to stop them. We have deployed new technology like STIR/SHAKEN. We have got a Trace Back Consortium working on it. I have now got partnerships with 47 of our State Attorneys General to work with them on this issue. We have issued cease-and-desist letters; we are doing new things, new tools. But there are two gaping loopholes that I see.

The first is a Supreme Court decision in 2021 decided to freeze the definition of auto-dialer in the early 1990s, and as a result, there are a whole lot of scam artists out there who can evade our authority in the Telephone Consumer Protection Act. We would like to update that definition so that we can enforce the law against them.

And second, we have issued more than \$700 million in fines against robocallers and robotexters since I have been at the helm of the agency, but I can't take them to court and go collect that money. I have to hand that off to the Department of Justice, and I am sure they have got lots of other priorities. And I am sure many of those companies are fly-by-night, and collecting those fines may not be easy. But I still would like the authority to do it, because I have to do everything we can to hold those folks to account if we want this effort of enforcement to be successful.

Senator VAN HOLLEN. Well, speaking for myself, I would like to help you on both counts there, and maybe we can work with your team. The second part, which is giving the FCC the authority to directly go to court to collect the fees, do you have any estimate of what that would require in terms of additional resources?

Chairwoman ROSENWORCEL. I suspect the consent of the Department of Justice, and that might prove more challenging in identifying the resources, but I just feel like we have got to hold some of these folks accountable, and issuing fines, and letting them disappear is not the way to do it.

Senator VAN HOLLEN. Absolutely. But as you know, there are other Federal agencies that do have the authority to bring lawsuits, and they develop sort of shared authorities—

Chairwoman ROSENWORCEL. Right.

Senator VAN HOLLEN [continuing]. With the Department of Justice, so if you don't have—

Chairwoman ROSENWORCEL. Yes. And we are working—

Senator VAN HOLLEN [continuing]. The time or capacity to do this; maybe we should talk to them.

Chairwoman ROSENWORCEL. And we have been working with State Attorneys General. We have had a lot of success working with the Ohio Attorney General on auto warranty scams; we have done some mortgage scams with the Florida Attorney General. Really, no matter where you are in this country, people are irritated by this. So we are trying to develop as many partnerships as we can to make sure these folks are held to account.

Senator VAN HOLLEN. Got it. And my last question really picks up on something that Senator Manchin raised and which I raised; all of us have raised; which is the mapping question.

Chairwoman ROSENWORCEL. Mm-hmm.

Senator VAN HOLLEN. And as I said in my opening remarks, I think the FCC has made dramatic strides in improving the system by creating that feedback loop. But I am sure you are aware of the 2022 GAO Report that talked about the 15 Federal agencies administering broadband programs.

Now, the BEAD Program is obviously a big one in the Department of Commerce, but there are many others. Can you talk to—discuss the effort and coordination? Because I can tell you, you know, in preparing for this hearing, in fact, one of the reasons we want to have the hearing was just as we sort of look through the chart of, you know, Department of Agriculture, FCC, Commerce, all of these agencies that are involved.

Chairwoman ROSENWORCEL. Yes.

Senator VAN HOLLEN. If you were going to recreate this, do you have any thoughts on how we design it, or how we can better coordinate with the existing programs?

Chairwoman ROSENWORCEL. You know, Senator, if I had a magic wand, I would make it simpler. I understand what you are describing. So what I have been trying to do at the agency is figure out how we can coordinate with as many of these actors as possible. I signed a memorandum of understanding with the Department of Commerce because they have a lot of programs like BEAD, and I signed a memorandum of understanding with the Department of Agriculture because the Rural Utility Service has a lot of programs.

I also went to the Department of the Treasury because their Capital Projects Fund is loaning out a lot of money. So I went to the biggest actors and said: We are all going to share information and data.

On top of that, I have developed something called the Broadband Funding Map using \$10 million in direct appropriations set aside in the IIJA. It is not the map that gets all the attention, but I think going forward it should get more attention, because I am asking everyone who has a broadband program to file data with us about where they have given out grants, so that we have a map of the enforceable commitments around the country.

To be clear, I have had a lot of positive feedback from the Department of Commerce; we coordinate well. I have got to work with some of the other agencies to get more information and more data from them, but it is starting to come in. And keeping these other agencies reporting to us about where their grants are going, where their dollars are headed, and what they are doing is a really important part of making sure that we don't overfund some areas and ignore others.

And so that Broadband Funding Map, I think, is a very important tool for Congress and its oversight. But I am going to need all those other agencies to give me their data in a very specific format in order to ensure that tool is really valuable.

Senator VAN HOLLEN. Well, if you can keep us posted, I am sure we have a shared interest in making sure you get full cooperation from the other agencies. Because as you said, one thing that—it is important is to have a map to know who has broadband connections, and who doesn't. It is also important to have a map of who is funding what and where, so we don't duplicate effort.

Chairwoman ROSENWORCEL. Right. Exactly.

Senator Hagerty.

Senator HAGERTY. Yes. I think that is a great suggestion, Mr. Chair. And I certainly applaud your asking the question. And Chair Rosenworcel, I hope you will share even the interim data on this Broadband Funding Map with our teams. I would very much like to see just the data to date and what it is showing you, what it is telling you, where it might lead us as policymakers and appropriators.

Chairwoman ROSENWORCEL. Yes.

Senator HAGERTY. I would like to just come back to the topic of our allies for a moment. And I think you are working hard, you are working apace, you have even identified the cost of \$3.08 billion, what it will take to rip and replace here, and try to get our networks secure. I think it is terribly important that we do it. I think it is also important that our allies do the same. And one of the most important aspects of our alliances around the world is our interoperability with our allies.

That is constrained dramatically when we have systems that we can't trust on the other side. And I have seen a real gap, if you will, in terms of understanding amongst our allies, of what the threats are, what the concerns might be.

And I am not certain what the vehicle would be, and it might take you a little longer than just this moment to think it through, but if there is a role that you could play in terms of putting together the information that would help persuade our allies of the urgency of doing exactly what you are trying to accomplish here, in terms of getting their networks secure so that we can share more information with them, and so that we will be more inter-

operable with them, I think would do us a great service. I would love to get your thoughts on that.

Chairwoman ROSENWORCEL. Yes. I think, and I have talked to national security authorities about this. I think that if we choose to take this equipment out of our networks and fully fund its replacement costs, we have to go tell everyone around the world that we chose to do that. The United States decided that this equipment was so insecure we needed to take it out, remove it, and we paid for it. I think that is a really powerful example. And when we do it, we need to share that with our allies around the world.

And there are other countries that are working with us on this issue, not all of them. But I think it is also simultaneously important that we help build up a better market for network equipment in the United States, and in our allies, because we have gotten to a place where there is only a handful of network equipment providers in the world right now; some of the biggest come from China.

We need to make sure that the equipment market is more diverse, and more competitive, and less costly. I think that will also benefit us and our, you know, political interest in making sure that secure equipment is here at home and also abroad.

Senator HAGERTY. Back in 2017, I asked for a chart that showed what an end-to-end non-China solution for 5G would look like. And we actually put flags on the chart; multiple nations are involved for us to get this done, and multiple opportunities, therefore, to cooperate, and the need to cooperate with those nations, in terms of their standards, the specs for those devices. It is a big opportunity and a big challenge at the same time.

Chairwoman ROSENWORCEL. Yes, we can't do this on our own. We have got to find like-minded nations and then work with others to make sure that this equipment, which isn't just about Communications networks, it is about the infrastructure that supports modern economies, is actually secure and not vulnerable to foreign actors who might eventually wish to do them harm.

Senator HAGERTY. Yes. I think the vulnerability is clear, and I very much appreciate your continued thinking on this. And if you see an opportunity for us to help support you in this effort, please know that we are all supportive of doing that. Thank you.

Thanks, Mr. Chair.

Senator VAN HOLLEN. Thank you. Well, Chair Rosenworcel, so we have covered a lot of territory today.

Thank you, Senator Hagerty, other members who were here.

ADDITIONAL COMMITTEE QUESTIONS

Senator VAN HOLLEN. The hearing record will remain open for 7 days, allowing Members to submit statements and/or questions for the record, which should be sent to the subcommittee by close of business Tuesday, September 25, 2023.

[The following questions were not asked at the hearing, but were submitted to the Internal Revenue Service for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO CHAIRWOMAN JESSICA ROSENWORCEL

QUESTIONS SUBMITTED BY SENATOR JOE MANCHIN

Question. The IIJA established the BEAD program to expand high-speed Internet access across the country, including my home state of West Virginia. The BEAD program requires that funding be allocated based on each state's proportion of unserved locations according to the National Broadband Map. For decades, the FCC was allowing Internet providers to draw the broadband maps and they were wildly inaccurate with grossly overstated coverage. I led the fight to fix the map, because without correcting these maps, West Virginia would never have received the resources necessary to address the lack of coverage.

It is imperative that the map be accurate and accessible to the general public.

In that vein, I secured report language accompanying the FY24 Financial Service and General Government appropriations bill that would direct the FCC to work with other agencies, including NTIA and USDA, to develop broadband maps that display eligibility for broadband deployment programs designed to expand broadband access and close the digital divide, particularly in rural areas.

I also secured report language that would ask the FCC to address any ongoing accuracy issues with the National Broadband Map. What is your plan to continue the important work of improving the National Broadband Map?

Answer. I understand how vital it is for the Commission to work to continually improve the accuracy of the National Broadband Map. This map is an important tool to help close the digital divide because it identifies, like no other data collection before it, where broadband is and is not all across the country. Moreover, this map is being used to inform broadband funding decisions at both the Federal and state level, including for the Broadband Equity Access and Deployment program at the Department of Commerce.

The Broadband DATA Act is the law that governs the agency's data collections that are used to assemble the National Broadband Map on a biannual basis. This process is designed to be iterative, with each new version of the map providing a more accurate and up-to-date picture of where broadband services are nationwide.

Twice a year the agency releases an updated broadband Fabric, which is a database of all broadband serviceable locations in the United States. The Fabric is developed using hundreds of data sources, including tax records, property records, parcel boundary records, and satellite building imagery.

Following the release of each updated Fabric, providers are required to supply information about the service they provide at each broadband serviceable location. The combination of this information and the Fabric database leads to the production of each map.

Our next map issued using this process will be released in November and will reflect provider-reported availability data as of June 30, 2023. It will be our third map issued pursuant to the Broadband DATA Act.

We will continue using all the tools available to the Commission to update and improve the map, including: improvements to the underlying data used to identify broadband serviceable locations on the Fabric, collecting updated broadband availability data every 6 months, processing challenges to the Fabric and broadband availability data shown on the map, and validating the data providers are filing.

Our current version of the Fabric includes over 115 million locations where fixed broadband could be installed. This reflects steady improvement in the Fabric since it was initially released in June of 2022. Working with our vendor CostQuest, over one million additional broadband serviceable locations have been added to the map since the November 2022 pre-production map, and the November 2023 map will add over 800,000 additional locations nationwide.

These additional locations are primarily the result of our work with our vendor to update and improve the Fabric by refining the models and processes for creating the Fabric and using updated and improved input data sources such as new parcel data. The current version of the Fabric also incorporates millions of adjustments to the data associated with locations that were already included in earlier versions of the Fabric, including, for example, changes to address fields, unit counts, secondary addresses, broadband serviceable location status, and building and land use codes. Stakeholders—including municipalities, states, Tribes and individual consumers—are also helping to improve the Fabric through the challenge process. Over 1.5 million Fabric challenges have been accepted and incorporated into the Fabric itself. These challenges have helped identify missing locations and correct addresses and other information associated with the broadband serviceable locations included in the Fabric. Going forward, these efforts to improve the Fabric will continue to be a critical tool for improvement of the National Broadband Map.

In addition to our continuing efforts to improve the Fabric, we are also focused on making use of the tools provided in the Broadband DATA Act to ensure that the availability data shown on the map are as accurate as possible.

When providers submit data there are several steps the Commission takes to ensure as accurate-as-possible reporting, including automated system validations, informal and formal data verification efforts, audits, and when warranted enforcement referrals. The FCC has built automated error and anomaly detection and data cross-checks into the Broadband Data Collection system to validate submissions from Internet providers. Some require the provider to make a correction before the submission is accepted and others are reviewed by FCC staff.

To date, FCC staff have initiated over 900 verification inquiries. This has resulted in updates to over 600 submissions from providers and a clearer picture of broadband availability in every state and territory. The agency is also conducting audits of reported mobile coverage in a number of states.

In addition to audits and verifications, the Commission has also engaged directly with providers to offer technical assistance and support ensuring that the availability data that is reported is of sufficient quality. This outreach includes webinars, tutorials, standing up a technical assistance help desk, and one-on-one meetings with staff.

Another important tool is the availability challenge process. It has resulted in our mapping team processing over 4.8 million challenges to provider reported availability data since the release of our first pre-production map in November 2022. These challenges have already yielded important changes in the map data and I anticipate that, over time, the challenge process will continue to serve as an important tool for correcting inaccuracies in provider reported data on the map.

Finally, the Broadband Data Act also gives the FCC authority to take enforcement actions to address situations where a provider “willfully, and knowingly, or recklessly” submits “materially inaccurate or incomplete” availability information. While I cannot provide information about specific enforcement referrals as these are ongoing law enforcement investigations, I can confirm that we have ongoing enforcement investigations. Moreover, I want to be clear that we will not hesitate to use this process when warranted, including against providers that have failed to report data or falsified data.

Question. How do you ensure the National Broadband Map is accurate?

Answer. The National Broadband Map is designed to be iterative—and consistently improving. To ensure these improvements are featured on the map, the Commission uses a number of tools to prevent, identify, and address inaccuracies and anomalies in both the fabric database and broadband availability data submitted by providers.

The Fabric is an evolving dataset of all broadband serviceable locations in the United States that will need to change as new locations come online. Substantial improvements have been made to the Fabric since its first pre-production release in November 2022, and it continues to improve with each release.

With respect to the Fabric, the Commission uses a number of practices to ensure it is as accurate as possible. Following each new Fabric release, the FCC’s contractor, CostQuest, continues to refine and update its models, gain access to new and improved data sources used to identify broadband serviceable locations, such as new construction data, and makes other updates to the locations on the Fabric based on stakeholder feedback both through the challenge process and direct engagement.

We have acknowledged that there were a few discrete instances where the data in the initial release of the Fabric did not meet our expectations. The known instances correspond to areas in the United States where the underlying datasets used to create the Fabric (parcel data, tax assessor data, high-resolution imagery data) were either outdated or simply not available. To improve the Fabric data in these areas, the FCC and our contractor, CostQuest, have invested significant resources since the release of the first version of the Fabric to undertake manual review above and beyond the baseline methodology to identify additional broadband serviceable locations in these areas.

In addition, the FCC has developed a robust Fabric location challenge process through which stakeholders can raise location specific issues, such as missing locations, misidentified locations (i.e., a house incorrectly labeled as a large business), incorrect location information including address or unit count, and incorrect location placement on the map. Once submitted, the FCC and its vendor review the submissions using a series of geospatial checks and ultimately visual verification of satellite and fly over imagery for certain challenge types. Location changes resulting from a challenge are reflected in the next Fabric release.

Stakeholders including states, local and tribal governments and consumers have submitted over 1.5 million challenges which been accepted and incorporated into the Fabric to date. We continue to accept both bulk and individual location challenges on a rolling basis. The FCC has taken a number of steps to inform and engage stakeholders in the Fabric challenge process, including holding webinars and workshops, and releasing outreach and technical assistance materials.

With respect to availability data, the Commission is also using every tool available to ensure the information is as accurate as possible. For starters, Commission staff provide technical assistance and support to providers to assist with the correct filing of data through webinars, tutorials, articles, a technical assistance help desk, and one-on-one meetings. The Commission also uses system validations, data verifications and audits, enforcement actions and a challenge process to ensure the availability data on the map is as accurate as possible.

The system providers use to submit availability data features a validation process, is designed to recognize patterns that suggest a problem with the underlying information provided to the agency. This has resulted in over 900 verification inquiries from Commission staff, followed by updates to more than 600 submissions from providers. These informal and formal verifications play an important role in ensuring the map is accurate. The FCC has also been using the audit tools provided in the DATA Act to verify the accuracy of mobile coverage data in a number of states. Providers are also required to certify the accuracy of their submissions to the agency. This facilitates our ability to refer matters for investigation and enforcement where appropriate, something we have not hesitated to do.

One of the most important tools we have for ensuring the accuracy of broadband availability data is the challenge process laid out in the Broadband DATA Act. We accept challenges to availability data shown on the map on a rolling basis and update the map to reflect the results of these challenges. These challenges can be filed individually through the user-friendly map interface, or as bulk submissions into the BDC filing system. These processes allow those in the best position to know the accuracy of the data, consumers and other local stakeholders to help verify the accuracy of availability data on the map.

To date, our mapping team has processed over 4.8 million challenges to provider reported availability data. These challenge can be submitted by individuals, state, local and Tribal governments and other entities. When a challenge is filed, FCC staff reviews the challenge to ensure it aligns with reason code selected for the challenge and then forwards accepted challenges to the provider for its response. Providers have 60 days to either concede or dispute the challenge. If the challenger and provider don't agree on the actual availability of the service reported at the location in questions it goes to the FCC for adjudication. Conceded challenges and those adjudicated in the challenger's favor result in corrections to the data shown on the map.

West Virginia is a good example of how participation in the challenge processes and working in partnership with the FCC can yield important improvements to the accuracy of the data reflected in the National Broadband Map. The West Virginia State Broadband office filed both location and availability challenges and worked closely with FCC staff to identify discrete concerns that may warrant FCC verification. This back-and-forth helped contribute to an increase of 86,860 unserved locations in West Virginia between the release of our pre-production draft in November 2022 and the data used by the Department of Commerce for its allocation in the Broadband Equity Access and Deployment program.

Given the importance of stakeholder participation in the challenge processes in refining the data depicted on the map and ensuring that the map is as accurate as possible, we have conducted extensive outreach to state, local, and Tribal governmental entities, service providers, and others to inform stakeholders about how they can participate in the process. Commission staff have held hundreds of meetings with congressional offices, service providers, public interest groups, and governmental entities across the nation to be sure we are offering support and technical assistance throughout this process. The Commission continues to conduct outreach meetings in person and virtually as well as produce guidance and educational materials on an ongoing basis as we work with stakeholders to improve the accuracy of the data on the National Broadband Map.

Question. As a follow up, NTIA relies heavily on the FCC National Broadband Map to implement the BEAD program. As Federal investments in broadband move into full swing in states like West Virginia—which is the second least-served state in the country—we need to ensure we have the most up-to-date FCC map. Needless to say, the National Broadband Map has a significant impact on the BEAD program.

Do we have adequate resources to support the National Broadband Map, and if not, do you have plans to ask the Office of Management and Budget (OMB) for additional funding next fiscal year?

Answer. The Commission currently has funding sufficient to support the National Broadband Map through Fiscal Year 2024. However, it does not have funding adequate to support the map beyond Fiscal Year 2024. That is why we are requesting funding resources in our regular budget for Fiscal Year 2025.

By way of background, it is important to know that in the Fiscal Year 2021 Consolidated Appropriations Act (Public Law 116–260), the Commission received \$98 million in funding for the start-up and implementation of the Broadband DATA Act (Public Law 116–130). Congress provided funding in two distinct sections of the Fiscal Year 2021 Consolidated Appropriations Act. The first \$33 million Congress provided was in the Commission’s regular appropriation and derived from regulatory fees (Division E, Title V, 134 STAT 1408). Congress later provided an additional \$65 million in direct appropriations under Division N, Section 906 to ensure ongoing implementation of the newly established mapping effort (134 STAT. 2144).

In light of this, on February 17, 2021, I established a Broadband Data Task Force to use this funding and lead a cross-agency effort to implement the Broadband DATA Act.

The resulting maps are, consistent with the law, designed to be refined through an iterative process. That is why the agency developed systems that allow for the steady collection and integration of new data and the release of new maps. Providers are required to submit updated availability data twice a year, and the fabric underlying the maps is also refreshed twice a year to reflect broadband serviceable location updates. Ongoing map updates remain essential at this juncture and this data is being used to inform the agency’s universal service funding decisions.

To date, the Commission has carefully managed the mapping program to ensure that it provides data that is as accurate as possible under the law in light of the limited appropriated funds. However, the agency is now facing “out years” beyond the initial program start and implementation period. That is why the initial Fiscal Year 2021 investment will need to be replenished in Fiscal Year 2025 and on an ongoing basis until such time when Congress determines that mapping is no longer needed. I want to be clear, however, that I think that having this tool is essential, especially right now, as we work to address the gaps in deployment that contribute to the digital divide. That is why I have directed our management team to ask the Office of Management and Budget for additional funds for Fiscal Year 2025 that are within the range of the original funds provided as part of our fee-derived funding in Fiscal Year 2021.

Question. The FCC established the 5G Fund for Rural America, which uses reverse auctions to distribute \$9 billion to bring 5G broadband service to rural communities unlikely to otherwise see the deployment of 5G-capable networks.

I understand that you’ve Noticed a Proposed Rulemaking that seeks to improve the implementation of the 5G Fund.

The Notice says, “In the 5G Fund Report and Order, the Commission decided that it would accept bids and identify winning bids in the 5G Fund auctions using a support price per adjusted square kilometer.” And would factor in such things as terrain and elevation.

Considering that lower bids win in reverse auctions, this may be a reason why West Virginia is not getting its fair share of funding compared to a flatter state, since it is more expensive to build a tower that will be blocked on one side by a mountain.

What is your approach to accounting for terrain and elevation when accepting and identifying winning bids?

Answer. The 5G Fund was first proposed in 2020 as a way to modernize the Commission’s universal service support system for wireless carriers serving rural and high-cost areas of the country. At that time the agency decided that it would assess bids in an auction on the basis of support price per adjusted square kilometer. This methodology featured the use of an adjustment factor designed to take characteristics like terrain, elevation, and population density into account.

I believe we should update this approach. For the first time in our history, thanks to our new mapping initiatives, we have comprehensive data regarding the state of wireless service all across the country. We now know, for instance, that over 14 million homes and businesses nationwide—including over 360,000 in West Virginia—do not have mobile 5G wireless coverage today. On top of this, the pandemic has changed our thinking about where we live, work, and travel, expanding our expectations for wireless service nationwide.

It is imperative that as we move forward with the 5G Fund, we take these facts into account. That is why I believe we need to expand our thinking beyond what was first proposed for the 5G Fund in 2020. To this end, on September 21, 2023, the Commission began a rulemaking to consider new ways to administer this program. Specifically, the agency sought comment on how to best incorporate the use of mapping data in the 5G Fund, in light of the clear gaps it demonstrates in coverage. We seek comment on how to do so in light of the methodology that was adopted when the 5G Fund was first introduced, including through changes to the adjustment factor. I am looking forward to the record that we receive in response to this rulemaking. I am hopeful that we can modernize our approach so that we both appropriately account for areas that are costly to serve, including for topological reasons, and ensure we reach those locations that our mapping data indicate are without service today.

QUESTIONS SUBMITTED BY SENATOR CHRIS VAN HOLLEN

Question. I want to bolster the Commission's efforts to stop scam robocalls and robotexts. In 1991, Congress passed the Telephone Consumer Protection Act (TCPA) to tackle the rising issue of unsolicited telemarketing calls or robocalls. The TCPA generally restricts the use of certain automated telephone equipment for making calls to consumers without prior consent. In the preceding years, the Commission has established regulations under the TCPA to ensure that emerging technologies fall under its protective umbrella, such as extending the consent requirement to text messages made using an autodialer. In a 2021 case interpreting the TCPA, *Facebook, Inc. v. Duguid*, the Supreme Court adopted a narrow interpretation of the class of equipment typically considered autodialers, potentially reducing the number of text messages for which prior consumer consent is required.

Commission data show that consumers receive increasing numbers of illegal and unwanted text messages, and the problem worsens yearly. Are there limitations on your authority to address robotexts, to implement anti-robotexting rules, or to collect enforcement remedies that Congress can address? If so, please indicate what additional authorities you need to address this issue.

Answer. There are at least three additional ways that Congress could grant the FCC authority to better address the increasing number of illegal and unwanted text messages.

First, Congress could update the Telephone Consumer Protection Act. The TCPA's definition of "automatic telephone dialing system" has been unaltered since 1991, despite many changes in technology during the intervening years. Moreover, the Supreme Court's 2021 decision in *Facebook v. Duguid* narrowed the definition of automatic telephone dialing system, as a practical matter limiting it only to those systems with a random or sequential number generator. This decision makes it harder for the agency to ensure the protections in this law cover how many scam artists now use technology to reach us with junk calls and texts. To address this loophole, Congress could expand the TCPA's definition of "automatic telephone dialing system" to specify that it includes calls made from a stored list of numbers. Congress could also amend the TCPA, and specifically Section 227(b)(1)(A) of the Communications Act, to specify that it is unlawful to send robotexts under this section. The Commission has, since 2003, taken the position that the term "call" in Section 227(b)(1)(A) includes both voice calls and text messages and courts have supported this determination. *See, e.g., Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 954 (9th Cir. 2009). Nonetheless, I believe that legislation to make that explicit would bolster the Commission's ability to protect consumers from unwanted robotexts.

Second, I believe it would be beneficial for Congress to provide the Commission with the authority to collect the fines we impose against the bad actors responsible for illegal robocalls and robotexts. Right now, our enforcement work ends when we issue a forfeiture order because we lack the authority to pursue collection in court without the Department of Justice. To put this in context, note that in the last year alone, the agency has finalized more than \$500 million in fines for illegal robocalls but lacks the ability to even try to collect these funds in court.

Third, the Commission could benefit from authority to access Bank Secrecy Act information in order to help identify more quickly the financial records of our calling targets without giving those targets suspected of scams a heads up that we are coming for them. We are currently engaged in discussions with the Department of Treasury to acquire the access to this information. If we are able to access this information, it would allow the Commission to obtain evidence that can help identify

who is actually responsible for illegal robocall campaigns, and to prevent scam artists from registering new entities under new names after enforcement actions shut them down.

Question. Our commitment to the universal service principle, ensuring that all Americans have access to essential communication services, is currently facing a serious test. The Communications Act, which established the FCC, firmly laid down this principle. However, the funding for two highly successful programs that play a crucial role in bridging the digital divide and ensuring affordable broadband access for all Americans will be depleted within months. The first of these programs, the Affordable Connectivity Program (ACP), offers financial assistance for broadband access to over 20 million working families. The second program, the Emergency Connectivity Fund (ECF), has provided invaluable support to more than 18 million students and library patrons, enabling them to access Internet connections and devices vital for their education and information needs.

Numerous constituencies have sounded the alarm about this impending funding crisis. The Universal Service Fund (USF) has historically played a pivotal role in extending telecommunication services to underserved areas, paid for by fees collected from telecommunications carriers rather than direct appropriations. Could the Commission leverage the USF model, which underpins several vital initiatives, including Lifeline, the E-rate program, rural health delivery, and the expansion of rural broadband infrastructure, to fund the ACP and ECF, as some have suggested, without significantly increasing fees on consumers?

Answer. The Affordable Connectivity Program is the Nation's largest-ever broadband affordability effort. Today, it is responsible for helping more than 21 million households get online and stay online. Based on our current projections, we expect that existing funding for the ACP from Congress will run out in April of 2024. Without additional funding, these ACP households are at risk of losing access to high-speed Internet service. Cutting them off will also cut off access to work, education, and healthcare opportunities that are now online.

For this reason, I have consistently stressed that the agency will need additional ACP funding. To address the emergency need for funds in the immediate future, the Administration recently proposed \$6 billion in direct, supplemental funding for ACP. This request would provide the agency with funding to continue to program through the end of 2024, with some potential program changes.

To be clear, additional congressional funding is the only path forward for the ACP in the immediate term. If Congress does not provide this additional funding, the FCC would be able to simply leverage the Universal Service Fund to support ACP. To do this successfully would require legislative action and significant time to resolve complex legal and administrative issues, including the fact that many ACP providers are not eligible to participate in traditional universal service programs and many ACP households are not eligible to participate in the FCC's traditional universal service low-income program—leading to substantial fall out of providers and customers. Even if these issues could be resolved through legislation, relying on the Universal Service Fund for ACP would more than double the size of this fund. Our current estimates suggest that this would triple the contribution factor—which in turn impacts the assessment that consumers pay into this fund on their bill. In practice, this would mean an additional increase of at least \$6 to \$10 on the monthly communications service bill of consumers in this country.

QUESTIONS SUBMITTED BY SENATOR JOHN BOOZMAN

Question. What is the FCC's plan to continue the Affordable Connectivity Program (ACP), absent Congressional action, in light of funding running out?

Answer. When Congress tasked the Commission with developing the Affordable Connectivity Program it also provided an appropriation of \$14.2 billion. Today, these funds support more than 21 million households that count on ACP to get online, including over 200,000 households in Arkansas. To ensure that these households can continue to count on ACP for high-speed Internet access, the Administration recently requested that Congress provide an additional \$6 billion in funding for ACP. In fact, our current estimate is that the initial appropriation of \$14.2 billion will expire in April of 2024, which may result in millions of these households losing access to the Internet. So without further funding from Congress, this program is in jeopardy.

Question. What is the FCC doing to communicate the possible upcoming changes to the ACP, including a lapse in funding, with consumers so that they aren't surprised by a sudden price increase or loss of service?

Answer. The Commission fully recognizes the importance of communicating with participating households and providers about any changes to the Affordable Connectivity Program. However, it would be premature to communicate about potential program changes while discussions concerning additional funding for the ACP are ongoing. As noted above, the Administration has requested that Congress provide an additional \$6 billion in funding for the ACP and the FCC remains hopeful that Congress will provide this additional funding. However, if Congress does not provide further funding for the ACP, starting early next year the Commission will provide guidance to both consumers and providers about the end of the program in order to prevent unexpected price increases or loss of service.

Question. On March 29 of this year, I joined a bipartisan letter with 27 of my Senate colleagues asking the FCC to engage proactively in the ongoing ATSC 3.0 broadcast television transition. I have been pleased to see that the Commission announced the formulation of a task force and have been informed that the Commission has started to work on various rulemakings that would help lay the groundwork for a successful transition. Could you provide an update on where those rulemakings stand as well as how the task force meetings are progressing?

Answer. The Commission is committed to helping with the rollout of next generation television based on the ATSC 3.0 standard and ensuring when this occurs consumers are protected from service disruption, service loss, and being saddled with the cost of expensive new equipment to maintain television service. To this end, the agency has worked with the National Association of Broadcasters in a public-private effort known as the Future of Television Initiative. This initiative features a broad group of stakeholders working through challenging matters associated with the transition—both from an industry and consumer perspective—with an eye to creating a roadmap for a transition that serves the public interest. While this work is still in its early stages, we have appreciated the way this forum is facilitating discussion on major issues, including the conditions needed to complete the transition, what the post-transition landscape should look like, and challenges presented by the lack of backwards compatibility of equipment for consumers.

This last point is an especially important one, because while ATSC 3.0 has the potential to create new business opportunities for broadcasters, it is vital that we think upfront about what the transition means for consumers. To be clear, there are potential benefits for consumers in this transition, including new services and a higher quality viewing experience. Nonetheless, the next generation television standard is not backward compatible, meaning it does not work with existing television sets or set-top boxes. While progress has been made with the expansion of ATSC 3.0 signal availability, with over 60 percent of households nationwide having access to next generation television signals, most households lack equipment necessary to receive this service. Some manufacturers, however, have started to include ATSC 3.0 tuners in their new mid-range and high-end sets, but options are limited and remain costly, especially for households that do not want to purchase a new set right now nor have the means to do so. This means we do not yet have a solution that works for all consumers and moving to the next standard right now would mean many of the most vulnerable consumers would lose access to service.

In order to prevent consumers from losing access to their free, local broadcast television service and still allow broadcasters to take steps forward and innovate, many stations are broadcasting in a manner that reaches viewers with a signal using the existing standard (ATSC 1.0) while on a strictly voluntary basis transitioning to ATSC 3.0. This approach minimizes viewer disruption, allowing those who have not replaced their television or purchased a special reception device for ATSC 3.0 service to continue to receive broadcast television service.

In order to further minimize viewer disruption, the Commission has had a “substantially similar” requirement that ensures that any broadcaster providing a signal in ATSC 3.0 provide programming content stream that is substantially similar on their ATSC 1.0 signal. This requirement was slated to expire on July 17, 2023. However, on June 23, 2023, the Commission acted to extend this deadline to July 17, 2027 and committed to review it 1 year in advance in order to reassess market conditions.

On June 23, 2023, the Commission also initiated a rulemaking to further our understanding of the current marketplace for ATSC 3.0 Standard Essential Patents and the ability of third parties to develop products that rely upon them as well as the impact on consumers if the Commission were to require these patent holders

to commit to licensing them on reasonable and non-discriminatory terms. Comments received in response to this proceeding are currently under review.

Question. What is the FCC doing to coordinate with state broadband offices to provide status updates (such as timelines, construction progress, which providers are behind in their plans or likely to default, etc.) on the Rural Digital Opportunity Fund (RDOF) program?

Answer. The Commission recognizes the importance of keeping states informed about the Rural Digital Opportunities Fund. That is why the agency uses a variety of different measures to ensure that states receive updated information about carriers awarded funding under this program in their respective states. First, the FCC produces a Broadband Funding Map. This tool provides states with the ability to view areas where carriers have RDOF commitments and already provide service due to RDOF obligations. Second, the FCC is closely monitoring carrier progress and compliance with RDOF obligations and will notify state broadband offices when the agency learns that a carrier subject to an obligation does not intend to meet it in the state or otherwise falls short. Third, the FCC plans to ask carriers to directly engage with state broadband offices when they develop their state-specific challenge processes under the Broadband Equity Access and Deployment program in order to keep state authorities fully apprised of existing deployment plans and the technologies they intend to use to meet their RDOF obligations. Fourth, in the event a carrier withdraws from RDOF, the FCC announces this in a public notice which it shares with both the Department of Commerce and relevant state broadband offices. On top of this, the Broadband Funding Map is updated to reflect any such withdrawal. Finally, the Commission staff is always open to inquiries from our state colleagues about any carrier and its participation in RDOF at any time.

QUESTIONS SUBMITTED BY SENATOR BILL HAGERTY

Question. I have heard from constituents that the FCC is considering updating the rules surrounding spectrum to potentially facilitate new two-way wireless broadband services in the lower 12 GHz band. They tell me that updating these rules could help serve consumers in rural Tennessee by closing the digital divide.

The FCC unanimously approved a Notice of Proposed Rulemaking to consider how to best modernize the rules for 12 GHz band and potentially facilitate new two-way wireless broadband services, and I understand no final decision has been made.

Chairwoman Rosenworcel, as the Commission explores options for transitioning to 5G, could you discuss your thoughts on new rules for fixed broadband in the lower 12 GHz band and a timeline on a looming decision?

Answer. The Commission has identified more than 1000 megahertz of prime mid-band spectrum in the 12 GHz Band (12.2–13.25 GHz) for new and innovative uses. These are airwaves are right in the middle of the 7–16 GHz band that we have identified as the sweet spot for the next generation of wireless technology—or 6G. We are the first country in the world to identify these bands for new wireless use and take action.

I believe these airwaves can be optimized with a mix of licensed, unlicensed, and space-based services. The 12.7–13.25 GHz band is a prime candidate for new mobile use, so we are exploring how to put it in the pipeline for new wireless broadband, which is critical for United States wireless leadership.

Meanwhile, the 12.2–12.7 GHz band presents an opportunity to allow new services to use the band efficiently while protecting incumbent satellite functions that millions of people in this country rely on every day. As a result, we are exploring how these airwaves can be used for fixed licensed and unlicensed terrestrial services, including two-way point-to-multipoint links and other use cases that could, among other things, expand backhaul to support advanced broadband capacity.

The deadline for comments on these proposals was in September. Commission staff is reviewing the record carefully with an eye to moving forward and opening up this band for new services.

Question. Chairwoman Rosenworcel, as the debate around cable regulations and new streaming platforms continues to play out in the public arena, could you provide the Subcommittee an update on where the FCC stands?

Answer. The video marketplace has changed significantly with the introduction of streaming services. There are so many new screens and new ways to watch programming. This is exciting for viewers who can consume content from near and far at virtually anytime and anyplace. At the same time, it is important to recognize

that television broadcasting, which is uniquely local, should have the opportunity to thrive in this new landscape.

The primary laws governing the distribution and carriage of broadcast television stations on multichannel video programming distributors (MVPDs) include the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992. Both of these laws amend the Communications Act. Therefore, this remains the legal framework under which the Commission must assess all issues associated with MVPDs.

When the Commission last attempted to address this matter, in a Notice of Proposed Rulemaking adopted in 2014, the record revealed significant concerns with the agency asserting jurisdiction over MVPDs in a way that the statutory framework was not designed to support in 1984 or 1992. To understand why, consider that Section 602(13) of the Communications Act defines an MVPD as an entity that “makes available for purchase, by subscribers or customers, multiple channels of video programming.” At the same time, Section 602(4) of the Communications Act defines a channel as “a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel.” It is imperative that the Commission give these words full meaning. As reflected in the record, online video programming distributors do not neatly fit in these statutory definitions because they lack a physical connection to subscribers and do not use any electromagnetic frequencies when delivering programming to their viewers. As you know, the Commission lacks the power to change these unambiguous provisions on its own but can do so if Congress changes the underlying law.

In addition, the record demonstrated that even if the Commission were to proceed, it would require changes to underlying copyright policies. It is not clear if the Copyright Office would, with an altered Commission interpretation of the definition of MVPD, allow the current statutory copyright license to be used by online video programming distributors. As you know, the existing statutory copyright license works hand-in-hand with the retransmission consent policies in the Communications Act. What this means in practice is that the carriage of broadcast television station signals on traditional MVPDs can take place without negotiations with every single copyright holder associated with the station programming. Without a statutory copyright license applying to new online video programming distributors, those distributors would be obligated to black out programming for which they are not able to negotiate copyright licenses.

Because we recognize that it is important that local broadcast stations have the ability to reach viewers where they are in this new media environment, the Commission is meeting with stakeholders to learn more. To this end, we understand that carriage via online video programming distributors is now the subject of private negotiations between local broadcast stations and their affiliated networks. We are monitoring these efforts, to better understand the consequences for carriage and consumers. We are also continuing to review the record from 2014 to identify outstanding issues.

CONCLUSION OF HEARINGS

Senator VAN HOLLEN. The subcommittee stands in recess until the call of the Chair.

[Whereupon, at 3:27 p.m., Tuesday, September 19, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2024

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

NONDEPARTMENTAL WITNESSES

[CLERK'S NOTE.—The subcommittee was unable to hold hearings on nondepartmental witnesses. The statements and letters of those submitting written testimony are as follows:]

PREPARED STATEMENT OF PROFESSIONAL MANAGERS ASSOCIATION

Dear Chair Van Hollen, Ranking Member Hagerty, and Members of the Subcommittee:

On behalf of the Professional Managers Association—the non-profit professional association that has, since 1981, represented professional managers, management officials, and non-bargaining unit employees at the Internal Revenue Service (IRS)—I write regarding funding for the IRS in FY 2024.

The IRS is the primary revenue source for the entire Federal Government. Without revenue from the IRS, it is impossible to fund any other Federal program or agency initiative; NASA cannot send astronauts to Mars or the Moon, the Department of Veterans Affairs (VA) cannot serve our Nations veterans, and the Social Security Administration (SSA) cannot process retirement or disability payments. Put simply, the IRS funds freedom.

I. Improving Customer Service and the Taxpayer Experience Requires Ongoing Investment by Congress.

There is no denying the frustrations millions of Americans and businesses feel when interacting with the IRS. IRS employees alike are frustrated with the quality of agency operations and the inability to properly service taxpayers. However, thanks to funds provided by Congress in recent years, the IRS is already beginning to make critical improvements to taxpayer services and business operations. To continue this progress, it is essential that the IRS receive stable and appropriately increased funding in FY 2024 and well into the future.

PMA supports the Biden Administration's IRS request of \$14.1 billion for funding in FY 2024. This proposal includes dedicated funds to improve the taxpayer experience and customer service (\$642 million) and for IT upgrades via Business Systems Modernization (BSM; \$290 million). The dedicated funding for BSM is especially critical to ongoing modernization efforts because this priority was unfunded in FY23 annual appropriations.

The President's budget also includes other critical requests to strengthen the capacity of the Treasury Department. PMA supports the administrations requests for additional cybersecurity funds and to enhance the capacity of Departmental offices, such as the Office of the Chief Human Capital Officer. All IRS human capital policies must be approved by the Treasury human capital leadership, reinforcing the importance of enhanced capacity of Treasury Departmental mission enablement offices.

II. Implementing the Inflation Reduction Act (IRA)

Passage of the IRA by Congress provided the IRS with a desperately needed infusion of stable, long-term investment that will enable agency and taxpayer service transformations. The IRS must be able to implement the law. PMA believes transparency and accountability with Congress is essential both to build trust with the IRS and to identify additional improvements that may become necessary.

The Taxpayer Advocate recently noted her view that the IRA does not properly prioritize funding for Taxpayer Services and BSM accounts.¹ We at PMA agree with the perspective that dedicated funding is required to improve taxpayer services. We urge Congress to provide specific funding for these accounts as requested by the President, instead of reprogramming IRA funds. The Taxpayer Advocate's idea that Congress could allow the IRS to reallocate funding across its four core accounts, within certain parameters, may provide the ideal balance of agility and oversight.

III. Funding & Provisions To Ensure The Equitable Delivery of Taxpayer Services

A combination of internal equity issues and funding constraints drive the inequitable delivery of taxpayer services. As the IRS grows its workforce and replenishes its ranks from exiting retirees, ensuring the next generation of IRS employees has the resources and awareness to promote equitable engagements with the public will be critical.

Oversight is necessary to ensure IRS leadership is taking an active role in addressing barriers to the advancement for women and people of color within the Service. The IRS workforce has steadily increased in diversity over time. Unfortunately, IRS leadership does not reflect the diversity of its workforce. A March 2021 report reflects a significant drop-off of women and people of color in IRS leadership positions.

The failure to ensure that a diverse cadre of employees can rise to leadership levels has a direct impact on taxpayer services.

Issues regarding the equitable enforcement of our tax laws are well-documented and have been repeatedly reported to Congress. In the absence of robust enforcement funding, the IRS disproportionately audits low-income Americans, often people of color, with the simplest tax returns to review. Meanwhile, high-income earners with complex tax returns are infrequently audited due to a lack of time and resources.

The IRS also fails to provide low-income taxpayers with adequate taxpayer assistance services. While the IRS does sponsor a program to provide free legal assistance to low-income taxpayers, in Mississippi, the state with the highest audit rate in the country, ProPublica discovered in 2019 that there was only one attorney for the program in the entire state.

This legal assistance program is just one example of a well-intentioned program meant to assist those in need that has failed its taxpayers due to a lack of funding and oversight by Congress.

A gutted IRS creates a two-tiered tax system where low-income Americans are over audited and under services while wealthy Americans can avoid or evade paying an estimated \$160 billion in taxes. Adequate funding and oversight are necessary to rectify these inequities and achieve the diversity, equity, and inclusion goals set out by this administration.

PMA also supports funding to provide implicit bias assessments to all current leaders and future candidates recruited for leadership positions. These assessments are intended to help IRS leadership candidates develop a personal awareness of any potential biases so they can account for them in their leadership, however, the results should not be shared with the agency or used in personnel decisions. Further, to increase employee retention, PMA supports funding for professional development resources to support leaders in managing their implicit biases and learn skills to lead inclusively. PMA implementing leadership training centered on cultural competence and training to help all IRS workers, managers, supervisors, and executives manage their implicit biases.

Finally, to truly understand the current equity landscape at the IRS and ensure modernization initiatives do not inadvertently perpetuate inequities, PMA encourages Congressional funding for a review of IRS workplace policies to identify areas where systemic discrimination and other biases have seeped into our processes (e.g., standards of dress, religious comp time, performance standards for written/verbal communication, etc.).

¹NTA Blog: National Taxpayer Advocate Urges Congress to Maintain IRS Appropriations But Re-Direct Some Funds Toward Taxpayer Service and Information Technology Modernization—TAS.

IV. Funding Government Agencies On Time

Congress has struggled to pass appropriations bills on time for the majority of the past 45 years. Few would say the Federal Government's budgeting and appropriations process is not entirely broken. PMA wishes to stress the significant costs to the effective and efficient operation of agencies under these circumstances. Taxpayer money is wasted when Congress is unable to timely pass appropriations laws on time in advance of a new fiscal year.

The IRS cannot conduct hiring and onboarding when it is in a continuing resolution state. The IRS cannot engage in new contracts when the government is under a CR. The IRS cannot enact a long-term plan to modernize its systems when it does not know what funding it will have in 6 months. Put simply, the IRS cannot do its job effectively when Congress consistently fails to do its job. And taxpayers ultimately pay the price through diminished service.

PMA is hopeful that a divided Congress can still find a way to fulfil its basic constitutional obligations.

Thank you for your consideration of PMA's perspective. Please contact PMA Washington Representative Natalia Castro (ncastro@shawbransford.com) if we can be of further assistance.

[This statement was submitted by Chad Hooper, Executive Director]

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