S. HRG. 112–657

NOMINATIONS OF MARY JOHN MILLER, ALASTAIR M. FITZPAYNE, KATHLEEN KERRIGAN, AND HENRY J. AARON

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF

MARY JOHN MILLER, TO BE UNDER SECRETARY FOR DOMESTIC FINANCE, DEPARTMENT OF THE TREASURY; ALASTAIR M. FITZPAYNE, TO BE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS, DEPARTMENT OF THE TREASURY; KATHLEEN KERRIGAN, TO BE A JUDGE OF THE UNITED STATES TAX COURT; AND HENRY J. AARON, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD

NOVEMBER 17, 2011

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

77–376—PDF WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
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THURSDAY, NOVEMBER 17, 2011

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

The hearing was convened, pursuant to notice, at 10:16 a.m., in room SD–215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Kerry, Cardin, Hatch, Grassley, Coburn, and Thune.

Also present: Democratic Staff: Alan Cohen, Senior Budget Analyst; John Angell, Senior Advisor; Gabriel Adler, Senior International Trade and Economic Advisor; David Schwartz, Chief Health Counsel; Tom Reeder, Senior Benefits Counsel; Tiffany Smith, Tax Counsel; Rory Murphy, International Trade Analyst; Tom Klouda, Professional Staff Member, Social Security; Deidra Henry-Spires, Professional Staff; Stephen McGraw, Detailee, Health; Joe Scovitch, Detailee, Miscellaneous; and Claire Green, Detailee, Social Security. Republican Staff: Chris Campbell, Staff Director; Jeff Wrase, Chief Economist; and Nick Wyatt, Tax and Nomination Professional Staff Member.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The hearing will come to order.

"The ultimate measure of a man," and by extrapolation woman, according to Martin Luther King, Jr., "is not where he stands in moments of comfort, but where he stands in times of challenge and controversy."

As we consider the men and women before us today, our country is facing serious challenges. America's economic recovery is still fragile, unemployment is stubbornly high at 9 percent, and the

debt is burdensome. But our history proves that when we meet challenges head on we are usually able to rise above them and succeed. It is in this spirit of optimism that I welcome four dedicated public servants to the Finance Committee today. All of you have been nominated to positions of great responsibility. You are certain to face hurdles, but I am confident you will rise to the challenge.

Ms. Miller, the President has nominated you to be Under Secretary of the Treasury for Domestic Finance. In this role, you will help oversee our domestic financial system and fiscal policy. You are no stranger to this committee. In February 2010, you were confirmed as Assistant Secretary for Financial Markets. Your fine performance in that position led the President to nominate you to take on even more responsibility.

In your new position, you will help stoke job creation by our country's entrepreneurs. To do so, you must ensure that financial markets are able to gauge risk appropriately so that the resources flow to the most promising and productive areas of our economy. I know you appreciate the magnitude of your mission, and you will face it with great determination.

Mr. Fitzpayne, the President nominated you to be Assistant Secretary of Treasury for Legislative Affairs. In this role, you will serve as the bridge between Congress and the Treasury Department. You must ensure that Treasury maintains a high level of transparency with Congress, and by extension with the American people. In these challenging economic times this will not be an easy task. I underline the importance of transparency: we do not like to be surprised.

Mr. Fitzpayne, you spent nearly a decade working on the Hill, so you know what I just said is true. You therefore know how Congress works. You understand the timely and appropriate information flow that Congress needs from the executive branch, so I wish you every success.

Ms. Kerrigan, the President has nominated you to be a judge on the U.S. Tax Court. You are a familiar face to this committee, as you have served with distinction as tax counsel to Senator Kerry. As a congressional staffer, you were highly regarded by your colleagues on both sides of the aisle.

The Tax Court plays an essential role in ensuring that our tax laws are administered fairly. The integrity of our tax system hinges on the ability of Americans to have their day in court when they have a legitimate tax problem, and to have the tax law applied impartially. I know that you will do so carefully and faithfully.

Dr. Aaron, the President has nominated you to be a member of the Social Security Advisory Board. In this climate of fiscal tightening, one of the most important issues facing our country is how to preserve, strengthen, and protect Social Security. I know that you have written extensively on this very issue and have a lengthy and distinguished academic background. You have also served on a number of other advisory bodies, and you have a reputation for providing thoughtful and candid advice. I urge you to provide nothing else than that to the Social Security Advisory Board.

For all of you, there will be difficult moments ahead. The positions for which you have been nominated are not easy, and these

are challenging times for our country. But during times like these, we have the greatest opportunity to determine the future.

So I urge all four of you to be mindful of Dr. King's words, and with determination and courage you will rise to the occasion and help our country do great things. We in Congress should also be courageous and rise to the challenge too—not just you, but we—and I am sure that we will.

[The prepared statement of Chairman Baucus appears in the appendix.]

The CHAIRMAN. Senator Hatch?

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

Senator HATCH. Thank you, Mr. Chairman.

My thanks also to the four nominees who are appearing before us today.

Our first witness is Mary Miller, nominated to be Under Secretary for Domestic Finance at the Treasury Department. This position is especially important, given the need to protect and preserve the depth and liquidity of the global market for U.S. Treasury securities in the face of unsustainable deficits and debt over the past 3 years that have helped lead to the recent downgrade of our sovereign credit rating.

It is essential that the Treasury Department have solid debt managers with intricate knowledge of international debt and international debt markets. Ms. Miller is currently the Assistant Secretary of the Treasury for Financial Markets and has a background working in markets for fixed income securities at the T. Rowe Price Group. Additionally, Ms. Miller's responsibilities, if confirmed, will include the Office of Financial Stability, which manages the Troubled Asset Relief Program, or TARP.

Earlier this week it was reported that the Treasury Department increased its estimated losses attributable to the auto industry bail-out by more than $9 billion. Although TARP is not able to make new commitments, there are still many billions of taxpayer dollars still outstanding.

Our second witness, Mr. Alastair Fitzpayne, also is a current Treasury Department employee and is under consideration for the position of Deputy Under Secretary for Legislative Affairs at Treasury. If confirmed, he will serve as the principal point of contact for, and coordinator of, Treasury's interaction with Congress. Now, I hope to learn how Mr. Fitzpayne envisions enhancing Treasury's interaction with Congress.

I have been unsatisfied with the speed of responses to some of my letters and the level of communication with the Treasury Department, so I look forward to working on enhancing that relationship.

Our third witness, Ms. Kathleen Kerrigan, has been nominated to be a judge of the U.S. Tax Court in order to administer our tax laws fairly and impartially. Ms. Kerrigan has worked for both Congressman Neal and Senator Kerry on tax issues, and is well-known and very well thought of by both sides of the committee and by me. The integrity and intelligence she brings to our work have made

her a resource to the whole committee, and the tax code is better than it otherwise would have been as a result.

I understand from my staff that a provision that Ms. Kerrigan worked on for Congressman Neal was a clarification of the employment tax status of certain fishermen that was enacted as part of the Small Business Job Protection Act of 1996. Kathy, we are going to miss having you here. So I hope taxpayers who will appear before you in your new role will appreciate how fortunate they are, and will be.

Our fourth witness, Dr. Henry Aaron, currently at the Brookings Institution, has been nominated to be a member of the Social Security Advisory Board and, I understand also, to be designated by the President, if confirmed, to serve as the Board's Chairman.

Social Security's Disability Insurance program faces trust fund exhaustion by as early as 2016, and Social Security as a whole faces significant financial challenges. Consequently, it will be important that we in Congress receive balanced and bipartisan input into the administration of Social Security programs and possible reforms from the Advisory Board.

Now, Mr. Chairman, I want to thank you again for holding this hearing. I look forward to hearing from the nominees on today's panel and appreciate the way you are running the committee.

The CHAIRMAN. Thank you, Senator, very much.

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

The CHAIRMAN. I think we have Senators here who would like to introduce panelists. Senator Kerry, do you want to introduce your constituent?

Senator KERRY. Mr. Chairman, thank you very, very much. I will not take long.

OPENING STATEMENT OF HON. JOHN F. KERRY, A U.S. SENATOR FROM MASSACHUSETTS

Senator KERRY. Mr. Chairman, you and the ranking member could not have been more generous in your comments. I just ask unanimous consent that my comments be placed in the record in full.

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

Senator KERRY. I will just say very quickly that—Senator Hatch just said it—her expertise is very, very well-known to the committee. She has been a remarkable resource for all of us. She worked for me for a while as the Counsel, Tax Counsel to the Small Business Committee, when I was chairman of that, and most recently obviously working on the Deficit Reduction Committee. She has been our go-to person on my staff with respect to that and is still deeply immersed in that today as the hours tick off.

But I would just say that, in the 14 years that she has worked on these issues, she has proven herself to majority and minority alike, Republicans and Democrats, to be somebody who does not bring any politics to the table, but brings a really high level of integrity, as Senator Hatch said, and a high level of intelligence and creativity, which is what you need to find your way through some of these issues.

I congratulate all of the nominees. If I knew them all personally as well I know Kathy, I would love to comment on each of you. I know that Mr. Fitzpayne was raised partially in Massachusetts, and so we hope the best parts of that, obviously, come out here. [Laughter.]

But Kathy has public service in her DNA: her father was Mayor of the city of Springfield. She worked for a brief period of time at a private law firm, Baker and Hostetler, but mostly her heart and head are in public service. And while she could easily leave this committee, as sometimes people do, and find a very lucrative position, she wants to dedicate herself further to public service.

So I am very proud that the President has chosen to nominate her to be a judge on the Tax Court. She will bring fairness and toughness. She is a tough negotiator, as everybody here has learned. But she knows her facts, and she does ultimately what is in the best interests of the broader public interest of the country and the people she is trying to serve.

So, Mr. Chairman, I am delighted that she is a nominee whose moment has come. It is very bittersweet for me because there is a huge part of me that does not want to see her go and lose that expertise, but the one solace is, she will be serving the country and our broader interests, and we will know that the laws we pass here will be well-interpreted. So, I welcome her to this new mission and thank her for extraordinary service to all of us. Thank you.

The CHAIRMAN. Thank you, Senator, very much.

Senator Cardin, I believe you have witnesses whom you would like to introduce.

OPENING STATEMENT OF HON. BENJAMIN L. CARDIN, A U.S. SENATOR FROM MARYLAND

Senator CARDIN. Well, thank you, Mr. Chairman. I have two nominees who are from Maryland, and it gives me great pleasure to introduce both.

But I just want to follow up on Senator Kerry quickly and hope we can move this hearing promptly so that Kathy can get back to work on that Joint Committee and get things moving. [Laughter.]

So I will not take too much time, but I do want to point out that——

The CHAIRMAN. There is a part of me that wants to stay here a long time. [Laughter.]

Senator CARDIN. I understand. I mentioned that to Senator Kerry, whether this was a safe haven or not in this committee room. He assured me it is not, that they can find you.

But let me first thank all four of the nominees for being willing to serve in this public capacity, continue to serve in public capacity. I want to thank all the family members who are here, because this is a family effort, and we know that. We very much appreciate your willingness to share your loved one with us and with the American people.

Kathy, I got to know you when you were staffing Richard Neal when I was in the Ways and Means Committee. I am going to be interested to watch your decisions in the Tax Court and how they compare to the complaints that you were making when you were

staffing on these issues, some of the decisions that came out of the Tax Court. But I wish you well.

And to Henry Aaron, I have known him for over 2 decades. He has been a friend, advisor, and he is a person whom I think gives candid advice in regards to Social Security. So I want you to know, the two nominees who are not from Maryland, I know you wish you were from Maryland. Quite frankly, Senator Kerry, Al is from Maryland, not from Massachusetts, but we have all spent part of our time in Massachusetts.

Let me, if I might, first comment about Mary Miller, who has been nominated to be the Under Secretary of the Treasury at the U.S. Department of Treasury. Mary Miller spent most of her professional life working in the bond market. She has 26 years of experience working at T. Rowe Price, rising from a researcher to a trader and a portfolio manager, and finally as the director of the Global Fixed Income investment.

For the past 2 years, Ms. Miller has served as the Assistant Secretary for Financial Markets at Treasury. To leave the private sector and to take on the responsibility of overseeing our financial markets and national debt, especially as the country faces significant challenges in both areas, is very, very impressive, and we thank her for that.

But, Mr. Chairman, I think the greatest compliment that I can pay Ms. Miller is that the person who proceeded me in the U.S. Senate, Senator Paul Sarbanes, thinks the world of Ms. Miller and thinks that she is one of the most talented people whom he has ever worked with. He wanted me to mention to the committee his strong support of Mary Miller for this position.

Ms. Miller, if confirmed, will be at Treasury to oversee our fiscal policies and ensure that the United States remains one of the strongest economies in the world. I think that will give all of us comfort.

My other constituent, Mr. Alastair Fitzpayne, is probably not used to sitting on that side of the witness table, having spent 8 years as a congressional staffer, most of that time in the Senate for Senator Evan Bayh. In addition to working for the Senate, Mr. Fitzpayne has devoted his career to public service, working as an intern at OMB, a policy advisor for then-Congressman Rahm Emanuel, and since 2009 as the Deputy Chief of Staff at the Treasury Department.

I just really want to underscore what the chairman said. The relationship between Congress and Treasury is a difficult challenge, but it gives us comfort to know that someone who understands those issues, coming from the congressional side, will fill that position. Al, your background and your work here give us great confidence that you will do that with great distinction.

So, Mr. Chairman, I welcome again all four of our nominees and thank them for their willingness to serve. I am proud of the two who come from Maryland, but I am proud of all four of the witnesses today.

The CHAIRMAN. Thank you, Senator.

Our final nominee is Dr. Aaron. You were all introduced, right? Good. Great. All right.

Let us hear first from you, Ms. Miller. You know our customary procedure here. Your statement will be included in the record, and I would ask you to summarize.

But before we begin, I think it would be a good idea if we are introduced to your family, friends, relatives, associates, whomever. So why don't you begin, Ms. Miller? If you have any family here you would like to introduce, we would be very honored.

Ms. MILLER. Thank you very much, Chairman Baucus. I would like to recognize three members of my family who are here today: my father, James John, who, among his many accomplishments, taught history for 37 years at Cornell University; my husband of 31 years, James Miller; and my brother, James John, one of my five siblings.

I would also like to recognize my two sons, Thomas and James, who are away at graduate school in college and could not be here today. Thank you.

The CHAIRMAN. Well, could you who are here please stand and be recognized, your father and others? That is wonderful. Ms. Miller, you just confirmed one of my theories, which is, you show me an achiever, and I will show you that there is a person in that achiever's family who is a teacher. [Laughter.]

Mr. Fitzpayne, any relatives?

Mr. FITZPAYNE. Thank you, Senator. I am happy to introduce the two members of my family who are here today. I am joined by my wife of over 10 years, Jill Morningstar, who, like me, had the privilege of working in the U.S. Senate. She worked for Senator Wellstone as his legislative assistant up until his tragic death in 2002. I am also joined by my mother, Elizabeth Fitzpayne. She is now retired but also had a stint in public service. She worked for the Bureau of the Budget, which is now the Office of Management and Budget, and they are right behind me.

The CHAIRMAN. Great. Would you all please stand so we can recognize you? That is great. Thank you very much for being part of the team here.

Ms. Kerrigan?

Ms. KERRIGAN. I would like to thank my husband, Pat Kerrigan, who is here with me today. He has been very patient, especially the last couple of months. And I would like to mention my stepchildren, Mike and Shannon Kerrigan, who are not here today because they are students at the University of Virginia.

The CHAIRMAN. Well, super. Do you want to stand, Mr. Kerrigan? Thank you very much.

And Dr. Aaron?

Dr. AARON. I do not know if this microphone is going on.

The CHAIRMAN. It is.

Dr. AARON. But thank you very much. I am joined this morning by my wife of 48 years, Ruth Kotell Aaron, who is sitting over here. She is a retired psychoanalyst. My two children, Jeffrey and my daughter Melissa Aaron, are both some miles away, the former in Charlottesville where he is a clinical psychologist, and my daughter Melissa in Seattle who is teaching secondary school English. I am sure they would have liked to have been here, but there are a few miles that make that rather impractical.

The CHAIRMAN. Right.

Dr. AARON. Thank you.

The CHAIRMAN. Dr. Aaron, thank you very much.

Ms. Miller, you are on.

STATEMENT OF MARY JOHN MILLER, NOMINATED TO BE UNDER SECRETARY FOR DOMESTIC FINANCE, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Ms. MILLER. Thank you to Senator Cardin for that kind introduction. Thank you, Chairman Baucus, Ranking Member Hatch, and members of the Senate Finance Committee, for the opportunity to be here today. I am honored that President Obama and Secretary Geithner have asked me to continue my service to the Treasury Department and to have the opportunity, if confirmed, to serve as the Under Secretary for Domestic Finance.

I have already recognized my family members. I just would like to add that words cannot express the important ways that my family and friends have supported me and contributed to the opportunity to be here today.

Two years ago, this committee considered me for the role of Assistant Secretary for Financial Markets at the Treasury, a position for which I was later confirmed. At that time I discussed my experience in the private sector and the 26 years I spent at T. Rowe Price, an investment management company in Baltimore, which remains my home.

I joined T. Rowe Price in 1983 as a municipal bond credit analyst after answering an ad in the *Wall Street Journal*. Over the years I worked in credit research, bond trading, and portfolio management. During those decades, I worked through many market and economic cycles, and I witnessed both the benefits of financial market innovation as well as periods of severe market stress.

Ultimately I served as the director of Global Fixed Income for the firm and was a member of the management committee that oversaw all of the firm's business. I mention this progression because I think that experience, rooted in the practical aspects of every step of the investment process, is relevant to the position for which I have been nominated.

The past 21 months at the Treasury Department have been instructive. My colleagues and I have worked diligently on some of the more challenging issues facing the country. I am constantly impressed by the thoughtful and dedicated public servants with whom I work every day.

As head of the Office of Financial Markets, I am responsible for managing our country's debt, including our Treasury auctions. I also have responsibilities for financial market reform and government policies for extending credit. I advise Secretary Geithner on developments in financial markets, and I try to use my experience to develop useful policy positions.

In many ways, my work at Treasury and the potential assignment to serve as Under Secretary for Domestic Finance parallel my experience in the private sector. At T. Rowe Price I moved from a position of hands-on execution to one where I oversaw the people and the processes that affected our business. At the Treasury, I have worked on very specific assignments that require engagement

with a wide variety of constituencies, both inside and outside the government.

Should I be confirmed to lead the Office of Domestic Finance, my portfolio of responsibilities would be broader, my role in policy development greater, and the need for managing people and process even more important. The challenges we face today are no less important than the ones I discussed here 2 years ago. While much has been accomplished, much remains to be done.

Most importantly, too many Americans are still struggling to find jobs, and our housing market remains weak. The urgency and importance of restoring confidence in our economy and our financial markets is clear. This cannot be accomplished overnight, and that is why I appreciate the opportunity to serve in this new role at the Treasury. If confirmed, I would look forward to working with members of this committee and Congress. I will work hard and do my best to carry out my oath of office.

Thank you.

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

Senator HATCH. Mr. Fitzpayne?

STATEMENT OF ALASTAIR M. FITZPAYNE, NOMINATED TO BE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. FITZPAYNE. I would also like to thank Senator Cardin for his kind introduction. Chairman Baucus, Senator Hatch, members of the Senate Finance Committee, I appreciate the opportunity to appear before the committee today on such a distinguished panel of nominees. It is an honor.

I want to thank you and your staff for considering my nomination to be the Treasury's Assistant Secretary for Legislative Affairs and for all the work that has gone into scheduling this hearing. I also want to express my deep appreciation to President Obama for nominating me, and to Secretary Geithner for recommending me for this position.

In addition to my wife and mother, whom I introduced earlier, I would also like to briefly recognize some family members who are not here, including my two children Leah and Ben, my brother David, and my father- and mother-in-law, Richard and Faith Morningstar. I am eternally grateful for everything they have done for me, and they all, in different ways, are responsible for me being here today.

I currently serve as the Deputy Chief of Staff and Executive Secretary at the Treasury Department, which I joined in January of 2009. It has been the opportunity of a lifetime to work with Secretary Geithner and the rest of the amazingly talented Treasury team during these historic and challenging times. I am deeply honored to have the opportunity to continue my service to the country and the Department, if confirmed for this new position.

Briefly, I began my career working for the Federal Government 13 years ago as a Presidential Management Intern in the Office of Management and Budget. I spent over 2 years at OMB, helping to put together the President's budget and working closely with the Social Security Administration on ways to improve their performance at least cost to the taxpayer.

In 2001, I began working for Senator Evan Bayh as his tax and budget legislative assistant, which gave me an opportunity to work closely with this committee on many issues. In 2007, I left the Senate and began working for then-House Democratic Caucus Chair Rahm Emanuel as his senior policy advisor. In this capacity I continued to work on tax issues, as he was a member of the Ways and Means Committee, and also had responsibility for financial services issues and staffed him during the consideration and passage of the Troubled Asset Relief Program.

I am indebted to both Senator Bayh and Mayor Emanuel for the trust they placed in me and for the opportunity to work with them in their efforts to help their constituents and the country.

If confirmed, I look forward to having the opportunity to again work closely with members and congressional staff to facilitate an open line of communication between the Treasury and Congress. I will faithfully represent the policies and views of the Department and administration before this committee and others in Congress.

Most importantly, I will ensure that the views of Congress are accurately conveyed and fully understood within the Department and the administration, and will strive to see that questions and concerns from members of Congress receive timely and substantive responses.

Chairman Baucus, Senator Hatch, members of this committee, thank you again for your consideration. I look forward to responding to any questions you may have.

Senator HATCH. Thank you.

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

Senator HATCH. Ms. Kerrigan?

STATEMENT OF KATHLEEN KERRIGAN, NOMINATED TO BE A JUDGE OF THE UNITED STATES TAX COURT, WASHINGTON, DC

Ms. KERRIGAN. Mr. Chairman, Ranking Member Hatch, and distinguished members of the committee, it is a privilege to be here today, and I want to thank you for scheduling this hearing to consider my nomination to be a judge on the U.S. Tax Court. I am honored to have been nominated by President Obama and grateful to the committee for your consideration of my nomination.

I have spent countless hours in this room over the years, but never from this vantage point. I believe the first time that I was in this room was to attend a briefing for Ways and Means Committee and Senate Finance tax legislative assistants. At that time I never envisioned that I would appear in this room as a nominee to the U.S. Tax Court.

I grew up in Springfield, MA and, upon graduation from law school, I joined the staff of Congressman Richard E. Neal. During my tenure with Congressman Neal, he became a member of the Ways and Means Committee. I was fortunate to be given the role of handling tax issues for the committee. Congressman Neal and I began our journey together on understanding the ins and outs of tax policy.

Under the tutelage of Janice Mays and John Buckley, I became a student of tax policy and decided that it would be the focus of my professional career. After working 8 years for Congressman

Neal, I moved to the private sector to approach tax policy from a different perspective.

While in private practice, I was offered what I view as a unique and special opportunity to serve as tax counsel for Senator Kerry. It has been an amazing opportunity from both a professional and personal perspective. Working for Senator Kerry has been challenging and rewarding. Over the past 6 years, I have worked on a variety of issues, including energy taxes, corporate taxes, and individual taxes, and have worked on many pieces of legislation, from drafting to enactment.

This set of experiences, many of which occurred in this very room, has strongly prepared me to serve as a Tax Court judge. As we all know, Congress writes the tax laws, the Internal Revenue Service administers them, and the Tax Court assures that taxpayers can challenge the determinations of the Internal Revenue Service before an independent and impartial decision-maker. If I am given the opportunity to serve, it will be my responsibility to help make determinations of consistency and clarification.

I would like to thank my parents, Bill and Betty Sullivan, who are watching today. From them I learned the importance of public service. Throughout my career, I have been fortunate to have several mentors, and some are in the room today. I would like to specifically mention three of my mentors from my time in private practice who are no longer with us today: Henry Zapruder, Ken Snyder, and Congressman Guy Vander Jagt. When I heard the news that I was going to be nominated, I wished that I could have seen their reaction.

In closing, I would like to thank Senator Kerry for the opportunity to serve as his tax counsel. I always thought that some day I would like to work with the Finance Committee because of its reputation for bipartisanship. Senator Kerry provided me with that opportunity. I have been fortunate to work for one of the most committed and hardest-working members of the Senate, and I have learned a tremendous amount from him.

I also have had the pleasure to work with so many past and current Finance Committee staff, many who have become close friends. I truly appreciate this experience, and this moment is bittersweet. If confirmed, I look forward to the next chapter of my professional career as a Tax Court judge, but I will always have fond memories of this room, this institution, and this group of people.

Thank you for the opportunity to testify.

Senator HATCH. Well, thank you, Ms. Kerrigan.

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

Senator HATCH. Dr. Aaron?

STATEMENT OF DR. HENRY J. AARON, NOMINATED TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD, SOCIAL SECURITY ADMINISTRATION, BALTIMORE, MD

Dr. AARON. Thank you very much. I want to thank Senator Baucus and all members of the Senate Finance Committee for taking the time to consider my nomination for membership on the Social

Security Advisory Board during what I realize is a particularly hectic period for this committee.

I was honored and pleased when President Obama nominated me for this position. I have worked on Social Security as a researcher and in government for 50 years. My doctoral dissertation, begun in 1961, dealt with Social Security. During the administration of President Johnson, I staffed an Income Maintenance Task Force that dealt primarily with Social Security.

During the administration of President Carter, I headed the Office for Planning and Evaluation at the former Department of Health, Education, and Welfare, when Social Security was still a part of that Department. I chaired the Advisory Council on Social Security that reported in 1979. Alone, and with colleagues, I have written extensively on the subject over the years.

I mention this background for two reasons. First, I am really devoted to the program as one of the landmark achievements of U.S. social policy. Second, I find the issues raised in debates about Social Security policy genuinely fascinating.

So, the opportunity to serve on the Social Security Advisory Board just now is particularly attractive. The reason is that major issues in program design and administration are going to have to be addressed in the next few years. The most obvious is the projected imbalance between revenues and expenditures.

While there is not any crisis, action to close that anticipated funding gap as soon as possible would be desirable. Doing so will contribute modestly to closing the overall budget deficits, and it will help restore public confidence in the Nation's largest program of retirement pensions, life insurance, and disability protection. Perhaps, I would hope, the Social Security Advisory Board can help improve the quality of debate on that important topic, at least that is why I hope to serve on the board.

The Disability Insurance program is also an area of profound concern. The objective should be, in my view, to make sure that persons with disabilities receive authorized benefits quickly, that those without such disabilities are kept off the rolls, and that those now on the rolls are helped whenever possible to be restored to gainful activity.

There is a widespread sense, which I happen to share, that we are not doing a very good job in any of those three dimensions. Here, too, I would hope that the Social Security Advisory Board can help provide information to Congress and to the public that will help us to improve on past performance. If confirmed, I look forward to working with you on these and other topics.

So once again, I want to thank you for considering my nomination. I will be pleased to answer to the best of my ability any questions you may wish to put to me. Thank you very much.

The CHAIRMAN. Thank you, Dr. Aaron.

[The prepared statement of Dr. Aaron appears in the appendix.]

The CHAIRMAN. Ms. Miller, I would just like you to talk a little bit about S&P and other rating agencies' roles in actions this country takes with respect to its financing. I know it is a little bit hard to talk publicly about some of this, but it was a bit eyebrow-raising, to say the least, when S&P downgraded us to AA-plus and made

a $2-trillion error, then changed its methodology, then changed its rating while the other agencies did not.

Now they are also involved with Europe's sovereign debt, and private debt, bank debt assessments. Just your thoughts on the roles of the rating agencies. It is a broad question, but just the degree to which you think they help. I say all this at a time when, even after the downgrade, borrowing costs fell and people invested in U.S. Treasuries, believing that that is a safe haven. Your thoughts?

Ms. MILLER. Thank you for the question. The rating agencies are private firms. They offer independent opinions on the credit quality of sovereign debt, both U.S. and international, as you have pointed out. We were disappointed in the step that S&P took in August regarding the U.S. credit rating. We thought they should have taken more time, more care with that exercise, but I am not going to speculate on their reasons for doing that.

I do think that it is a good time—and we have some authorities under Dodd-Frank—to take a look at the role of credit rating agencies in rating sovereign debt, and thinking about the role they play in the markets. But as you have pointed out, post the downgrade, the U.S. market has rallied. Participation at our auctions has not changed at all. So, we have benefitted enormously from the support we have from our investors, both domestically and internationally. Thank you.

The CHAIRMAN. You have a very interesting job. A dumb question: what do you do in that job?

Ms. MILLER. What do I do?

The CHAIRMAN. What do you do?

Ms. MILLER. Thank you for that question. [Laughter.]

The Office of Financial Markets does a number of things. First of all, I provide a daily briefing to the senior staff at the Treasury about financial market conditions, and I broadly think my role is to face the markets every day and to translate what I am seeing and what I am hearing to government officials and make sure that we have a clear insight into the performance of markets.

Within my office, we have the Office of Debt Management, which is running the Treasury auctions and raising funds to finance the government. There is also an Office of Capital Markets that is looking at everything away from the Treasury market and looking at how other markets are performing. I also have an office that looks at government credit policy and how we extend credit through all of the government agencies. So it is a fairly broad charge, but principally I am looking at financial markets and thinking about how those market factors affect government policy.

The CHAIRMAN. Is there enough transparency for you in making your assessments? I saw somewhere, for example, I think it was yesterday, it might have been Moody's or Fitch—but I have forgotten which agencies—warned the world that major U.S. banks might be loaded up with European debt in selling a lot of their insurance contracts. The question comes to my mind, well, gee, how exposed are the banks, et cetera? My question is, do you feel there is sufficient transparency? If not, where is it insufficient?

Ms. MILLER. I think there is a great deal of transparency in the public markets, in the financial reporting of public companies.

There is more that we can learn, though, about parts of the market. For example, under the Dodd-Frank legislation there is much more requirement for trade repositories, more daylight, if you will, shed on parts of the market where we have not seen enough in terms of pricing and exposures to different entities.

So I think that we have the opportunity here to build something that is quite meaningful in terms of providing policymakers, Congress, and the government much more insight into the pricing and exposures within the financial markets.

The CHAIRMAN. So you are basically saying, follow and pursue Dodd-Frank, make Dodd-Frank work better. Thank you.

I have mandatory questions I have to ask all of you guys, which I will now ask all four of you, beginning with you, Ms. Miller.

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

Ms. MILLER. No.

The CHAIRMAN. I will go down the line. Mr. Fitzpayne, the same question to you.

Mr. FITZPAYNE. No, Mr. Chairman.

The CHAIRMAN. Ms. Kerrigan?

Ms. KERRIGAN. No, Mr. Chairman.

The CHAIRMAN. Dr. Aaron?

Dr. AARON. No, sir.

The CHAIRMAN. Thank you.

The second question: do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Ms. MILLER. No, I do not, Mr. Chairman.

Mr. FITZPAYNE. No, Mr. Chairman.

Ms. KERRIGAN. No, Mr. Chairman.

Dr. AARON. None.

The CHAIRMAN. Thank you.

The final question: do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Ms. MILLER. Yes, I do.

Mr. FITZPAYNE. Yes, I do.

Ms. KERRIGAN. Yes, I do.

Dr. AARON. Yes.

The CHAIRMAN. Thank you.

Senator Hatch?

Senator HATCH. Thank you, Mr. Chairman.

Ms. Miller, during the recent debt limit impasse, I asked the Financial Stability Oversight Council, or FSOC as it is nicknamed, and the Treasury Secretary questions about Treasury's cash and liquid assets, about Treasury's short-term cash projections, and about any contingency plans of Treasury and other FSOC members in the event that Treasury ran out of cash or in the event of a sovereign rating downgrade.

Now, Congress was making decisions with trillions of dollars at stake, but was relying on estimates of Treasury's cash from local think tanks and Wall Street. We were operating in a setting in

which the administration indicated that it could not assure Social Security benefit payments or salary payments even to our troops in battle. I asked questions to determine how to assure those payments, but have not, even as of this date, received a meaningful response.

I asked on July 27 about whether Treasury thought it would run out of cash on that day, or any day thereafter. I received no meaningful response, even though a Federal default was at stake. I asked FSOC members about what their contingency plans were, and, despite reports that plans existed and may even have been discussed between the Treasury Secretary and representatives of the large Wall Street firms, I received no meaningful response.

Ms. Miller, given your role in overseeing the liquidity, stability, and depth of the market for Treasuries, I wonder if you can answer three related questions. First, why will FSOC members, including Treasury, not provide meaningful responses to my inquiries, even after the fact?

Second, why will Treasury and FSOC members not reveal their contingency plans for events that could threaten the stability of the market for Treasuries, such as Treasury running out of cash, or a sovereign credit rating downgrade on the U.S., or stresses in the tri-party repo market where Treasuries are traded daily?

Third, if Treasury has such plans, can you provide them to me? If you cannot, why not? You can see why I am a little upset about it, because we should have had absolute information at that time because it was very important for us to have something to rely on.

Ms. MILLER. Thank you very much, Senator Hatch, for the question. I agree with you that it was a critically important time for information. Let me try to address your questions. First, I would want to say that the Treasury is committed to a high degree of transparency. I work to provide a monthly statement to Congress so we could update you on our forecasts and projections. There was no information that was provided to Wall Street that was not made available to Congress and the public.

In terms of cash projections, let me take just a moment with that, if I can. These are inherently volatile. We were providing cash projections monthly and looking at what our forecasts were for reaching the debt ceiling using extraordinary measures. We are surprised every day with inflows and outflows. Providing cash flows other than the daily cash position we have provided on our website, I believe might raise more questions than answers.

In particular, the week of August 2, what I was most concerned about was our ability to access the market if the debt ceiling was not raised. In the month of August, we had over $500 billion of securities that were maturing. On August 2, we had a little over $50 billion of cash. On August 4, we had an $87 billion Treasury bill maturing.

So we were very, very conscious of the insufficiency of our cash, not just to meet our obligations as a country, the daily checks and expenditures that we make, but also whether we would be able to honor the maturity of a security even 2 days past that date.

So, in terms of contingency plans, we looked at everything. We looked at things that prior administrations had considered, we looked at ideas that Congress was providing, we looked at asset

sales, prioritization, delayed payments. None of these was a good option. We were up against the wall in terms of being able to finance the government. Thankfully, Congress acted in time, and we did not have to explore any of these options.

But I would like to personally commit to work with you, to work with your staff to make sure that you get the information that you need, and that we are explaining things well so that we can be in a good place with this issue.

Senator HATCH. Well, thank you. I think that would be a breath of fresh air, because I really felt like they let us down. And then to scare people, especially soldiers in the field and senior citizens, I thought, was hitting below the belt. Frankly, they knew better than that what was happening and just did not give us the knowledge that we needed to have.

We will now turn to Senator Coburn.

Senator COBURN. Thank you, Mr. Chairman, or Mr. Ranking Member.

Welcome to all of you. You all have stellar backgrounds. I really want to spend a few minutes with Dr. Aaron. It is my understanding you are going to be named as Chairman, if you are confirmed. The Chairman has significant power to set the agenda for the Advisory Board.

Have you thought about what your priorities will be as Chairman in terms of areas that you either write on or publish on as a group?

Dr. AARON. Over the course of my career, I have spent most of my time working on the retirement side of Social Security. I, like many others today, am concerned about what has been happening with respect to Disability Insurance. So I view the opportunity to serve on the board, whether as a member or as chair, as an opportunity to learn a good deal more about Disability Insurance. The board contains members with diverse points of view, and I would hope that we could bring those diverse points of view to bear on Disability Insurance, and provide constructive advice to Congress, and information to the general public.

I would also hope that, in the course of that work, we would have the benefit of consultation with members of this committee and other members of Congress.

Senator COBURN. Let us talk about disability for a minute, if we might. Recently, the Social Security administrative law judges have come under significant fire for vast discrepancies in, not only the number of decisions they issue each year, but for the differences in the percentage of applicants that each ALJ approves for disability benefits.

The oversight committee, the Permanent Subcommittee on Investigations, is now carrying out a thorough and comprehensive review of that and has sent some chairman's letters to do that because of the lack of cooperation from the Social Security Administration.

Do you have any suggestions on how we could increase the consistency among the administrative law judge decisions?

Dr. AARON. At this point, I have to say I do not. I am aware of the fraught politics of dealing with the ALJs. They enjoy, for historical reasons of some weight, considerable independence under

statute, and therefore there are limits on what can be done to influence the nature of their decisions. Indeed, there are not many ways of actually doing so.

I am a strong believer in the power of fresh air and light in bringing about changes in behavior, so I view the release of the information on these discrepancies to which you draw reference as a good first step. I think the entire set of arrangements under which we determine initial eligibility, and under which continuing eligibility is redetermined over time, merits very close scrutiny. It is an area in which I hope that the Advisory Board can provide helpful advice.

But I have to say that, given the fact that I focused most on the retirement side of the program, and my awareness of the difficulties in determining disability eligibility, I view this as an area where I think all of us need to put in some time and effort in order to——

Senator COBURN. Well, do you think it is strange that, when Social Security has denied somebody twice and they go before an administrative law judge, there is usually legal counsel representing the claimant before the ALJ, but there is nobody representing the U.S. taxpayer before the ALJ? Do you find that strange at all, that we have determined through our bureaucracy that somebody is not eligible—and we have done it twice—and then we are at an ALJ hearing and nobody is there to represent the government's position that they are not eligible?

Dr. AARON. I believe that the ALJ would have available to him or her the record of the preceding hearings and their disposition. The nature of the hearing, as I understand it, is for the person who was denied coverage to appeal that set of rulings. Whether it would be desirable to have somebody representing the previous decisions in other than written form is something that I think merits serious consideration.

Senator COBURN. Well, my time is up. I would like to come back, if I might, at a future time. I will tell you, we have so far discovered a number of ALJs who rarely or never deny anybody.

Senator HATCH. Thank you, Senator.

Senator Grassley is next.

Senator GRASSLEY. I was not going to ask any questions, so it will just take me 30 seconds. But I was reminded by Senator Hatch's question that I have a letter before Treasury that has not been answered yet about a whistleblower issue that I keep bringing up to you, and I want an answer to that letter. So, I hope you will go back and dig it out and get me an answer.

Mr. FITZPAYNE. Thanks, Senator. We will go back and get you a response as quickly as we can.

Senator GRASSLEY. All right. Thank you very much.

Senator HATCH. I allowed Senator Grassley to go first because he only had 1 minute he wanted to take. Senator Thune really was next, so we will turn to you, Senator Thune.

Senator THUNE. Thank you, Mr. Chairman. Thank you, panel, for being here today.

Dr. Aaron, I want to follow up. The SSDI program is experiencing significant problems, both fiscally and administratively. You have a whole bunch of people, baby boomers, and that generation

has caused SSDI administrative costs to nearly double since the year 2000. According to a CBO report, SSDI will become insolvent in the year 2017.

In addition, you have the Social Security Administration anticipating nearly 3.2 million new applicants for disability benefits in the year 2012. Even without those new applicants, SSDI has a huge backlog of appeal cases in which benefits have been denied. Conditions are so unstable that the Government Accountability Office has placed Federal disability programs on a high-risk watch list.

Since 2003, according to GAO, the largest disability programs, including the programs managed by the Social Security Administration, are experiencing growing workloads, creating challenges to making timely and accurate decisions. What needs to be done to remove SSDI from GAO's high-risk watch list, and what needs to be done to deal with the looming insolvency of SSDI?

Dr. AARON. There are really two parts to your question, one is the financial, and the other is the administrative and procedural. With respect to the financial, the problems with DI have occurred in the past. The projected dates of insolvency have differed between Old-Age and Survivors Insurance and DI many times in the past.

When one or another of those two trust funds has been fast approaching the exhaustion of reserves, Congress, on a number of occasions, has simply reallocated payroll taxes between the two programs. What really counts with respect to the whole system is the projected insolvency of the entire system taken as a whole. But that is a mechanical issue.

The other part of your question, I think, is really much more important and much more difficult. Disability Insurance, for a very long time, has experienced lengthy processes of appeal and reappeal. In my opening comments, I tried to allude to why I thought that was a serious problem because, it seems to me, if a person does have disabilities, then good administration should promptly determine that and they should receive benefits quickly. If they do not, they should receive a definitive denial promptly.

The entire ALJ process and appeals process in Disability Insurance does not exist in isolation from other ways in which administrative law judges deal with Federal policy. So dealing with Disability Insurance is wrapped up in a much larger set of legal and political issues, but I have to say I agree with you that I find extremely disturbing the length of the processes involved in determination, whether approval or denial, and that trying to redesign that system so that the determinations, affirmative or negative, occur quickly should occupy a high priority. I would look forward to your advice and counsel on that very question.

Senator THUNE. Coming back to the question that was asked by the Senator from Oklahoma, the whole process involved with appeals and administrative law judges strikes me—you read these stories, and they just completely take away any credibility in that process, when people go through the process, get denied, and find judges that, in how many cases did you say, what percentage of the cases——

Senator COBURN. The average is about 60 percent.

Senator THUNE [continuing]. Are getting approved. The objectivity of this process seems really suspect, and I think it is very hard to defend to the taxpayers of this country. So I guess, in my view, there are a couple of issues here. One is, you get the explosion in costs associated with the number of people coming into the program. The administrative side of it, I understand as well.

But clearly, the way that this program is administered today, and the way in which people are getting approved through this process, is making it more and more difficult—as you see these stories coming out about how you get that degree, that number, that percentage of approvals—I think it is hard to explain to the American taxpayers. I know you are going to be going into this job, and I hope that you will focus like a laser on trying to correct and fix these problems. It is just very, very difficult to explain.

Dr. AARON. I do not think anybody—not many people, anyway—who look closely at the Disability Insurance program today are entirely satisfied with the way in which it is operating.

Senator THUNE. Well, it just seems like there is a lot of abuse in the system because of the subjectivity that is associated with the process, and the administrative law judge process, and trying to ensure some level of consistency there. I would just make that observation.

Thank you, Mr. Chairman.

Senator HATCH. Thank you, Senator Thune.

Let us start the second round. I am going to also address this to you, Ms. Miller, and I am doing it because I trust you and believe that you will always answer honestly.

In early October, prior to a Senate vote on one of the iterations of the President's so called "jobs bill" Secretary Geithner said on Bloomberg Television that, "If Congress doesn't act, it's because Republicans decided they didn't want to do anything to help the economy."

Now, he also answered in the affirmative to a question of whether failure to pass the President's stimulus proposal would raise the risk of recession. Of course, he failed to mention that there was a bipartisan lack of support for the President's latest stimulus proposals called the "jobs bill," which was, in our opinion, filled with plans to tax more and spend more.

Now, Ms. Miller, do you and others at Treasury share the Secretary's view that those from both sides of the aisle who do not support the President's so-called "jobs bill" do not want to do anything to help the economy and raise the risk of a recession? I know that that is a question nobody likes to answer, but I think it needs to be answered. I have supported the Secretary. I would like this position to not be as political as it is being made, but down the line, giving us the best information. But do you support that position?

Ms. MILLER. I am sorry. Do I support——

Senator HATCH. Do you support that position?

Ms. MILLER. Well, I support a position that we need to do things to secure growth for the economy in the short term.

Senator HATCH. All right. That is different. I think Secretary Geithner supports that, and so does Orrin Hatch, and I think most members of our committee. But it is the position that we were not

acting in the best interests of the country by being against the jobs bill, even when Harry Reid added the so-called "millionaires' tax" to it—they did not have the votes, and they knew they did not have the votes. Now, why would we have that kind of language coming from a Secretary of the Treasury, whom we all hope we can rely on?

Ms. MILLER. Well, I think the Secretary shares everyone's concern about job creation in America, and we need to do everything we can——

Senator HATCH. Then he ought to come up with a jobs bill and not some phony thing like that.

Ms. MILLER. Well, we are trying to balance a number of things here.

Senator HATCH. Well, I will tell you, I would be willing to sit down and help you to come up with a jobs bill, because that is certainly not a jobs bill. It is proven by the bipartisan lack of support for it.

Ms. MILLER. All right.

Senator HATCH. Now, I do not mean to pick on you, but you are the only one here. You are the only one I can address this question to.

Ms. MILLER. Well, I take your point. We are in a very fragile position with the economy. We know there are many vulnerabilities. We are looking at all kinds of things every day that concern us. I think that we are trying to do the best job we can, to think about how we can secure growth, and most importantly bring down unemployment in this country, which is far too high.

Senator HATCH. All right. Well, I would like you to take back to the Secretary that I personally like him, and I think he is a brilliant man in many ways, and a hard worker—I know that. But he ought to be less partisan and really help us up here to come up with real jobs, and to really help this President, because he certainly did not come up with a jobs bill.

Now, Dr. Aaron, the Social Security Advisory Board's working groups are intended to be bipartisan in nature. It would be useful to have a board chair that can manage alternative views and gather bipartisan consensus. What experience can you point to that I would be able to review where you have managed a group to gather bipartisan consensus?

Dr. AARON. I cannot do it in a political context, but I can tell you about one——

Senator HATCH. I am not asking you in a political context.

Dr. AARON. I meant, I can tell you about one activity in which I was part of a group that had widely differing points of views and backgrounds, and that functioned extremely well over many years with mutual respect. I was the director of a company located in Cambridge, MA, Abt Associates, from, I think it was 1979 until June of this year.

That group included—the directors included business people and academics with widely varying backgrounds and widely varying points of view about what the objective of the company should be. We disagreed sharply, really sharply, within that setting. We did so with mutual respect, and we continued to have that respect and resolved those disagreements in an effective way.

It is not an area where there were differences between Republicans and Democrats, at least that was not the axis along which disagreements occurred, but I think it testified to the fact that I was able to function with a temperament in a group where people frequently disagreed with me and I with them, and we continued to work together effectively over an extended period of time.

Senator HATCH. All right. Thank you.

Senator Coburn, could I ask one more question?

Senator COBURN. Sure.

Senator HATCH. Then I would be glad to give you more time, too.

Dr. Aaron, members of the Social Security Advisory Board are, by statute, to be chosen partly on the basis of their impartiality. Based on your writings and public statements, I am not entirely sure that I can regard you as impartial with respect to Federal tax policy and health care policy. With respect to Social Security and the projected funding gap that it faces, you have written that "most of the projected funding gap should be closed principally by increasing revenues." Now, Dr. Aaron, how could you assure me that you would manage the Advisory Board in the interest of gaining bipartisan consensus on issues analyzed by the Board itself?

Dr. AARON. There is a difference between writing for an academic audience or writing for newspapers through op-eds in which the coin of the realm is analysis and frequently the expression of one's own point of view. There is a big difference between that and functioning in a setting where, as you note correctly, there are people with diverse political backgrounds and different points of view. I see those two environments as quite different.

I recognize that there are other members of the Advisory Board who hold views different from my own. If the board is to function effectively, we have to try to find positions in common or express differing positions in ways that give a fair hearing to differing points of view. I can assure you that that is going to be my intent and purpose. No single person on that board is going to make all of the decisions, or have all of the reports necessarily fully represent his or her point of view. That is the way the thing is constructed.

Senator HATCH. Well, thank you.

I just have one more question, and then I am going to turn to Senator Coburn.

According to Social Security actuaries, the Disability Insurance component, as you have indicated here today, of the Social Security system will exhaust its trust fund as early as 2016, I believe you have indicated.

Dr. AARON. Yes.

Senator HATCH. The Disability Insurance program continues to be the Social Security Agency's largest challenge. Workloads have grown rapidly over the past few years, while the Disability Insurance Trust Fund has declined. Now, Dr. Aaron, do you have ideas for fruitful areas of inquiry in working groups for the Advisory Board to help inform Congress about options available to reform Disability Insurance, or to address the looming shortfall in the trust fund itself?

Dr. AARON. I believe it is important to try to look into the process by which eligibility for the program is determined. It is important

to look at the appeals process to which Senator Coburn has drawn attention, and it is important to continue the efforts which the Social Security Administration has been pursuing for some time to accelerate and increase the probability that people will be able to return to gainful activity.

I say this in full recognition of the fact that it is easy to point to these problems and extremely difficult to point to specific policy changes that would affect those improvements. I think it is going to be necessary for us to look, in a serious way, into the laws that undergird the determination process, to look at the incentive structure that exists to encourage people, once on the rolls, to try to regain gainful economic activity. If these problems were easy, they would have been solved a very long time ago.

I think some fairly basic research is going to be necessary on them. I do not have a research program now to lay before you, but I can assure you that it is an area that I regard as one of the more important ones that the Advisory Board should focus on, and I would hope that, in that work, we would have the benefit of the consultation with members of this committee.

Senator HATCH. Well, thank you.

Senator Coburn?

Senator COBURN. Just continuing along that line for a minute, it is staggering and defies common sense that 1 in 18 people in this country presently is disabled. Anecdotally, when you go throughout the country and ask this question of people, do you know somebody on disability whom you know is not disabled, three quarters of the people in the room raise their hand. So besides what we are doing in Social Security, the ALJs find——

And let me correct the record. I misspoke a moment ago. The overall ALJ average is 60-percent approval. So that means, 60 percent of the time, what the ALJs are saying is, Social Security got it wrong. Well, one of two people is right: either the person who is there making the determination or the administrative law judge is right. We end up saying the ALJs are.

So I think you are right, we have to structurally look at this, because there is no way we can afford the continuing expansion and growth in this. It defies logic that 1 in 18 people in this country cannot perform any work in the economy, and that is what it says in the law: "any work in the economy."

So we have a large portion of people coming to the other end. How would you adjust? We have Ticket to Work, which is not being utilized by Social Security. We have continuing disability reviews, which are just simply a letter, are you disabled, and that is sent to a very small portion of the people. So we have no continuing disability review. How would you handle that?

Dr. AARON. The answer is, I do not know at this point. I do not pretend to have an answer to that question. You posed a difficult question. I want to inject one point, though, that I think is easy to forget. The most important thing—or let me amend that. A very important thing that could be done to slow the entrance of new people into disability would be to stimulate overall economic activity in this country.

Senator COBURN. I agree.

Dr. AARON. Disability Insurance applications go up when job opportunities evaporate. That has been too true since the onset of this current recession.

Senator COBURN. How do you square that, though, with what the law states: if there is any job in the economy you can do, you are not disabled?

Dr. AARON. Well, actually there is a very refined grid for determining what constitutes disability that——

Senator COBURN. Yes. But Congress did not set that, the bureaucracy set that grid.

Dr. AARON. Well, that may be the case, but that is the way in which the——

Senator COBURN. But you would agree that what the law says, what the statute says is, if there is any job in the economy you can fill, you are not disabled?

Dr. AARON. I have no reason to challenge that.

Senator COBURN. So there is no question we have a big problem. I would suggest to you, when you become Chairman, that the first thing you all work on is disability because, aside from transferring funds from the Retirement Trust Fund, we do not have any other ability. What is going to happen to us—and I will bet Treasury can back this up—if we do not fix our problems, if the super committee does not get us down that way is, we are going to run into what Chairman Bernanke said. There is going to be a point in time where people will not loan us money, and we will not have money to put into disability.

So the people who are truly disabled, those who are really dependent, who really cannot work, will not be able to get a benefit equal to what their needs are. So I would just admonish you that the biggest priority ought to be coming with recommendations on what we do to make it accurate in terms of the determination of disability, to make sure we secure the trust fund, and that we have an ongoing ability, much as you said in your opening statement, to get people back to work.

Because, in times of high unemployment, when somebody claims to be disabled because unemployment is high, that does not mean that their situation has changed other than they do not have a job, but it should not make any determination on their disability. Either they are disabled or they are not. So we see this rise, and then we also see this large increase, which tells us that it is totally out of control. We will be putting out a report probably in the next year that hopefully will help you with what the Permanent Subcommittee on Investigations is doing in terms of helping guide where to go.

You brought up the question of Abt, or Abt Associates.

Dr. AARON. Yes.

Senator COBURN. You were a director there since 1979 until this summer. How involved were you in their work and oversight of what they were doing?

Dr. AARON. The board, as is the case with most boards, did not, by and large, get into the detail of any particular study. We would occasionally hear reports about how different studies were going, and we would ask questions of those who were carrying them out. For the most part, we were involved in financial matters, whether

to sell the real estate on which the company's offices were located. I headed at one point the search committee for a new CEO. That took a great deal of time.

We would hear progress reports on the general financial situation and internal management problems. But the board did not in any case, as a board, get into specific studies. The exception to that is that one or more of the board members had particular expertise in certain research areas, and they might be involved as consultants, independently of their board activity, with a particular project. During my tenure, I do not recall being in that position at all.

Senator COBURN. Do you recall the fact that the U.S. AID Inspector General commented on one of their contracts concerning disastrous non-performance of a contract that cost the lives of Iraqi civilians?

Dr. AARON. I do remember the discussion about whether the company should bid on contracts in Iraq and the problems that arose thereafter. The board was divided on the decision about whether to bid in the first place. The company found considerable operating difficulties as a result of conflicts between U.S. AID and the Department of Defense. I am aware of the findings, and the company greatly regretted those findings. We have done our best on other projects not to allow similar negative reports to emerge.

Senator COBURN. In 2007, the Defense Contract Auditing Agency questioned over $2 million in costs because the firm charged the government for legal expenses incurred by Abt, had dinner, printed all sorts of things outside the Federal regulations on contracting. Were you aware of that?

Dr. AARON. I was very much aware of the problem that arose. If you want, I could explain what happened and what the board did. As a result of that complaint, the company undertook a large number of internal reforms under, I have to say, a deferred prosecution agreement. The U.S. Attorney who was part of that operation and had brought the case was, to the best of my knowledge, entirely satisfied in the end with the procedural changes that the company had brought about.

I think there is probably no topic in the last several years that has occupied the board more than repeated exchanges between them and the management of the company to make sure that every regulation with respect to foreign exchange, which was the subject of this matter, has been scrupulously followed. I, up to the time I left the board, was persuaded that the company had learned its lesson and was performing well above any minimum standards for this area.

Senator COBURN. Thank you for clarifying that.

I just have one other area I would like to spend time with you on. Your personal positions and your writings do not disqualify you from this at all, so I do not mean to suggest that by asking the questions. But you and I have a completely different perspective on health care, and your writings on rationing are extremely concerning to me.

So, as the Chairman of the Board, you are going to set the priorities on what you all write and what the topics will be. Having first outlined the difficulties we have with disability, and knowing what

is coming on Social Security, and the unfunded liabilities that we have associated with it, how much will health security be a part of the agenda that you set for the Board?

Dr. AARON. There is something called MedPAC that deals with Medicare and provides advice to Congress. I think the Social Security Advisory Board is going to have its platter full with issues relating to Social Security. I do not see any direct involvement in overall health care policy.

Senator COBURN. As you know, the Board has put out reports, in recent years, on the unsustainable cost of health care, which to me is fine, but they were not looking at disability when they were doing that. I agree with you, we have a lot of other people looking at health care today.

Dr. AARON. Yes.

Senator COBURN. So you would agree that the problems are big enough that you all will stick with Social Security in terms of——

Dr. AARON. That is my expectation. I am not going to make flat-out promises about what the Board will do because, in the end, although I hope to have some influence on the Board's agenda, I will be one of what I hope will be seven members of the Board, and others will weigh in as well.

The Executive Director of the Board has just taken on a new position, so one of the first challenges is going to be to identify who should succeed her. Whoever fills that job is going to have a voice as well in how the——

Senator COBURN. But the ultimate agenda is set by the Chairman.

Dr. AARON. Absolutely. If I am fortunate enough to win approval and be designated as chair, I am looking forward to that with great anticipation.

Senator COBURN. Thank you.

Mr. Chairman, I would like to enter into the record a compilation of the studies that have been done throughout the country by qualified experts on the amount of waste in health care, fully one-third of the dollars we spend on health care today. It does not help anybody get well and does not keep them from getting sick, so the disagreement that I might have with Dr. Aaron on health care has no application at all to his qualifications for being on this board.

But I would note that there is an extreme difference in philosophy. I believe we can allocate that without rationing. When we have that much waste, there are ways to do it without rationing somebody's dialysis or somebody's treatment for cancer.

With that, I would ask permission to submit this for the record.

Senator HATCH. Without objection, it will be placed in the record.

[The information appears in the appendix on p. 53.]

Senator HATCH. Well, we are grateful that you are willing to serve. We did not mean to just ignore the two of you in the middle. [Laughter.]

Mr. FITZPAYNE. No problem at all. [Laughter.]

Senator HATCH. That is what I figured.

Senator COBURN. I do have one other question.

Senator HATCH. Uh-oh. I should have——

Senator COBURN. Actually, it is for Secretary Miller.

Senator HATCH. Sure.

Senator COBURN. About your statements on rating agencies—can you put yourself in their shoes, given what a poor job they did in terms of mortgage instruments that we saw, their case for liability, that, if in fact they are not accurate in terms of their assessment of rating U.S. Government debt, they can be held accountable in a court of law? Can you get over there to see that? Even though you might disagree with them, can you see that? They obviously did not do a good job.

Part of the report Senator Levin and I put out from the Permanent Subcommittee showed their failure in terms of rating stuff that was AAA rated that obviously was not. Can you identify that they might be much more cautious now and in the future because of the poor job that they had done in the past?

Ms. MILLER. Well, first of all, I am not an attorney, so I am not sure I can weigh in on the legal question that you perhaps are raising there. But I think the rating agencies have a lot to answer for. I think that they are under a period of great self-investigation and market review, and even Congress, through some of the parts of the Dodd-Frank legislation, has to study their role.

Senator COBURN. All right. Good enough.

Thank you.

Senator HATCH. Well, thanks to all of you. We will end the hearing at this point. Thanks so much. We will just close the hearing until further notice. Thanks so much.

[Whereupon, at 11:38 a.m., the hearing was concluded.]

APPENDIX

Additional Material Submitted for the Record

Remarks of Henry J. Aaron
Nominee to the Social Security Advisory Board
November 17, 2011

Chairman Baucus, Ranking Member Hatch, and Members of the Committee, I thank you for considering my nomination to serve on the Social Security Advisory Board (SSAB). I realize this is a particularly hectic period for the Senate Finance Committee.

I was honored and pleased when President Obama nominated me for this position. I have worked on Social Security as a researcher and in government for fifty years. My doctoral dissertation, begun in 1961, dealt with Social Security. During the administration of President Johnson, I staffed an income maintenance tax force that dealt largely with Social Security. During the administration of President Carter, I headed the Office for Planning and Evaluation at the former Department of Health, Education, and Welfare, when Social Security was still part of that Department. I chaired the Advisory Council on Social Security that reported in 1979. Alone and with colleagues, I have written extensively on the subject.

I mention this background for two reasons. First, I am devoted to the program as one of the landmark achievements of U.S. social policy. Second, I find the issues raised in debates about Social Security policy genuinely fascinating.

The opportunity to serve on the SSAB just now is particularly attractive. Major issues of program design and administration will have to be addressed in the next few years. The most obvious is the projected imbalance between revenues and expenditures. While there is no crisis, early action to close that anticipated funding gap would be desirable. It will contribute modestly to closing overall budget deficits. Finally, it will help to restore public confidence in the nation's largest program of retirement pensions, life insurance, and disability protection. Perhaps the SSAB can help improve the quality of debate on that important topic.

The disability insurance program is also an area of concern. The objective should be, in my view, to make sure that persons with disabilities receive authorized benefits quickly, that those without such disabilities are kept off the rolls, and those now on the rolls are helped, wherever possible, to be restored to gainful activity. There is a widespread sense, which I share, that we are not doing a very good job in any of these three dimensions. Once again, I would hope that the SSAB can help provide information to Congress and to the public that will help us to improve on past performance.

Once again, I want to thank you for considering my nomination. I would be pleased to answer to the best of my ability any questions that you may have.

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

   Henry Jacob Aaron

2. Position to which nominated:

   Member, Social Security Advisory Board

3. Date of nomination:

   February 14, 2011

4. Address: (List current residence, office, and mailing addresses.)

5. Date and place of birth:

   June 16, 1936; Chicago, Ill

6. Marital status: (Include maiden name of wife or husband's name.)

7. Names and ages of children:

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Fairfax High School, Los Angeles, California, 1951-54, Diploma, 1954
University of California at Los Angeles, 1954-58, B.A. 1958
Harvard University, 1958-1963, M.A. 1960, Ph.D. 1963

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Senior Fellow, 1996 to present; Director, 1990-1996, Economic Studies Program, The Brookings Institution, Washington, DC

Instructor, 1963-1966; Visiting Professor, 1974, Harvard University, Cambridge, Massachusetts

Senior Staff Economist; Council of Economic Advisors, Washington DC 1966-67

Research Associate, Brookings Institution, Washington, DC June-August 1967

Associate Professor, 1967-1976; Professor, 1979-1989, University of Maryland, College Park, MD

Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare, Washington, DC 1977-78

Assistant to Robert A. Wallace, Assistant Secretary of the Treasury, Washington, DC June-September 1961

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

Congressional Budget Office, Member, Panel of Economic Advisers, 2009 to present

Institute of Medicine:
Member, 1986 to present

Chair, Committee on Routine Patient Care Costs in Clinical Trials for Medicare Beneficiaries, 2000

Chair, Committee on Medicare Coverage of Routine Patient Care in Clinical Trials, 1999

Advisory Council on Social Security, Chairman, 1978-79

IRS, Statistics on Income Division, Co-chair, Consultants Panel, 1991-1998

National Academy of Sciences

Member, Panel on Statistics for Family Assistance and Related Programs, 1981

Member, Panel on Quality Control in Welfare Programs, 1986-1988

Member, Commission on Behavioral and Social Sciences and Education, National Forum on the Future of Children and Families, 1983-1991

Member, Committee on Behavioral and Social Sciences and Education, National Research Council, 1983-1991

Department of Housing and Urban Development

Member, Urban Policy Working Group, 1979-1980

Chairman, Panel on Housing Allowance Experiments, 1975-1977

Council of Economic Advisers, State of Maryland, Member, 1969-1975

Joint Committee on Taxation, United States Congress, Member, Taxation Advisory Board, 1996-1998

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

The Rockefeller Foundation, Chair, Committee to Oversee Project on Economic Insecurity, 2007 to present

Abt Associates, Cambridge, Massachusetts, Member, Board of Directors (compensated), 1979 to present

Center on Budget and Policy Priorities, Member, Board of Directors, 1994 to present

American Tax Policy Institute, Member, Board of Directors, 2000-2007

College Retirement Equities Fund,1983-1987, Trustee,

National Academy of Social Insurance
Board Chair, 1997-2007
Vice President, 1989-1996

Association for Public Policy and Management, President, 1997-1999

Georgetown University
Trustee, Georgetown University,1995-1998
Member, Board of Directors, 1995-1998

Teachers' Insurance and Annuity Association of America, Trustee, 1983-1987

Journal of Health Economics, Member, Editorial Board, 1982-2006

Council for Applied Social Research, Member, Board of Directors, 1978-1980

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

Congressional Budget Office, Member, Panel of Economic Advisers, 2009 to present

The Rockefeller Foundation, Chair, Committee to Oversee Project on Economic Insecurity, 2007-present

Harvard University Medical and Dental Schools, Member, Visiting Committee, 2007 to present

American Academy of Arts and Sciences
Member, 1993 to present

Councilor, 1997 to present

Center on Budget and Policy Priorities, Member, Board of Directors, 1994 to present

Scholars in Health Policy Research Program, National Advisory Committee, Member, Robert Wood Johnson Panel, 1993 to present

Institute of Medicine:

Member, 1986 to present

Chair, Committee on Routine Patient Care Costs in Clinical Trials for Medicare Beneficiaries, 2000

Chair, Committee on Medicare Coverage of Routine Patient Care in Clinical Trials, 1999

Journal of Economic Perspectives

Member, Advisory Board, 1997-present

Associate Editor, 1987-1997

Duke University

Member, Research Advisory Board, Stanford Institute for Economic Policy Research, 1991 to present

Member, Board of Visitors, Stanford Institute of Public Policy, 2002

School of Public Policy, Member, Visiting Committee, 2002

College Retirement Equities Fund, Trustee, 1983-1987

American Tax Policy Institute, Member, Board of Directors, 2000-2007

Russell Sage Foundation, Member, Behavioral Economics Roundtable, 1998-2005

National Academy of Social Insurance

Board Chair, 1997-2007

Vice-president, 1989-1996

Association for Public Policy and Management, President, 1997-1999

Joint Committee on Taxation, United States Congress, Member, Taxation Advisory Board, 1996-1998

Georgetown University
Trustee, Georgetown University,1995-1998

Member, Board of Directors, 1995-1998

Member, Committee on Medical Center Affairs and Academic Committee, 1995-1998

The RAND Corporation, Summer Institute on Reform of Health Care Financing, Member, July 1992

IRS, Statistics on Income Division, Co-chair, Consultants Panel, 1991-1998

Major League Baseball, Member, Baseball Economic Study Committee, 1990-1992

American Economic Association,
Vice President, 1990-1991

Member, Executive Committee, 1978-1981

Journal of Public Economics, Associate Editor, 1988-1998

Committee for Economic Development, Research Advisory Board, Member, 1988-1991

Teachers' Insurance and Annuity Association of America, Trustee, 1983-1987

Journal of Health Economics, Member, Editorial Board, 1982-2006

National Savings and Loan League, Member, Economic Advisory Board, 1980-1982

Harvard University
Harvard University Graduate Society Council, Member, 1988-1990

Department of Economics, Visiting Committee, Member, 1985-1989

National Academy of Sciences
Member, Panel on Statistics for Family Assistance and Related Programs, 1981

Member, Panel on Quality Control in Welfare Programs, 1986-1988

Member, Commission on Behavioral and Social Sciences and Education, National Forum on the Future of Children and Families, 1983-1991

Member, Committee on Behavioral and Social Sciences and Education, National Research Council, 1983-1991

University of California, San Francisco, School of Medicine, Member, Health Policy Advisory Committee, Health Policy Program, 1979-1980

Department of Housing and Urban Development
Member, Urban Policy Working Group, 1979-1980

Chairman, Panel on Housing Allowance Experiments, 1975-1977

Council for Applied Social Research, Member, Board of Directors, 1978-1980

Advisory Council on Social Security, Chairman, 1978-79

Council of Economic Advisers, State of Maryland, Member, 1969-1975

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.

None

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

None

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

D.C.C.C.	*10/13/2010*	*$1,000*
Earl Pomeroy for Congress	*09/30/2010*	*$500*

Spratt for Congress	*09/30/2010*	*$300*
Manchin for West Virginia	*09/30/2010*	*$500*
Bill Foster for Congress	*09/30/2010*	*$350*
Democratic Party of Virginia	*09/23/2008*	*$500*
Obama for America	*09/15/2008*	*$2,300*
Obama for America	*04/04/2007*	*$2,300*
D.C.C.C.	*10/29/2006*	*$2,500*
James Webb for Senate	*09/22/2006*	*$1,000*
Spratt for Congress	*06/28/2006*	*$500*
Judy Feder for Congress	*09/21/2006*	*$500*
Judy Feder for Congress	*03/03/2006*	*$500*
Emily's List	*2006*	*$150*
Stenholm for Congress	*10/21/2004*	*$500*
John Kerry for President Inc.	*07/15/2004*	*$2,000*
Ron Kirk for US Senate	*10/16/2002*	*$500*
Wellstone for Senate	*10/15/2002*	*$500*

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

Daniel Holland Medal, National Tax Association, 2010

Robert Ball Prize, National Academy of Social Insurance, 2007

Fellow, Bellagio Center, The Rockefeller Foundation, 2004

Guggenheim Fellow, Center for Advanced Studies in the Behavioral Sciences, 1996-1997

Distinguished Policy Fellow, Graduate School of Public Policy, University of California, Berkley, Nov. 1981

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

Please see attachment A.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)

The following is a list of formal speeches I have delivered in the past five years. Most were given using only notes, of which I have not retained. For those where I have a copy of the speech, it is noted below, and attached.

Colby College, April 2011(speech attached)
AHIP, Ritz Carlton Hotel, March 2011 (speech attached)
National Congress on Health Reform, January 2011 (speech attached)
National Tax Association on Receipt of the Holland Medal (speech attached),
National Blood Foundation, May 2010 (speech attached)
AHIP National Policy Forum, March 2010 (speech attached)
AARP National Policy Council, November 2009 (speech attached)
National Association of State Comprehensive Health Insurance Plans, September 2009
University of Southern California, Andrus Lecture, March 2009
Farm Bureau Federation, March 2009 (speech attached)
National Association of Business Economists, March 2009 (speech attached)
American Farm Bureau, March 2009
United Health Care Board Meeting, February 2009 (speech attached)
Medicare "Summit," February 2009
American Health Information Management Association, November 2008
Health Affairs Conference, Campaign 2008, October 2008
University of Cincinnati, Kautz Lecture, October 2008
Cover the Uninsured, Michigan, October 2008
East Carolina University, October 2008
White House Writers Group, Orlando, September 2008
Retirement Research Consortium, August 2008
Brookings Institute/Cleveland Clinic Event, May 2008 (speech attached)
Harvard Medical School, 20th Anniversary of the Department of Health Care Policy, April 2008 (speech attached)
"Toward a New Deal" Symposium, April 2008 (speech attached)
Comments to E.R.I.C, March 2008 (speech attached)
Academy Health, February 2008
Blue Cross/Blue Shield, Michigan, November 2007
Holland Lecture, Omaha, November 2007
Grinnell College, October 2007
University of California, Irvine, May 2007

Princeton University Symposium on Healthcare: Prospects and Policy, November 2006 (speech attached)
AARP, November 2006
Signature Health Care Foundation Conference, October 2006 (speech attached)
St. Mary's College, Health Care: Is the Sky Falling?, October 2006 (speech attached)
Gustavus Adolphus College, October 2006
Lecture on Biomedical Science, August 2006 (speech attached)
Employment-Sponsored Health Insurance, Brookings Institution-New America Foundation Forum, June 2006 (speech attached)
Taub Center Board Meeting, May 2006 (speech attached)
White Table Cloth Lunch, April 2006
Georgetown University, April 2006

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

I have written several books and numerous articles on Social Security and worked in government on the staff of the Council of Economic Advisors (staffing a cabinet level tax force on Social Security reform; served as Assistant Secretary for Planning and Evaluation and the (then named) Department of Health, Education and Welfare working on the reforms enacted in 1977, and chaired the 1979 Advisory Council on Social Security.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Not applicable, as the position for which I am being considered is part–time.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

Please see response to question 1, above.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

   No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

   Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

   I have consulted with representatives from the U.S. Office of Government Ethics and the Designated Agency Ethics Official for the Social Security Administration regarding potential conflicts of interest regarding my investments, obligation, liabilities or other relationships and the position to which I have been nominated. I have signed an ethics agreement that details the actions I will take to avoid any potential conflicts of interest. I have provided a copy of the agreement with this questionnaire. I am not aware of any other potential conflicts of interest.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

   I am not aware of any such possible conflict of interest. I have consulted with representatives from the U.S. Office of Government Ethics and the Designated Agency Ethics Official for the Social Security Administration regarding potential conflicts of interest regarding my investments, obligation, liabilities or other relationships and the position to which I have been nominated. I have signed an ethics agreement that details the actions I will take to avoid any potential conflicts of interest. I have provided a copy of the agreement with this questionnaire.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of

any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

I have testified, on invitation, to various committees of Congress in which commented on various legislative issues.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

   I have consulted with representatives from the U.S. Office of Government Ethics and the Designated Agency Ethics Official for the Social Security Administration regarding potential conflicts of interest regarding my investments, obligation, liabilities or other relationships and the position to which I have been nominated. I have signed an ethics agreement that details the actions I will take to avoid any potential conflicts of interest. I have provided a copy of the agreement with this questionnaire. I am not aware of any other potential conflicts of interest.

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

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

   Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

   N/A

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any

court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

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

No.

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

No.

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

None.

E. TESTIFYING BEFORE CONGRESS

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

Yes.

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

Yes.

Questions for the Record, Submitted by Dr. Tom A. Coburn, M.D., U.S. Senator, Oklahoma, in Response to Senate Finance Committee Hearing on the Nomination of Dr. Henry J. Aaron to Serve as Member of the Social Security Advisory Board, Held Thursday, November 17, 2011

1. When you led the Social Security Advisory Council in 1979, the Council recommended funding the Social Security program with General Revenue. The Council said, "the time has come to finance some part of Social Security with non-payroll taxes." Did you personally support this recommendation at the time? Do you personally support this recommendation now?

   Answer: Over the roughly fifty years that I have worked on Social Security, I have changed my mind on some matters. In this case, I have come to believe increasingly that the linkage of benefits, earnings, and earmarked taxes is an invaluable element in sustaining support for the program. This linkage should not entirely exclude earmarking taxes other than the payroll tax. Nor should it rule out the replacement with general revenues of payroll taxes reduced for short term fiscal objectives (see my response to question 3, below).

2. Please discuss, in your opinion, the importance of the contribution-benefit link in the Social Security system?

   Answer: The link is valuable, in large measure because it contributes to the sense among workers that Social Security is an earned right. Because Social Security is seen as earned (although, of course, Congress can modify the program at any time) after a lifetime of work, recipients claim it with a sense that it is a just reward for a lifetime of work. The program is able to blend this sense of earned right together with provisions that disproportionately benefit those who have had low earnings, thereby achieving the basic objective of blending insurance and social objectives.

3. In 2011, the federal government mandated a General Revenue transfer to the Social Security trust funds to compensate for lost income due to the two percent employee tax reduction in 2011. Do you believe the transfer that occurred in 2011 undermines the contribution-benefit link that is believed by many to be one of the hallmarks of the Social Security program? Did this revenue transfer add to the national debt in 2011? Did the revenue transfer increase the liability of the Social Security trust fund compared to a scenario where there had not been such a transfer?

   Answer: No, I do not. The payroll tax cut was used to generate much-needed fiscal stimulus—that is for reasons independent from the basic objectives of Social Security. Furthermore, the use of general revenues to replace lost revenues was short term in nature. Under these circumstances, the infusion of general revenues to offset the reduction in payroll taxes does not, in my view, attenuate or weaken the contribution-benefit link.

   Any tax cut boosts deficits in the short run.

The payroll tax cut, offset by general revenue transfers, has no effect on the trust funds in the short run. To the extent that the tax cut prevents a more serious recession or promotes economic recovery, it will boost trust fund balances in the longer term.

4. During the hearing, you noted, correctly, that the federal government has previously addressed the insolvency of the Disability Insurance (DI) trust fund by reallocating the tax revenue coming into the Old Age Survivors Insurance (OASI) trust fund. Do you support addressing the looming insolvency of the DI trust fund in this same manner? Aside from transferring funds from the Retirement Trust to fund the disability program, what are your suggestions for reform to keep the program solvent and available?

   Answer: Some shift in the allocation of payroll tax revenues may once again prove necessary. In general, as noted below, the administration of disability insurance merits careful study, but what counts is overall balance of the OASDI system as a whole. The balance of any single component—disability, survivors, or retirement—cannot be addressed in isolation.

   I very much hope that the Social Security Advisory board, working with members of Congress, the Administration, and through its own hearings and research can contribute to a solution to those problems.

5. During an interview with Senate Finance Committee staff, you stated that raising the cap on earnings subject to Social Security tax to 90 percent of earnings may be too high of a level, reasoning that Social Security can be reformed without such a significant tax increase and room to tax individuals is needed for other purposes, such as education or infrastructure. If you do support raising the cap on covered earnings, to what level of earnings do you think it is most appropriate?

   Answer: If payroll taxes are to be increased as part of a program to close the projected long-term funding gap of Social Security, a decision has to be made about how much of that increase should come from raising the base, broadening the base, or raising rates. Much depends on popular acceptance. Just now, public opinion polls indicate that raising the wage base is the most widely accepted way to boost revenues. On the other hand, it is important, in my view, to maintain the current link between the payroll tax base and the earnings base used for computing revenues, and it is not clear to me that boosting benefits for relatively high earners is currently the highest-priority use of the limited revenues generated by the government's power to levy taxes. Furthermore, if earnings above the current wage base are to be taxed at the current payroll tax rate, it is not clear why other forms of income should be exempt.

6. During the hearing, you stated that you do not intend to pursue health care security policy during your time at the Social Security Advisory Board, and that there "are enough problems" within the Social Security system for the Board to address without adding health care to the Board's workload. Given time to reflect on the hearing, is this still your position?

Answer: Yes.

7. In your testimony, you contend the disability program's objective should be to "make sure that persons with disabilities receive authorized benefits quickly, that those without such disabilities are kept off the rolls, and those now on the rolls are helped, wherever possible, to be restored to gainful activity." In your opinion, how can these seemingly contrary goals – awarding benefits quickly, while ensuring program integrity – be reconciled? What specific change, or changes, would have the biggest impact of improving the Social Security disability system in this regard?

   Answer: I believe that these three objectives *are* in conflict and inevitably so. Policy decisions revolve around two very difficult questions: how to make sure that, given where we are on one of them, we do as well as possible on the other two; and, when that condition is satisfied, whether the goals are properly balanced.

   The problem, as I see it, is that while 'impairments' are objective and can be measured (although often with error), disability is—to a significant degree—subjective and inevitably so. To take an extreme case, under any standard I would regard as humane, a person who is both deaf and blind would qualify for disability benefits. Yet Helen Keller, a woman who was both deaf and blind from birth, through truly extraordinary intelligence and determination, was not disabled. The point is that within any group defined by their impairments, there may be some who through extraordinary grit and determination, advanced education, or other personal attributes are able to engage in gainful economic activity. Others, not similarly endowed will be unable to engage in gainful activity. More generally, among those with any significant impairments, some will be able to engage in gainful activity, while others do not or cannot. In still other cases, people with few impairments or none at all—people who most of us would regard as capable of gainful economic activity—will, through sloth or unvarnished fraud, try to pass themselves off as 'disabled.'

   The challenge is, as I said in my statement: a) to measure impairments as accurately and speedily as possible; b) based on these impairments, to decide—again, as quickly as administrative resources permit—whose impairments are so severe that, given their education and work histories, they should be classified as disabled; and how to assist—again, to the degree that administrative resources permit—those who are impaired to engage in gainful economic activity. None of these determinations can be made with complete accuracy, other than in extreme cases. But, they should be made according to uniform standards so that, to the extent feasible, reasonable people will reach the same judgments.

   In answer to the question regarding what changes would have the biggest impact on improving disability administration; the necessary (but not sufficient) condition is adequate administrative resources. Without sufficient staff, speedy and consistent administration is impossible. In addition, I believe that the entire process through which disability eligibility is determined merits careful study and reexamination.

8. The *Wall Street Journal* recently reported on a meeting between the Social Security Administration (SSA) and 140 of the Agency's doctors concerning the growing backlog of applications for federal disability benefits. As the *Journal* reports, in an attempt to speed processing of disability application, the agency reduced doctor's remuneration for reviewing cases and also eased the ability of doctors to review cases outside their personal areas of expertise. Do you support these recent policy changes at SSA? Given your stated desire to see the program work quickly while also ensuring program integrity, if you do not support the recent SSA policy changes detailed by the *Journal,* how would you recommend reforming this area of policy?

   Answer: I have read the Wall Street Journal story and found it quite disturbing. As an economist, I fully understand that paying each doctor more will increase the supply of those who are willing to work on disability cases. But that will boost costs. I do not at this time know enough about the reasons for the change in remuneration to judge whether it was a sound reaction to resource constraints under which the disability insurance program operates or it was a mistake that should be rectified. I can assure you, Senator Coburn, that if confirmed, I look forward to working cooperatively with you to understand this issue further.

9. Administrative costs are significantly higher in the Social Security disability program than in the retirement program. According to SSA, in 2010, the administrative cost for the OASI program was .6 percent whereas the administrative cost for the DI program was 2.3 percent. What suggestions do you have for reducing DI administrative costs?

   Answer: The contrast between the administrative expenses in OASI and DI is indeed striking. It is also to be expected. OASI is administered with extraordinary efficiency. It is also much simpler to administer than is DI. Disability insurance is inherently more costly to administer because of the need to make complex judgments regarding impairments and the capacity of people to engage in gainful activity. For that reason, administrative expenses should be higher for disability insurance than for retirement and survivors insurance. Nor, for similar reasons, am I sure that administrative spending for disability insurance is too high. To try to lower the administrative cost ratio of DI to that of OASI would, in my opinion, be most unwise. It is not even clear to me that administrative costs of DI should be reduced. Administrative spending can be too low, in the sense that reducing administrative outlays below some level will slow processing of cases, reduce the accuracy of eligibility determinations, reduce the number of reviews of continued eligibility, and preclude assistance to beneficiaries in returning to work.

10. Recently, SSA Administrative Law Judges (ALJs) have come under fire for the vast discrepancies in not only the number of decisions they issue each year, but for the differences in the percentages of applicants that each ALJ approves for disability benefits. What are your suggestions to increase consistency in ALJ decisions? Past Social Security Advisory Board (SSAB) reports have suggested oversight of ALJs, including annual performance reviews. Would you support such a suggestion?

11. The majority of claimants are now represented at the ALJ hearing stage. In response, SSAB has suggested the Agency be represented at the ALJ hearing to defend the decision made by the DDS denying the claimant benefits. Would you support such a reform?

    Answer 10 and 11: The differences in approval rates among ALJs is extremely hard to rationalize. While it is true that different people may reach different conclusions based on the same set of facts and while it is also true that the characteristics of cases coming before different ALJs probably differs, one would not expect to see variations as large as those that have been reported.

    Assuming that these variations are larger than can be justified, there remains the knotty problem of what to do about them. ALJs operate under a system of administrative law, and the difficulty of the legal issues and the political controversy that any effort to modify this system would provoke are considerable. I do believe that the SSAB should look into the administrative processes under which disability is determined including, but not limited to, the issue of annual performance review and training for newly appointed judges. If confirmed, I would examine this issue further, including the arguments for and against having Agency representation when ALJs hear appeals from Agency denials.

12. The Agency routinely fails to meet its goals in completing scheduled Continuing Disability Reviews ("CDRs") on disability beneficiaries. Aside from requesting additional funding from Congress, how do you suggest the agency reduce the current backlog of 1.5 million CDRs?

    Answer: I have no suggestions at this time. If confirmed, I will examine this issue further and make any suggestions if appropriate.

13. The SSAB has produced a number of interesting reports detailing suggestions for reforms to SSA's disability programs. What areas of the disability programs are you interested in reviewing? Are there aspects of the disability programs that you would like to see SSAB address?

    Answer: I have reviewed previous reports of the Social Security Advisory Board on the Disability Insurance program. They are striking for the care with which they are prepared. They criticize many aspects of the program, including the definition of 'disability,' the slowness of processing of applications, the lack of front-end efforts to help applicants regain marketable labor skills, the way the differences between young and older applicants are handled, the 'on/off' character of the benefit formula, the disincentive effect of the threat of loss of Medicare coverage, and the slowness of redeterminations.

    I am not interested in having the SSAB carry out studies that will sit on shelves. Accordingly, if confirmed, I would like to proceed in two ways. First, I would hope to consult with both majority and minority members of the Senate Committee on Finance and the House Committee on Ways and Means on those areas where legislation is

feasible. Second, the SSAB should continue to consult outside experts and the public on areas that most need reform.

14. GAO recently found that SSA's back-to-work program for disability beneficiaries – Ticket-to-Work – is underutilized by the disabled. In fact, the Government Accountability Office (GA) reported that *less than one percent* of individuals that received a ticket ever used it. What are your suggestions for reforms that will increase beneficiary use of the Ticket-to-Work program? SSAB has suggested that access to employment opportunities through Ticket to Work come too late to be effective. Would you agree? Do you have other suggestions for improving disability recipients' access to work opportunities?

    Answer: The low rate at which those determined eligible for DI return to work can be attributed to a) the seriousness of the disabilities from which those found eligible actually suffer (an interpretation that gains credence from the low rate at which those denied eligibility engage in substantial gainful activity after their denials); b) possible adverse incentives to engage in SGA, such as the risk of losing Medicare coverage; c) the length of the period from application for coverage to final determination, during which time there are strong incentives not to engage in SGA and work skills and habits may atrophy; and d) inadequate assistance to recipients of DI to help them return to work. I have not studied the Ticket-to-Work program. The low take-up rate is consistent with more than one of the possible causes for low rates of SGA listed above. Whatever the reason, speeding up the determination process will have a positive effect on the proportion of DI applicants who return to SGA, as well as other benefits. Changes in the benefit formula, along the lines of the current offset experiment, may also encourage participation. And, of course, the assurance of health insurance coverage under the Affordable Care Act will remove one of the strongest impediments to running the risk of taking jobs that may not lead to sustained employment.

15. In 2009, the SSI program improperly paid beneficiaries a total of $8 billion, including overpayments and underpayments, resulting in a 10 percent improper payment rate for the program. What would you suggest to improve the improper payment rate in this program?

    Answer: The improper payment rate dropped significantly from 2008 to 2010, from a total of 12 percent in 2008, to 10 percent in 2009, and 9.1 percent in 2010. The overpayment rate dropped even more sharply (10.3 percent, 8.4 percent, 6.7 percent). Of the $3.34 billion in overpayments in 2010, $2.3 billion was recovered by reducing later payments, $535 million was repaid (mostly voluntarily) after a notice of overpayment, and most of the rest of the total of $3.34 billion in overpayments was being pursued through other means. Most improper payments result not from fraud but from lags in reporting and processing information about changes in beneficiaries' circumstances. Some portion of such errors is unavoidable in means-tested programs. Better data-matching and faster reporting are obvious solutions. Higher asset limits would help with administration and are justifiable on other grounds—the current limits have been frozen

since 1989. In addition, SSI rules are complicated, and most beneficiaries suffer from mental disabilities.

Questions for the Record
Senator Orrin G. Hatch
November 17, 2011

Questions for Dr. Henry Aaron

1. Dr. Aaron, according to the Social Security Actuaries, the Disability Insurance (DI) component of the Social Security system will exhaust its trust fund by as early as 2016. The Disability Insurance programs continue to be the Social Security Agency's largest challenge. You identified in your testimony that one past solution to a DI trust fund exhaustion was to transfer funds from other trust funds within the Social Security system into the DI fund. Such a solution seems to be one of mere deferral. What other suggestions do you have to address the looming exhaustion of the DI trust fund?

   Answer: Some shift in the allocation of payroll tax revenues may once again prove necessary. In general, as noted below, the administration of disability insurance merits careful study, but what counts is overall balance of the OASDI system as a whole. The balance of any single component—disability, survivors, or retirement—cannot be addressed in isolation.

2. What particular issues confronting the Social Security system and the system's administration do you plan to focus on in the event that you become Chairman of the Social Security Advisory Panel?

   Answer: Issues of administration are, I believe, more important with respect to Disability Insurance than to any other aspect of Social Security. These issues are linked indissolubly to matters of program design—how disability is defined, what steps are taken to restore applicants to economic viability, and what help is given to those already on the rolls to regain economic viability.

   With respect to the system as a whole, I recall from when I was Assistant Secretary for Planning and Evaluation in the late 1970s that the program had major difficulties with its computer systems, keeping them up to date and assuring back-up capabilities. I have been led to believe that funding to solve those problems remains scarce.

3. In support of advancing your nomination, you submitted written material that appears to me to relate overwhelmingly to issues of health care and health care reform, with little material devoted to Social Security and Disability Insurance issues. Could you please provide to me copies of any published analyses you have performed on Social Security challenges and reforms within the past decade?

Answer:

Books

Behavioral Aspects of Retirement Policy, editor, Brookings and Russell Sage Foundation, 1999.

Should Social Security be Abolished? (with John B. Shoven, edited by Benjamin M. Friedman), MIT Press, 1999.

Countdown to Reform: The Great Social Security Debate (with Robert Reischauer), Twentieth Century Fund, 1998; Second edition, 2001.

Social Security and the Budget, University Press of America, 1990, (editor, and author of two chapters, "Social Security and the Budget: An Overview" and "Costs of the Aging Population: Real and Imagined Burdens.")

Can America Afford to Grow Old?, Brookings, 1988 (coauthored with Barry Bosworth and Gary Burtless).

Retirement and Economic Behavior, Brookings, 1984 (coedited with Gary Burtless)
Economic Effects of Social Security, Brookings, 1982

Social Security: Perspectives for Reform, Brookings, 1968 (with Joseph A. Pechman and Michael K. Taussig).

Articles

"Social Security Reconsidered," *National Tax Journal*, vol. 64, no. 2, pt. 1, June 2011, pp. 385-414.

"Longer life-spans: boon or burden," *Daedalus*, Winter, 2006, pp. 9-19.

"The Impact of an Aging Population," (with Peter Orszag) and "Meeting the Revenue Challenge," (with William G. Gale and Peter R. Orszag) in *Restoring Fiscal Sanity: How to Balance the Budget"* edited by Alice M. Rivlin and Isabel Sawhill, Brookings 2004, pp. 93-110, 111-126.

"Chinese Social Security Reform: Personal Security and Economic Development," in *Social Security Reform in China*, Economic Science Press, Beijing, 1999; and *Social Security Reform: Options for China*, World Scientific Publishing Company, 2000.

"Privatizing Social Security: A Bad Idea Whose Time Will Never Come," *The Brookings Review*, Summer 1997.

"The Economics and Politics of Pensions: Evaluating the Choices," in *Private Pensions and Public Policy*, OECD, 1992.

"What is the Appropriate Size of the Social Security Trust Fund Reserves?" in *Conference Proceedings Social Security Trust Funds: Issues for the 1990s and Beyond*, (AARP), February 23, 1989.

"How Social Security Affects the Deficit," *The Brookings Review*, Winter 1988/89, (with Barry P. Bosworth and Gary Burtless).

"Demographic Effects on the Equity of Social Security Benefits," in *The Economics of Public Services*, Martin Feldstein, editor, 1976.

"The Social Insurance Paradox," *The Canadian Journal of Economics and Political Science*, August 1966; reprinted in *Old Age Income Assurance;* reprinted in *Foundations of Pension Finance*, edited by Zvi Bodie and E. Philip Davis.

"Social Security: Equities and Inequities under United States Social Security," and "International Comparison," in *The Economics of Income Maintenance* (Otto Eckstein, editor), Brookings Institution, December 1966.

4. Many analysts are concerned about pernicious effects of increased taxation of labor income on general economic growth. If you were considering proposals to increase taxes on labor via increased payroll taxes (higher tax rates and/or an expanded tax base), what techniques of macroeconomic analysis would you bring to bear in your consideration?

   Answer: Almost all taxes have adverse incentive effects of some kind. The exceptions are taxes on harmful activities, such as taxes that discourage use of resources that degrade the environment or taxes on activities that impose costs on other people or businesses. The objective of tax policy should be to choose those taxes that generate the fewest possible adverse incentives, consistent with other considerations (such as a fair distribution of tax burdens, administrative simplicity, and fiscal flexibility). One way to minimize the work disincentive effects of payroll taxes, in my view, is to educate workers on the fact that payroll taxes resemble prices, in the sense that payroll taxes 'buy' workers added pension coverage. Pension premiums are not thought to cause adverse incentive effects, in large measure because they are buying something that workers want. Payroll taxes are not, of course, voluntary, but workers do receive important benefits from coverage. The greater the extent to which honest information can convey to them that their payroll taxes are buying them unique protections—added retirement pension coverage, improved insurance against disability, and increased life insurance for their dependents should they die prematurely. Furthermore, these benefits have unique advantages over privately available alternatives, in that they are fully protected against inflation and spread the risks of economic fluctuations across time and among all workers. Each of these benefits is enhanced to the extent that worker can be assured that these benefits will be available in the future.

Questions by Senator John Thune

1. As you know, the Obama Administration has proposed to extend and expand the payroll tax reduction enacted at the end of 2010. According to the Joint Committee on Taxation's estimate of October 5th, extending and expanding the payroll tax holiday through 2012 would result in $265 billion less in revenues into the Social Security Trust Fund. The federal government would make up for this shortfall by transferring a like sum of general revenue into the Social Security system, as was done this year.

   Answer: I fully endorse the Administration's proposal for a temporary tax cut in order to put money in consumers' pockets and speed economic recovery. Providing that cut through the payroll tax is a reasonable and administratively convenient way to provide this stimulus. Because this use of the payroll tax is outside the usual objectives of Social Security, it is imperative to replace the revenues lost to the trust funds with general revenues.

2. At a time when the Social Security Trust Fund is already cash-flow negative, do you support the Administration's proposal to extend and expand the payroll tax cut? As a general matter, do you support policies that necessitate the transfer of large sums of money from the general fund to the Social Security system? In your opinion, do such policies strengthen, weaken or have no impact on the fiscal solvency of Social Security?

   Answer: As a general matter, I favor continued finance of Social Security largely through dedicated taxes. The linkage of benefits and revenues to the same earnings base has served the program well and should continue to be the basis for most Social Security financing.

3. Do you agree that lowering the amount of revenue going into the Social Security system without changing the amounts paid out effectively weakens the link between Social Security taxes and Social Security benefits?

   Answer: I do not believe that the temporary and short-term use of reduced payroll taxes to stimulate the economy in any way weakens that link.

4. Do you believe that Social Security should continue to be funded through a dedicated payroll tax or should Social Security become a program funded from general revenues?

   Answer: Yes, I believe that Social Security should continue to be funded largely through a dedicated tax.

COMMITTEE ON FINANCE
NEWS RELEASE

Max Baucus (D-Mont.)
http://finance.senate.gov

FOR IMMEDIATE RELEASE
November 17, 2011

Hearing Statement of Senator Max Baucus (D-Mont.)
Regarding Treasury, Social Security, Tax Court Nominations
As prepared for delivery

Martin Luther King Jr. once said, "The ultimate measure of a man is not where he stands in moments of comfort, but where he stands at times of challenge and controversy."

As we consider the men and women before us today, our country is facing serious challenges. America's economic recovery is still fragile, unemployment is stubbornly high at nine percent and the debt is burdensome. But our history proves that when we meet challenges head on, we are able to rise above them and succeed.

It is in this spirit of optimism that I welcome four dedicated public servants to the Finance Committee today. All of you have been nominated to positions of great responsibility, and you are certain to face hurdles. But I am confident you will rise to the challenge.

Ms. Miller, the President has nominated you to be Under Secretary of the Treasury for Domestic Finance. In this role, you will help oversee our domestic financial system and fiscal policy.

You are no stranger to this Committee. In February 2010, you were confirmed as Assistant Secretary for Financial Markets. Your fine performance in that position led the President to nominate you to take on even more responsibility.

In your new position, you will help stoke job creation by our country's entrepreneurs. To do so, you must ensure that financial markets are able to gauge risk appropriately, so that resources flow to the most promising and productive areas of our economy. I know you appreciate the magnitude of your mission, and that you will face it with great determination.

Mr. Fitzpayne, the President nominated you to be Assistant Secretary of Treasury for Legislative Affairs. In this role, you will serve as the bridge between Congress and the Treasury Department. You must ensure that Treasury maintains a high level of transparency with Congress, and by extension, with the American people. In these challenging economic times, this will not be an easy task.

Mr. Fitzpayne, you spent nearly a decade working on Capitol Hill, in both the Senate and the House. You therefore know well how Congress works. You understand the timely and appropriate information flow Congress needs from the Executive branch. So I wish you every success in rising to our high expectations of you and your Department.

Ms. Kerrigan, the President has nominated you to be a Judge on the U.S. Tax Court. You are a familiar face to this Committee, as you have served with distinction as tax counsel to Senator Kerry. As a congressional staffer you are highly regarded by your colleagues from both sides of the aisle.

The Tax Court plays an essential role ensuring that our tax laws are administered fairly. The integrity of our tax system hinges on the ability of Americans to have their day in court when they have a legitimate tax problem and to have tax law applied impartially. I know that you will do so carefully and faithfully.

Dr. Aaron, the President has nominated you to be a member of the Social Security Advisory Board. In this climate of fiscal tightening, one of the most important issues facing our country is how to preserve, strengthen and protect Social Security.

I know that you have written extensively on this very issue, and you have a lengthy and distinguished academic background. You have also served on a number of other advisory bodies, and you have a reputation for providing thoughtful and candid advice. I urge you to provide nothing less than that to the Social Security Advisory Board.

For all of you, there will be difficult moments ahead. The positions for which you've been nominated are not easy, and these are challenging times for our country. But during times like these, we have the greatest opportunity to determine the future.

So I urge all four of you to be mindful of Dr. King's words. With determination and courage, you will rise to the occasion and help our country do great things.

I urge my colleagues to support these four highly-qualified nominees.

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SUBMITTED BY SENATOR TOM COBURN

Dr. Coburn asked to submit for the record several sources estimating the amount of waste in the American healthcare system.[1] Dr. Coburn believes that market forces and targeted approaches to tackle waste are the right approach to reduce healthcare spending and costs.

> **Thompson Reuters** research looked at evidence from published research and expert opinion to support a meaningful and credible estimate for the amount of waste in the healthcare system. **They feel that an estimate of $700 billion is "well supported by the available facts and research."** [2] The six component ranges (in billions of dollars) included in the total are:
>
> 1. Administrative System Inefficiencies $100-150
> 2. Provider Inefficiency and Errors $75-100
> 3. Lack of Care Coordination $25-50
> 4. Unwarranted Use $250-325
> 5. Preventable Conditions and Avoidable Care $25-50
> 6. Fraud and Abuse $125-175
>
> **"Estimates suggest that as much as $700 billion a year in healthcare costs do not improve health outcomes.** They occur because we pay for more care rather than better care." — **Peter Orszag**, director of the White House Office of Management and Budget, May 2009 interview with NPR.[3]
>
> **Jack Wennberg** of Dartmouth's Center for the Evaluative Clinical Sciences is often quoted as having said: "**. . . up to one-third of the over $2 trillion that we now spend annually on healthcare is squandered** on unnecessary hospitalizations; unneeded and often redundant tests; unproven treatments; over-priced, cutting-edge drugs; devices no better than the less expensive products they replaced; and end-of-life care that brings neither comfort care nor cure."[4]
>
> **PricewaterhouseCoopers' Health Research Institute** (HRI) reviewed more than 35 studies about waste and inefficiency in healthcare and surveyed 1,000 consumers to understand the public's perception of waste and inefficiency in the system. From that research came *The Price of Excess: Identifying Waste In Healthcare Spending.* **Their research found that wasteful spending in the health system has been calculated at up to $1.2 trillion of the $2.2 trillion spent in the United States,** more than half of all

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[1] Healthcare "waste" can have a range of meanings: (a) misuse, overuse, and underuse of resources; (b) unwarranted or unexplained variation in care; and (c) fraud and abuse.
[2] *http://www.factsforhealthcare.com/whitepaper/HealthcareWaste.pdf.*
[3] *http://www.factsforhealthcare.com/whitepaper/HealthcareWaste.pdf.*
[4] *http://www.factsforhealthcare.com/whitepaper/HealthcareWaste.pdf.*

health spending. Defensive medicine, such as redundant, inappropriate, or unnecessary tests and procedures, was identified as the biggest area of excess, followed by inefficient healthcare administration and the cost of care necessitated by conditions such as obesity, which can be considered preventable by lifestyle changes. PwC's paper classified health system inefficiencies into three "wastebaskets" that are driving up costs: a) Behavioral, b) Clinical, c) Operational.[5]

AARP President Barry Rand and Newt Gingrich in 2010 said in the *Orlando Sentinel* that "**[fraud] schemes** steal as much as $100 billion a year from Medicare and Medicaid alone. That amounts to more than $300 for every man, woman and child in America."[6]

The Coburn report, "Medi-Fraud in the News" (released with the FAST Act introduction) highlighted more than 100 examples of multi-million dollar fraud highlighted in public news sources over a several month period. While no one knows with exact certainty the amount of taxpayer money in Medicare and Medicaid that is lost each year to waste, fraud, and abuse, **this report totaled *hundreds of billions of dollars lost* over a multi-year period** (because the report captured arrests, convictions, and sentencing).[7]

According to the AMA's 2011 findings, commercial health insurers have an average claims-processing error rate of 19.3 percent, an increase of two percent compared to last year. The increase in overall inaccuracy represents an extra 3.6 million in erroneous claims payments compared to last year, and added an estimated $1.5 billion in unnecessary administrative costs to the health system. **The AMA estimates that eliminating health insurer claim payment errors would save $17 billion.**[8]

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[5] *http://www.pwc.com/us/en/healthcare/publications/the-price-of-excess.jhtml.*
[6] *http://articles.orlandosentinel.com/2010-09-29/news/os-ed-medicare-fraud-gingrich-093010-20100929_1_health-care-fraud-home-health-medicare-and-medicaid.*
[7] *http://coburn.senate.gov/public//index.cfm?a=Files.Serve&File_id=e04f42d4-7f4c-468b-b57a-b957501b9d1d.*
[8] *http://www.ama-assn.org/ama/pub/physician-resources/solutions-managing-your-practice/coding-billing-insurance/heal-claims-process/national-health-insurer-report-card.page.*

Opening Statement of Alastair Fitzpayne
Nominee for Deputy Under Secretary (Designated Assistant Secretary for Legislative Affairs), U.S. Treasury Department
United States Senate Committee on Finance
November 17, 2011

Remarks as Prepared for Delivery

Chairman Baucus, Senator Hatch, and members of the Senate Finance Committee, I appreciate the opportunity to appear before the Committee today with such a distinguished panel of nominees. It is an honor. I want to thank you and your staff for considering my nomination to be the Treasury's Assistant Secretary for Legislative Affairs, and for all of the work that has gone in to scheduling this hearing. I also want to express my deep appreciation to President Obama for nominating me, and Secretary Geithner for recommending me, for this position.

I would first like to briefly introduce some members of my family who are here. I am joined by my wife of over ten years, Jill Morningstar, who, like me, had the privilege of working in the United States Senate. She worked for Senator Wellstone as his legislative assistant for education policy up until his tragic death in 2002. I am also joined by my Mother, Elizabeth Fitzpayne. She is now retired but once worked for the Bureau of the Budget (now the Office of Management and Budget) before she became a medical librarian. I would also like to briefly recognize some family members that are not here, including my two children, Leah and Ben, my brother, David, and my father and mother in law, Richard and Faith Morningstar. I am eternally grateful for everything that they have done for me and they are all, in different ways, responsible for me being here today.

I currently serve as the Deputy Chief of Staff and Executive Secretary at the Treasury Department, which I joined in January of 2009. It has been the opportunity of a lifetime to work with Secretary Geithner and the rest of the amazingly talented Treasury team during these historic and challenging times. I am deeply honored to have the opportunity to continue my service to the country and the Department if confirmed for this new position.

Briefly, I began my career working for the federal government thirteen years ago as a Presidential Management Intern in the Office of Management and Budget. I spent over two years at OMB helping to put together the President's budget and working closely with the Social Security Administration on ways to improve their performance at least-cost to the taxpayer.

In 2001, I began working for Senator Evan Bayh as his tax and budget legislative assistant which gave me an opportunity to work closely with this Committee on many issues. In 2007, I left the Senate and began working for then-House Democratic Caucus Chair Rahm Emanuel as his senior policy advisor. In this capacity, I continued to work on tax issues as he was a Member of the Ways and Means Committee and also had responsibility for financial services issues and staffed him during the consideration and passage of the Troubled Asset Relief Program. I am indebted to both Senator Bayh and Mayor Emanuel for the trust they placed in me and for the opportunity to work with them in their efforts to help their constituents and the country.

If confirmed, I look forward to having the opportunity to again work closely with Members and congressional staff to facilitate an open line of communication between the Treasury Department and Congress. I will faithfully represent the policies and views of the Department and Administration before this Committee and others in Congress. Most importantly, I will ensure that the views of Congress are accurately conveyed and fully understood within the Department and the Administration, and I will strive to see that questions and concerns from Members of Congress receive timely responses.

Chairman Baucus and Ranking Member Senator Hatch, and Members of this Committee, thank you again for your consideration and I look forward to responding to any questions you may have.

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

Alastair MacLennan Fitzpayne

2. Position to which nominated:

Assistant Secretary for Legislative Affairs, Department of the Treasury

3. Date of nomination:

September 15, 2011

4. Address: (List current residence, office, and mailing addresses.)

5. Date and place of birth:

Date: October 12, 1971
Place of Birth: Greenock, Scotland

6. Marital status: (Include maiden name of wife or husband's name.)

7. Names and ages of children:

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

High School: Beaver Country Day School, Attended 1986-1989, Degree Received: June 1989.

College: Vassar College, Attended 1989-1993, Degree Received: BA (June, 1993)

Graduate School: University of California-Berkeley, Attended 1996-1998, Degree Received: MPP (June, 1998)

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Research Assistant, Abt Associates; Cambridge, MA and Bethesda, MD; August 1993-September 1995

Staff Writer, The Hotline, Washington, DC; September 1995-June 1996

Program Examiner, (began as Presidential Management Intern), Office of Management of Budget, Washington, DC; June 1998-October 2001

Legislative Assistant, Senator Evan Bayh; Washington, DC; October 2001- January 2007

Senior Policy Advisor, Representative Rahm Emanuel; Washington, DC; January 2007 - January 2009

Deputy Chief of Staff, Treasury Department; Washington, DC; January 2009-March 2010

Deputy Chief of Staff and Executive Secretary, Treasury Department; Washington, DC; April 2010 - Present.

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

N/A

11. Business relationships: (List all positions held as an officer, director, trustee,

partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

N/A

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

N/A

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.

N/A

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

N/A

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

Jill Morningstar	9/29/10	Ed Potosnak for Congress	$250
Jill Morningstar	10/25/08	Al Franken for Senate	$250
Jill Morningstar	10/24/08	Barack Obama for America	$600
Jill Morningstar	10/15/06	Ben Cardin for Senate	$500
Jill Morningstar	10/19/06	Hoosiers for (Baron) Hill	$250
Jill Morningstar	10/15/06	Claire McCaskill for Missouri	$250
Jill Morningstar	9/30/04	Barney Frank for Congress Cmte	$500
Jill Morningstar	9/17/04	Bobby Scott for Congress	$250
Jill Morningstar	3/29/04	John Kerry for President, Inc.	$1,000
Al Fitzpayne	3/29/04	John Kerry for President Inc.	$1,000

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

Presidential Management Intern, 1998

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

From Sept. 1995-June 1996 I was a staff writer at The Hotline. There were no by-lines at The Hotline when I was working there.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)

N/A

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

From 2001 to early 2007, I worked in the Senate for Senator Evan Bayh as a legislative assistant handling tax, budget, small business, and other economic policy issues. At the beginning of 2007, I began working for Representative Rahm Emanuel as his senior policy advisor, handling tax and financial services issues. I worked in this capacity for Representative Emanuel for two years.

Following my seven years working on Capitol Hill, I began working at the Treasury Department as Deputy Chief of Staff in January 2009. In April 2010, I also accepted the responsibilities of the Executive Secretary. In short, my 13 years of government service, in both the legislative and executive branches have given me the personal and professional experiences and understanding of these two unique but inter-related branches of the US government.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

N/A

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

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

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

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

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

N/A

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

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

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

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

   Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

   N/A

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

   No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

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

No.

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

No.

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

None.

E. TESTIFYING BEFORE CONGRESS

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

Yes.

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

Yes.

F. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files.)

1. Provide a complete and current financial net worth statement which itemizes in detail:

Alastair Fitzpayne QFR Answers
Submitted on December 1, 2011

Questions From Senator Hatch

Question 1:

During the recent debt limit impasse, I asked the Financial Stability Oversight Council (FSOC), and the Treasury Secretary questions about Treasury's cash and liquid assets; about Treasury's short-term cash projections; and about contingency plans of Treasury, the Fed, and other FSOC regulators in the event that Treasury ran out of cash or in the event of a sovereign rating downgrade, which unfortunately occurred subsequent to my request.

I asked on July 27 about whether Treasury thought it would run out of cash on that day, or any day thereafter. I asked FSOC members, including Treasury, about what their contingency plans were for events that include: Treasury running dry of cash and additional borrowing authority; a downgrade of the U.S. sovereign credit rating; runs on money market funds; and stresses in the tri-party repo market, in systemically important financial utilities, or in the payments system.

To date, I have not received complete responses. If confirmed, will you work to obtain and provide answers to my requests? Will you work to determine whether Treasury had contingency plans for the events that I listed above and, if those plans exist, provide the information to me?

Answer:

If confirmed, I will work with Treasury officials and staff to provide answers to your requests.

Question 2:

Will you assure me that, if confirmed, you will work to improve communications between the Treasury Department and Congress?

Answer:

If confirmed, I assure you that I will work diligently with Treasury officials and staff to maintain an open line of communication between Congress and the Treasury in order to provide information that is both substantive and timely.

STATEMENT OF HON. ORRIN G. HATCH, RANKING MEMBER U.S. SENATE COMMITTEE ON FINANCE HEARING OF NOVEMBER 17, 2011 NOMINATIONS OF MARY JOHN MILLER, ALASTAIR M. FITZPAYNE, KATHLEEN KERRIGAN, AND HENRY J. AARON

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, today delivered the following remarks during a Senate Finance Committee hearing considering the nominations of Mary John Miller to serve as Under Secretary for Domestic Finance at the Department of Treasury; Alastair Fitzpayne to serve as Deputy Under Secretary for Legislative Affairs at the Department of Treasury; Kathleen Kerrigan to serve as a Judge of the United States Tax Court; and Henry Aaron to serve as a Member of the Social Security Advisory Board:

Thank you Mr. Chairman. And my thanks also to the four nominees who are appearing before us today.

Our first witness today is Mary Miller, nominated to be Under Secretary for Domestic Finance at the Treasury Department. This position is especially important given the need to protect and preserve the depth and liquidity of the global market for U.S. Treasury securities in the face of unsustainable deficits and debt over the past three years that helped lead to the recent downgrade of our sovereign credit rating. It is essential that the Treasury Department have solid debt managers with intricate knowledge of international debt markets. Ms. Miller is currently the Assistant Secretary of the Treasury for Financial Markets and has a background working in markets for fixed income securities at the T. Rowe Price Group.

Additionally, Ms. Miller's responsibilities, if confirmed, will include the Office of Financial Stability, which manages the Troubled Asset Relief Program, or TARP. Earlier this week it was reported that the Treasury Department increased its estimate of estimated losses attributable to the auto industry bailout by more than $9 billion. Although TARP is not able to make new commitments, there are still many billions of taxpayer dollars still outstanding.

Our second witness, Mr. Alastair Fitzpayne, also is a current Treasury Department employee and is under consideration for the position of Deputy Under Secretary for Legislative Affairs at Treasury. If confirmed, he will serve as the principal point of contact for and coordinator of Treasury's interaction with Congress. I hope to learn how Mr. Fitzpayne envisions enhancing Treasury's interaction with Congress. I've been unsatisfied with the speed of responses to some of my letters and the level of communication with the Treasury Department, so I look forward to working on enhancing that relationship.

Our third witness, Ms. Kathleen Kerrigan, has been nominated to be a Judge of the United States Tax Court in order to administer our tax laws fairly and impartially. Ms. Kerrigan has worked for both Congressman Neal and Senator Kerry on tax issues, and is well known and very well thought of by both sides of the Committee. The integrity and intelligence she brings to

her work have made her a resource to the whole Committee, and the tax code is better than it otherwise would have been as a result. I understand from my staff that a provision that Ms. Kerrigan worked on for Congressman Neal was a clarification of the employment tax status of certain fishermen that was enacted as part of the Small Business Job Protection Act of 1996. Kathy, we are going to miss you here, so I hope taxpayers who will appear before you in your new role will appreciate how fortunate they are.

Our fourth witness, Dr. Henry Aaron, currently at the Brookings Institution, has been nominated to be a Member of the Social Security Advisory Board, and I understand also to be designated by the President, if confirmed, to serve as the Board's chairman. Social Security's Disability Insurance program faces trust fund exhaustion by as early as 2016, and Social Security as a whole faces significant financial challenges. Consequently, it will be important that we in Congress receive balanced and bipartisan input into the administration of Social Security programs and possible reforms from the Advisory Board.

Mr. Chairman, I wish to thank you again for holding this hearing. I look forward to hearing from nominees on today's panel.

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Opening Statement of Kathleen M. Kerrigan
Nominee for Judge, US Tax Court
Senate Committee on Finance
November 17, 2011

Mr. Chairman, Ranking Member Hatch and distinguished members of the Committee, it is a privilege to be here today and I want to thank you for scheduling this hearing to consider my nomination to be a judge on the United States Tax Court. I am honored to have been nominated by President Obama and grateful to the Committee for your consideration of my nomination.

I have spent countless hours in this room over the years, but never from this vantage point. I believe that the first time that I was in this room was to attend a briefing for Ways and Means and Senate Finance tax legislative assistants. At that time, I never envisioned that I would appear in this room as a nominee to the United States Tax Court.

I grew up in Springfield Massachusetts and upon graduation from law school, I joined the staff of Congressman Richard E. Neal. During my tenure with him, Congressman Neal became a member of the Ways and Means Committee. I was fortunate to be given the role of handling tax issues for the Committee. Congressman Neal and I began our journey together on understanding the ins and outs of tax policy.

Under the tutelage of Janice Mays and John Buckley, I became a student of tax policy and decided that it would be the focus of my professional career. After working eight years for Congressman Neal, I moved to the private sector to approach tax policy from a different perspective.

While in private practice, I was offered what I view as a unique and special opportunity- to serve as tax counsel for Senator Kerry. It has been an amazing opportunity from both a professional and personal perspective. Working for Senator Kerry has been challenging and rewarding. Over the past six years, I worked on a variety issues including energy taxes, corporate taxes, and individual taxes and have worked on many pieces of legislation from drafting to enactment.

This set of experiences, many of which occurred in this very room, has strongly prepared me to serve as a Tax Court judge. As we all know, Congress writes the tax laws and the Internal Revenue Service administers them. The Tax Court assures taxpayers that they can challenge the determinations of the Internal Revenue Service before an independent and impartial decision maker. If I am given the opportunity to serve, it will be my responsibility to help make determinations of consistency and clarification.

I would like to thank my parents, Bill and Betty Sullivan, who are watching today. From them, I learned the importance of public service. Throughout my career, I have been fortunate to have several mentors and some are in the room today. I would like to specifically mention three of my mentors from my time in private practice who are no longer with us; Henry Zapruder, Ken

Snyder, and Congressman Guy Vander Jagt. When I heard the news that I was going to be nominated, I wish that I could have seen their reaction..

In closing, I would like to thank Senator Kerry for the opportunity to serve as his tax counsel. I always thought someday I would like to work for the Finance Committee, because of its reputation for bipartisanship. Senator Kerry provided me with that opportunity. I have been fortunate to work with one of the most committed, hardest-working members of the Senate, and I have learned a tremendous deal from him. I also have had the pleasure to work with so many past and current Finance Committee staff, many of whom have become close friends. I truly appreciate this experience, and this moment is bittersweet. If confirmed, I look forward to the next chapter of my professional career as a Tax Court judge, but I will always have fond memories of this room, this institution, and this group of people.

Thank you for the opportunity to testify.

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name: Kathleen Marie Kerrigan Maiden Name: Sullivan

2. Position to which nominated: United States Tax Court Judge

3. Date of nomination: May 26, 2011

4. Address: Residence:
   Office:

5. Date and place of birth: 1/20/1964 Springfield, Massachusetts

6. Marital status:

7. Names and ages of children:

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)
   Cathedral High School
   Springfield, MA
   Attended 9/1977 to 5/1981
   High School Diploma 5/1981

   Boston College
   Chestnut Hill, MA
   Attended 9/1981 to 5/1985
   Bachelor of Science 5/1985

   University of Notre Dame Law School
   South Bend, IN
   Attended 8/1987 to 5/1990
   J.D. 5/1990

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)
University of Virginia Medical Center
Registered Nurse
Charlottesville Virginia
9/1985 to 8/1987

Buckley, Richardson, and Gelinas, LLP
Summer Associate
Springfield, Massachusetts
5/1989- 8/1989

Professor Thomas L. Shaffer
Research Assistant
University of Notre Dame Law School, South Bend IN
1/1989 – 5/1989 and 9/1989 –12/1989

Congressman Richard E. Neal
Legislative Director
Washington, DC
9/1990 to 11/1998

Baker & Hostetler LLP
Partner 1/2002 to 2/2005
Associate 11/1998 to 12/2001
Washington, DC
11/1998 to 2/2005

U.S. Senator John F. Kerry
Legislative Counsel
Washington, DC
2/2005 to present

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.) None

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)
Partner at Baker & Hostetler LLP; 2002-2005

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)
District of Columbia Bar 1992 to Present
Massachusetts Bar 1991 to Present
Tax Coalition 1993 to Present

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.
None

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.
Volunteer Activities Only:
November 2004- Volunteer for Democratic Congressional Committee; went to Buffalo, New York to monitor election;
November 2006- Volunteered for Democratic Senate Campaign of Jim Webb made phone calls as part of get out the vote operation;
August – November 2008 Volunteer Member of Obama Tax Policy Committee, drafted fact sheets and op/ed templates about the Obama tax plan;
October – November 2008 National Democratic Party, volunteer for get out the vote efforts and election day poll monitoring;
October-November 2010 Campaign of Senator Blanche Lincoln; volunteer for get out the vote efforts.

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

Baker & Hostetler Political Action Committee $500 10/2/2001
Winning Margins Political Action Committee $250 2/13/2002
Winning Margins Political Action Committee $250 3/19/2002
Bob Matsui For Congress Committee $500 4/22/2002
Winning Margins Political Action Committee $250 5/01/2002
Baker & Hostetler Political Action Committee $500 5/20/2002
Rangel for Congress $500 5/20/2002
Friends of Max Baucus $250, $254 6/26/2002
Mainstream Political Action Committee $500 7/29/2002
Winning Margins Political Action Committee $200 11/01/2002
Winning Margins Political Action Committee $200 12/09/2002
Friends of Schumer $250 12/17/2002
Friends of Barbara Boxer $500 4/11/2003
Richard E. Neal For Congress $500 4/30/2003
Bob Matsui for Congress $500 6/26/2003
Stephanie Tubbs Jones For US Congress $250 11/14/2003

Bill McCollum for US Senate $500 12/22/2003
Friends of Chris Dodd 3/11/2004 $250
Bob Matsui For Congress $500 3/31/2004
John Kerry for President Inc $1000 4/5/2004
Richard E. Neal for Congress $500 4/23/2004
Bill McCollum for U.S. Senate $250 6/29/2004
Max Sandlin for Congress $250 6/30/2004
Tony Knowles for US Senate $500 7/12/2004
Kerry for President Inc, $500 via Kerry Victory 2004 7/28/2004
Rangel for Congress $250 8/12/2004
New Leadership for America PAC (Tom Daschle) $500 9/13/2004
Pennsylvania Democratic Party $1000 10/12/2004
Friends of Dan Maffei $500 12/26/2005
Friends of Dan Maffei $250 9/7/2006
Friends of Dan Maffei $500 11/04/2006
Friends of Dan Maffei $250 10/20/2008
Friends of Dan Maffei $250 6/26/2008
Friends of Dan Maffei $250 10/2010

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)
Rotary Club Scholarship 1985
AFL-CIO Scholarship 1985

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)
None

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)
None

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

I have extensive experience related to tax policy in the public and private sector. Through my education and work experience, I have an understanding of the tax code which will enable me to make fair and knowledgeable decisions.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms,

associations, or organizations if you are confirmed by the Senate? If not, provide details.
Yes

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.
No

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.
No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.
Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.
None

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.
None

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.
While at Baker and Hostetler, I represented clients on a variety of legislative issues, including tax legislation. During this time, I was a registered lobbyist and the proper disclosures were made. I have not been a registered lobbyist for the past six years.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)
I will recuse myself from participating in any cases in which I may have a conflict of interest.

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

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

   Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.
N/A

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.
No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.
No

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.
Yes. My parents sued the health insurance company that held my policy while I was a law student. My parents paid the premiums and the court decided in my parents' favor. The health insurance company was denying payment of claims for jaw surgery.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.
No

5. Please advise the Committee of any additional information, favorable or

unfavorable, which you feel should be considered in connection with your nomination.
None

E. TESTIFYING BEFORE CONGRESS

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

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

Kathleen Kerrigan QFR Answers
Submitted on December 1, 2011

Questions From Senator Hatch

Question 1:

Given you experience working on tax issues for the U.S. Senate, to what extent do you believe the complexity of the tax code contributes to the number of and characteristics of cases coming before the Tax Court?

Answer:

I believe the tax code has become too complicated in recent year and this complexity has led to confusion and error among taxpayers. Often certain provisions of the tax code are complex in order to implement a specific policy, but these complexities can lead to a taxpayer not fully understanding the application of a specific tax law. I am concerned that if the tax code continues to become more complex the number of cases before the Tax Court will increase.

Question 2:

What responsibility does the Tax Court have, as the technical tax law experts in our judicial system, to the rest of the judiciary and the tax system?

Answer:

The Tax Court has the responsibility of applying it expertise in order to make determinations consistent with existing tax laws. This expertise should be used a manner to ensure that taxpayers are assessed only what they owe, and no more.

Question 3:

Although taxpayers may choose to be represented before the Tax Court by practitioners admitted to the bar of the Tax Court, taxpayers may also represent themselves. Do you expect to face any additional challenges in your role as a Judge of the Tax Court depending on whether a taxpayer, who may not possess technical knowledge of the tax code, represents themself or is represented by a practitioner?

Answer:

The Tax Court provides a forum for taxpayer to litigate a tax deficiency prior to paying the disputed amount. The Tax Court assures taxpayers that they can challenge the determinations of the Internal Revenue Service before an independent and impartial decision maker. If confirmed, I plan on treating taxpayers in a courteous manner and be understanding of those who do not have technical knowledge in order to ensure that all taxpayers, regardless of whether they have representation or not, are able to have their case decided in an equitable manner.

Statement of Senator John F. Kerry
The Nomination of Kathleen Kerrigan to be
Judge of the United States Tax Court
November 17, 2011

Mr. Chairman, thank you for this privilege of introducing Kathy Kerrigan to the committee – though as you know from our work here, particularly over the last months on the Joint Select Committee on Deficit Reduction, Kathy is no stranger to this Committee, its members, or its remarkably hard-working staff.

Kathy has been a vital part of my Senate team for six years now. And while a part of me almost hesitated before I recommended her for this position, because it is difficult to imagine my office without her, I couldn't be more pleased or more proud that President Obama has nominated her to be a judge on the U.S. Tax Court.

For the last fourteen years on Capitol Hill, Kathy has worked on tax policy, first with her home-district Congressman on the Ways and Means Committee – Richard Neal – and then with me for six of the most interesting, most grueling, and most productive legislative years I've enjoyed in the Senate.

Public service is written into Kathy's DNA along with a "keep your head down-avoid the limelight-do the work" approach to life that was instilled in her at home in Springfield, Massachusetts, where her father, Bill Sullivan, served as Mayor. She learned there what a difference humble, earnest people can make in government to help people. She's never lost sight of that for an instant. This summer, when a deadly tornado ripped through her hometown, she got off the phone with her parents – and she didn't come home to Massachusetts, instead she came to work in the Senate – bright and early that Saturday morning, Kathy was here working on disaster tax legislation to help her friends and family and neighbors put their lives back together. That's a snapshot of who she is, and why she's in public service.

Kathy's academic and professional record is exemplary: a Bachelor's degree from Boston College and a law degree from Notre Dame, two outstanding Catholic colleges; tax and Social Security counsel for the majority staff of the Senate Small Business Committee; staff director for the Finance Subcommittee on Social Security, Pensions and Family Policy; and a tour of duty as a Partner at Baker and Hostetler.

But more than that, Kathy knows the tax code inside and out – and she knows it from the frontlines of the legislative process. She may have the title of Tax Counsel, but Kathy is more than that – she has been the indispensable "utility player" on my staff because as this committee knows so well, there isn't a significant public policy issue in Congress that doesn't run through the Finance Committee or the tax code in one way or another.

It's no surprise, then, that Kathy is a familiar face to Senate security – for nobler reasons: because, after all, her typical work day starts before everybody else is at work and ends long after everybody else has gone home. On health care reform, climate change and energy, infrastructure, and now on the special deficit committee, Kathy has been my go-to person – who gets things done. Which is why, for the purposes of this hearing, if not for her Senate pension, I would respectfully suggest that her six years in the Senate count more like "dog years" – because in terms of productivity, work hours, creativity, and energy, it feels like she's been here 26 years – just as long as I have.

In everything she has done for me, Kathy has been a tough negotiator, but – as you'd want in a judge – a fair one. She has a moral compass as sound and as strong as anyone I've ever known in public service – and it's telling that at a time in government and in life when so many want to turn towards lucrative enterprises, Kathy wants only to spend the next decade or more the way she spent the last one: working for the public good.

Mr. Chairman, I will miss Kathy and the special energy, creativity and dedication she brings to my office. But I know this: Kathy Kerrigan will be a phenomenal tax judge. On the bench, she will continue to make this committee, her family, and her home state of Massachusetts proud.

OPENING STATEMENT OF MARY JOHN MILLER
NOMINEE FOR UNDER SECRETARY FOR DOMESTIC FINANCE
OF THE TREASURY DEPARTMENT
UNITED STATES SENATE COMMITTEE ON FINANCE
NOVEMBER 17, 2011

Thank you, Senator Cardin, for that kind introduction.

Thank you Chairman Baucus, Ranking Member Hatch, and members of the Senate Finance Committee for giving me the opportunity to be here today. I am honored that President Obama and Secretary Geithner have asked me to continue my service to the Treasury Department and to have the opportunity, if confirmed, to serve as the Under Secretary for Domestic Finance.

I want to recognize three members of my family who are here today. My father, James John, who among his many accomplishments taught history for 37 years at Cornell University; my husband of 31 years James Miller; and my brother James John, one of my five siblings. Words can never express the important ways my family and friends have supported me and contributed to the opportunity that I have in front of me today.

Two years ago, this Committee considered me for the role of Assistant Secretary for Financial Markets at the Treasury, a position for which I was later confirmed. At that time, I discussed my experience in the private sector, and the 26 years I spent at T.Rowe Price, an investment management company in Baltimore, which remains my home.

I joined T. Rowe Price in 1983 as a municipal bond credit analyst, after answering an ad in the Wall Street Journal. Over the years, I worked in credit research, bond trading and portfolio management. During those decades I worked through many market and economic cycles, and witnessed both the benefits of financial markets innovation as well as periods of severe market turmoil.

Ultimately I served as the Director of Global Fixed Income Investment for the firm and was a member of the management committee that oversaw all of the firm's business. I mention this progression because I think that experience – rooted in the practical aspects of every step of the investment process – is relevant to the position for which I have been nominated.

The past 21 months at the Treasury Department have been instructive. My colleagues and I have worked diligently on some of the more challenging issues facing the country and I am constantly impressed by the thoughtful and dedicated public servants with whom I work with every day.

As head of the Office of Financial Markets, I am responsible for managing our country's debt, including our Treasury auctions. I also have responsibilities for financial market reform, and government policies for extending credit. I advise Secretary Geithner on developments in financial markets and try to use my experience to help develop useful policy positions.

My work at Treasury and the potential assignment to serve as Under Secretary for Domestic Finance parallels my experience in the private sector in many ways. At T. Rowe Price, I moved

from a position of "hands on" execution to one where I oversaw the people and processes that affected our business.

At the Treasury, I have worked on very specific assignments that have required engagement with a wide array of constituencies both inside and outside the government. Should I be confirmed to lead the Office of Domestic Finance, my portfolio of responsibilities would be broader, my role in policy development greater, and the need for managing people and process even more important.

The challenges we face today are no less important than the ones I discussed here two years ago. While much has been accomplished, much remains to be done. Most importantly, too many Americans are still struggling to find jobs and our housing market remains weak. The urgency and importance of restoring confidence in our economy and our financial markets is clear. This cannot be accomplished overnight, and that is why I appreciate the opportunity to serve in this new role at the Treasury. If confirmed, I would look forward to working with the members of this Committee and Congress. I will work hard and do my best to carry out my oath of office. Thank you.

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

   Mary John Miller
   Mary Elizabeth John (maiden name July 19, 1955 to May 31, 1980)

2. Position to which nominated:

   Under Secretary for Domestic Finance, U.S. Department of the Treasury

3. Date of nomination:

   July 5, 2011

4. Address: (List current residence, office, and mailing addresses.)

5. Date and place of birth:

   July 19, 1955 in Bonn, West Germany (My parents are both Americans by birth; at that time my father was working in Germany for the Institute for Advanced Study of Princeton, N.J.)

6. Marital status: (Include maiden name of wife or husband's name.)

7. Names and ages of children:

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Ithaca High School, Ithaca, NY 1970 – 1973 Graduated June 1973

Cornell University, 1973 – 1977, Bachelor of Arts May 1977

Univ. of North Carolina at Chapel Hill, 1978 – 1979, Master of City and Regional Planning May 1980

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Legislative Aide, Congressman Robert Young (D-MO), Washington, DC July 1977 to September 1978

Research Associate in Public Finance, The Urban Institute, 2100 M St. NW, Washington DC, January 1980 to April 1983

T. Rowe Price Group, Baltimore, MD, April 1983 through December 2009
- **Credit Analyst, Municipal Bond Department, 1983 – 1989**
- **Portfolio Manager, Municipal Bond Department, 1989 – 1996**
- **Director of the Municipal Bond Department, 1996 – 2001**
- **Head of Investment Grade Portfolio Management, 2001 – 2004**
- **Director of the Fixed Income Division, 2004 – 2009**
- **T. Rowe Price Group Management Committee, 2004 – 2009**

Assistant Secretary for Financial Markets, U.S. Treasury, Washington, DC February 2010 to the present

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

No other government experience other than that listed above.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

Upon my confirmation by the U.S. Senate in February 2010, I resigned from all of my officerships and other outside positions. Currently the only position I hold is that of the Assistant Secretary for Financial Markets.

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

Prior to entering government service in February 2010 I resigned from all memberships other than the following:

- **My husband and I have been members since 1987 of the Bolton Swim & Tennis Club, a neighborhood facility in downtown Baltimore.**
- **My husband and I have been members since 2004 of the Tucker's Point Club, St. George's Parish, Bermuda.**

Previous memberships include:

- **I had been an officer of T. Rowe Price Group, Inc., in Baltimore, Maryland, from 1986 - 2010. T. Rowe Price Group is a publicly held corporation whose shares are traded on the NASDAQ, and it is included in the S&P 500.**
- **I had been a director of T. Rowe Price Associates, Inc. from 2004 - 2010. T. Rowe Price Associates Inc., is the principal subsidiary of T. Rowe Price Group, Inc.**
- **Pursuant to the Investment Company Act of 1940, the retail mutual funds sponsored by T. Rowe Price Group, Inc. are each separately incorporated. I was the President, Vice President, or Director of many of these separately incorporated T. Rowe Price Group mutual funds until 2010 (See Attachment A(11) for a list of these mutual funds)**
- **Member of the Board of Directors of The Urban Institute in Washington, D.C. from 2004 - 2010. I received no compensation from The Urban Institute.**
- **I was a member of the Board of Directors of Catholic Charities of Baltimore from 2003 to 2007. I received no compensation from Catholic Charities.**

- **I was a Trustee of the Baltimore Museum of Art. I was a Trustee of this museum from 2003 to 2006, when I rotated off the Board of Trustees pursuant to the museum's normal custom of Board rotation. I then became a Trustee again in July 2008 and held this position until 2010. I received no compensation from the museum.**

- **I had been a member of the Board of Directors of the Baltimore Choral Arts Society continuously from 2000 – 2010. I had been the President of the Board. I received no compensation from the Baltimore Choral Arts Society.**

- **I had been a member from 1994 - 2010 of The Center Club in Baltimore, a downtown business club.**

- **During my final three years as a college student at Cornell (1974 to 1977), I was a member of Delta Gamma sorority.**

13. Political affiliations and activities:

    a. List all public offices for which you have been a candidate.

    None

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

    None

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

    See attachment A.13.c which is a list of political contributions of $50 or more that I have made for the last ten years to the best of my recollection and records.

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

New York State Regents' Scholarship for college study, 1973

Mellon Fellowship for graduate school study, 1978

Chartered Financial Analyst, 1986

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

Published in American Demographics magazine:

"The Aging Veteran" with Bryant Robey, American Demographics, November/December 1979, Vol. 1, No. 10

"The Political Future" with Bryant Robey, American Demographics, October 1980, Vol. 2, No. 9.

" Airports Enter the Eighties", American Demographics, October 1982, Vol. 4, No. 9

Published by The Urban Institute Press:

The Future of Oakland's Capital Plant (America's Urban Capital Stock, Volume 5) with Marcy Avrin, Bonnie Berk and George E. Peterson (1981)

The Future of Boston's Capital Plant (America's Urban Capital Stock, Volume 6) with J. Chester Johnson and George E. Peterson (1981)

Guide to Benchmarks of Urban Capital Condition (Guides to Managing Urban Capital Series, Volume 3) with George E. Peterson, Steven R. Godwin and Carol Shapiro (1984)

15. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)

Prior to entering government service in 2010 I delivered only three public speeches in the past 5 years, two of which were to professional groups in Maryland. One was to the Baltimore Security Analysts Society in January 2008, and the second was to the Maryland Association of CPAs in October 2008. I delivered a third speech at an American Bankers Association

meeting in March 2009. In each case I spoke extemporaneously from PowerPoint slides and do not have the text of the speech. The topics of these speeches were confined to the financial markets and the interest rate environment.

Since entering the government I have delivered a number of speeches. Please see Attachment A.15 for a list of these speeches.

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

Prior to joining the Treasury Department in February 2010 I spent 26 years working in the financial markets, preceded by 5 years in public policy positions in Washington. I participated in the development of financial markets and products since the early 1980s, through numerous economic cycles and market events. At T. Rowe Price I worked as an investor through a series of roles as a financial analyst, portfolio manager and member of the firm's management committee. At the time that I left the firm I was managing the Fixed Income Division with over $100 billion in assets and overseeing 150 investment professionals.

At the Treasury I am responsible for overseeing debt management, capital markets and weighing in on a wide range of policy and market issues. I am responsible for a number of policy areas implementing parts of the Dodd Frank Wall Street Reform and Consumer Protection Act, as well as contributing to the administration's plans for housing finance reform.

If confirmed as Under Secretary for Domestic Finance I would welcome the opportunity to continue to work on these areas and other initiatives that fall under this office. I believe my broad experience and industry knowledge bring a useful perspective to this role at the Treasury.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

   I am currently in a Senate confirmed position at the Treasury Department.

2. Do you have any plans, commitments, or agreements to pursue outside

employment, with or without compensation, during your service with the government? If so, provide details.

No

2. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No

3. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

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

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Treasury Department's designated agency ethics official to identify potential conflicts of interest. Any potential

conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

- **T. Rowe Price is a member of the Investment Company Institute (ICI) and I had been an active member of the ICI's Money Market Working Group, which took a leadership role in helping avoid any crisis of confidence in money market funds in the fall of 2008 following the failure of one fund to maintain a $1 per share net asset value.**
- **In April 2009, I signed a one-page letter to members of Congress recommending changes to proposed legislation on mortgage loan modification. This letter was sent on behalf of T. Rowe Price Group, Inc. only and reflected the views of the firm's securitized products team.**

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

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

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

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

N/A

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

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

No

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

No

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

None

E. TESTIFYING BEFORE CONGRESS

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

   Yes

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

   Yes

Questions From Senator Hatch

Question 1:

During the recent debt limit impasse, I asked the Financial Stability Oversight Council (FSOC), and the Treasury Secretary questions about Treasury's cash and liquid assets; about Treasury's short-term cash projections; and about contingency plans of Treasury, the Fed, and other FSOC regulators in the event that Treasury ran out of cash or in the event of a sovereign rating downgrade, which unfortunately occurred subsequent to my request. I asked on July 27 about whether Treasury thought it would run out of cash on that day, or any day thereafter. I asked FSOC members, including Treasury, about what their contingency plans were for events that include: Treasury running dry of cash and additional borrowing authority; a downgrade of the U.S. sovereign credit rating; runs on money market funds; and stresses in the tri-party repo market, in systemically important financial utilities, or in the payments system. To date, I have not received complete responses.

a. Did Treasury make a projection on July 31, and another projection on August 1, of what its operating cash balance would be on August 2?
b. If the response to the question above is a "yes," will you provide those projections (point estimates) to me (I recognize that uncertainty and confidence bands surround point estimates, and do not require a reminder)? If you will not provide those projections, why not, especially given that they are no longer "market sensitive?"

Answer (Parts a and b):

During the first seven months of 2011, Treasury provided regular public projections regarding the date on which the United States would exhaust its borrowing authority, and stated that once it was exhausted, the government would be forced to operate using available cash, which is insufficient because the United States is currently operating at a deficit. As Secretary Geithner explained on *Meet the Press* on July 11, 2011: "On August 2nd, if Congress hasn't acted, we're left with the cash we have and the cash we're going to take in."

On July 29, 2011 (the last business day in July), Treasury projected a cash balance for August 2 of $55.3 billion. On August 1, 2011, Treasury projected a cash balance for August 2 of $54.4 billion. These projections were roughly consistent with the actual cash balance on August 2, $54.0 billion, as reflected in the published Daily Treasury Statement for that day. It is impossible, however, to know how long that cash balance would have lasted if the United States had exhausted its borrowing authority. A variety of federal receipts and outlays influence the Treasury's cash balance each day. For example, on August 4, 2011, Treasury needed $87 billion to pay maturing Treasury bills – well in excess of the available cash balance.

If Treasury had been unable to pay these maturing securities, the United States would have defaulted on its debts. In normal times, Treasury uses funds from issuing new securities to make payments on maturing securities (that is, Treasury "rolls over" the securities), but in the unprecedented scenario in which the United States has exhausted borrowing authority and is unable to meet all of its obligations, there is no way of knowing whether the United States could have continued to access the markets.

c. Did Treasury compile any written contingency plan(s) concerning what it might do in the event of Treasury running dry of cash and additional borrowing authority on August 2?
d. If the response to the question above is a "yes," will you provide the plan(s) to me? If not, why not?
e. If the response to question "c" is a "no," why did Treasury not formulate written contingency plans to guide the Department in a response to what would have been an adverse shock to the depth and liquidity of the market for U.S. Treasury securities and to the cost of credit to the Nation? I understand that there may have been fear at Treasury of being shut out of credit markets in the adverse case of impending default, but am inquiring about plans, not sentiments, concerning potential lack of access to credit.
f. Would you please provide any written plans, or a summary of plans that were in place but may not have been put into writing, that the Treasury had formulated regarding the processing of federal payments, potential implications for bank supervision and regulatory policies, and possible actions that Treasury or the Federal Reserve could take if there were disruptions to market functioning had the statutory debt limit not been raised before August 2 or in the event of a downgrade of the U.S. sovereign credit rating? If not, why not?

Answer (c – f):

In the period prior to August 2, 2011, Treasury considered a range of options, many of which had also been considered by previous Republican and Democratic Administrations. These options included gold and other asset sales; delaying payments; across-the-board payment reductions; and various ways of attempting to prioritize payments. However, after careful consideration of all of these ideas, we reached the same conclusion reached by previous Administrations: that these options could neither protect America's creditworthiness from irreparable harm, nor shield citizens from the severe economic effects of a default crisis. This is why Secretary Geithner maintained, as did previous Treasury Secretaries who faced debt limit impasses, that there is no viable alternative to a timely increase in the nation's borrowing authority.

The decision of how we would operate if the United States exhausted its borrowing authority, if inaction by Congress had made it necessary, would have been made by the Secretary of the Treasury and the President of the United States. No such decision was made. Fortunately, Congress acted to increase the statutory debt limit and prevent a default crisis before such a decision became necessary.

In the event that the debt limit had not been not raised by August 2, we were prepared to alter our normal auction schedule for the sale of Treasury securities, and at a regularly scheduled meeting with primary dealers on July 29, 2011, we notified them that such alterations were possible.

With regard to the processing of payments in the event the debt limit had not been increased, Treasury reviewed a range of options. In light of the fact that the United States currently borrows approximately 40 cents for every dollar it spends, the exhaustion of borrowing authority would have meant that a broad range of government payments would have had to have been stopped, limited, or delayed. In such a circumstance, it would have been beyond the power of the government to prevent the harm that would inevitably have resulted. Thankfully, Congress acted to raise the statutory debt limit, thereby avoiding these harmful consequences for citizens and the economy.

Question 2:

In early October, prior to a Senate vote on one of the iterations of the President's so-called "Jobs Bill," Secretary Geithner said on Bloomberg television that: "If Congress doesn't act, it's because Republicans decided they didn't want to do anything to help the economy." He also answered in the affirmative to a question of whether failure to pass the President's stimulus proposal would raise the risk of recession. I do not believe that I received a complete response from you during your recent confirmation hearing to the following question, which I reiterate here: Do you share the Secretary's view that those who did not support the President's jobs bill do not want to do anything to help the economy and have raised the risk of a recession? If you do believe that failure to pass the stimulus bill raised the risk of recession, could you please provide the analysis supporting that belief?

Answer:

President Obama and Secretary Geithner have stated that more needs to be done right now to improve our economy. The President put forward the American Jobs Act (AJA), which contains bi-partisan ideas to strengthen growth, create jobs and lower unemployment. I support these ideas. According to private forecasters, the AJA would create 1 to 2 million additional jobs in 2012. Other proposals have also been suggested by members of both parties to improve the long run health of the U.S. economy, and significant cooperation has already been achieved in areas such as the trade agreements that were passed earlier this year. That said, the U.S. economy is confronted with significant risks, including the sovereign debt problem in Europe, which could hamper the economic recovery. The AJA would bolster demand for our products, which would be even more valuable in the event of a downturn in our exports to Europe.

The U.S. economy has experienced nine quarters of positive GDP growth. Nonetheless, the recovery remains precarious. Current data suggest that real GDP will rise 1.8 percent this year (see for example, the November Blue Chip Survey). While the underlying pace of demand is expected to pick up in the coming year, the economy continues to face significant headwinds, including the global economic slowdown and the sovereign debt crisis in Europe. On top of that, private forecasters estimate that, if no additional policy action is taken, fiscal consolidation in 2012, including the expiration of the payroll tax relief and emergency and extended unemployment insurance benefits, the fading of American Recovery and Reinvestment Act spending, and tighter spending caps, will subtract at least a percentage point from GDP growth in 2012.

In Secretary Geithner's Bloomberg interview on October 11, he made the point that the American Jobs Act contained many provisions that traditionally have enjoyed broad bipartisan support (such as payroll tax relief) and that there was no other comprehensive proposal before Congress to put Americans back to work. Taken in context, I think the Secretary was emphasizing that Congress should act to prevent the economy from slipping back into recession.

Question 3:

The Administration's ideas on reform of Fannie and Freddie has thus far been to put out a paper in February of this year which lays out a number of already-known possible options, without arriving at a preferred plan of action. Given the continuing bailouts of Fannie and Freddie and the near-term risk that FHA will similarly need to be bailed out, when will Treasury and the Administration arrive at their preferred plan to reform housing finance?

Answer:

At the request of the President, the Treasury Department and the Department of Housing and Urban Development continue to weigh and analyze each of the options laid out in the Administration's report to Congress on the future of the American housing finance market. Since the release of the Administration's White Paper in February, we have received feedback from a wide range of consumer and housing advocacy groups, industry and market participants, as well as Members of Congress.

We are also working with the Federal Housing Finance Agency to take steps to wind down Fannie Mae and Freddie Mac (the GSEs) on a responsible timeline. These steps must be taken in a prudent manner so that we do not undermine the current economic recovery or destabilize the fragile housing market. These circumstances require us to act with great care to make sure that the pace of transition is gradual and that it is done in a transparent way. Steps include increasing guarantee fees at a moderate rate over time to move the GSEs towards a level playing field with private lenders and investigating alternatives to increase private capital ahead of the GSEs.

We look forward to working with Congress to develop a plan to wind down the GSEs and structure a future housing finance system that achieves the goals we put forth in February. We are encouraged that a number of Members have introduced various pieces of related legislation, many of which incorporate aspects of the options we put forth.

Question 4:

Treasury's debt management strategy is one of predictability, with no apparent intent of timing the market or playing the yield curve. In recent years, Treasury has been rather predictably extending the average maturity of U.S. debt outstanding. Extending average maturity, of course, means greater long-term borrowing and, therefore, a larger supply of longer-term Treasury securities than would be the case if Treasury was not acting to extend average maturity. Larger supply, all else equal, means downward pressure on prices of longer-term Treasuries and corresponding upward pressure on longer-term interest rates.

Meanwhile, the Federal Reserve is engaging in a so-called "Operation Twist," attempting to twist the yield curve by selling off some of its shorter-term assets and using the proceeds to buy more long-term Treasuries. This is intended to drive up demand for longer-term Treasuries to push their prices up and, correspondingly, to push down longer-term Treasury yields to stimulate more risk taking and possibly economic activity.

It appears that we have a setting in which Treasury's actions place upward pressure on long-term interest rates while the Fed is trying to push those rates down. Fed Chairman Bernanke's apparent position is that it is the *stock* of the Fed's portfolio of longer-term asset holdings that matters primarily for interest rates, stock prices, and the like, and not the pace of ongoing purchases. Symmetrically, it would seem to be that it is the *stock* of longer-term Treasury supplies from the Treasury Department that matters. Are Treasury actions to extend the average maturity of outstanding Treasury securities *in any sense* at odds with the Fed's Operation Twist objectives?

Answer:

I do not think that we are working at odds with our colleagues at the Federal Reserve. Treasury and the Federal Reserve are independent institutions with different mandates. Treasury's goal is to finance the government at the lowest cost over time, while the Federal Reserve attempts to maintain price stability and full employment.

In absolute terms, our borrowing continues to be focused on short- and intermediate-term securities with our largest auction sizes in Treasury bills, and two- through seven-year maturities. While we have trimmed some issuance in these areas as tax revenues have increased, we have not changed or increased our long-term bond auction sizes. It does not appear that our borrowing activity is putting upward pressure on interest rates; in fact, they have fallen in the past three months.

In addition, Treasury is highly transparent in its issuance strategy. As a result, our strategy is likely already discounted into asset prices. Any changes in the Federal Reserve's monetary policy stance impact the market accordingly. Our investors value the predictable manner in which we issue debt with well telegraphed auction sizes and tenures.

Question 5:

Fannie and Freddie have cost innocent taxpayers around $170 billion, and counting. Under existing arrangements, including terms of the Senior Preferred Stock Purchase Agreements between Treasury and Fannie and Freddie, those two wards of the federal government draw funds periodically from Treasury. Then, they make payments to Treasury and make payments to the Federal Reserve (Fed), because the Fed holds $850 billion of mortgage-backed securities, most of which are guaranteed by Fannie and Freddie. Am I correct to understand that Fannie and Freddie draw money from Treasury in order to use funds to make payments right back to Treasury and to make payments to the Fed which, in turn, returns some of that to Treasury in the form of surplus Fed operating profits? In a manner understandable to our taxpaying constituents, could you explain the financial logic behind an enterprise drawing funds from Treasury in order to make payments to Treasury? Are these transactions mere book entries?

Answer:

The GSEs, Treasury, and the Fed are all independent and separate entities and must be accounted for as such.

The taxpayers' investment in and support of the GSEs is structured to return virtually all future profits in the enterprises to taxpayers in the form of dividends on the shares of preferred stock that Treasury owns in Fannie Mae and Freddie Mac.

The Preferred Stock Purchase Agreements (PSPAs) were put in place by the previous administration in September 2008 in order to keep Fannie Mae and Freddie Mac solvent and provide timely payment of principal and interest to debt and mortgage-backed securities holders. Under the PSPAs, the Treasury has the obligation to provide funds to Fannie Mae and Freddie Mac to the extent their liabilities exceed their assets each quarter. In return, per the agreements, each GSE must make dividend payments to the Treasury on a quarterly basis based on the cumulative amount drawn.

The 2008 PSPAs established a fixed dividend payment of 10 percent in order to provide a return to taxpayers for their investment. While in conservatorship, the GSEs have not generated sufficient income to cover the amount of dividends owed to taxpayers for their investment. As a result, the GSEs have been required to draw additional sums from Treasury to make those payments, in addition to funding any operating losses.

While this process may seem somewhat circular, the net effect of the payments made to the GSEs under the PSPAs results in no additional cash investment made by the taxpayer. It does, however, help make sure that the taxpayers will receive any future proceeds that may be generated by the GSEs should they return to profitable operations.

GSE debt and mortgage-backed securities (MBS) guaranteed by the GSEs are held by a wide range of institutions and investors, of which the Fed is only one. Payments to the Federal Reserve for any principal and interest owed on their investments are made in the same manner as to any other investor.

Question 6:

Fannie and Freddie continue to draw taxpayer funds from Treasury, which means to me that the bailout of those failed mortgage giants, which are now wards of the state, continues. Yet, upon signing the Dodd-Frank Act on July 21 of last year, the President stated that because of the Act "There will be no more tax-funded bailouts—period." Very soon thereafter, and in subsequent actions, Fannie and Freddie announced additional draws on Treasury, and therefore taxpayer, funds. How can I reconcile the notion that there will be no more tax-funded bailouts with the continuing bailouts of Fannie and Freddie and lack of a plan to unwind those enterprises?

Answer:

The Preferred Stock Purchase Agreements (PSPAs) were put in place under the previous administration, in September 2008. The draws that Fannie Mae and Freddie Mac request each quarter are pursuant to the contractual obligations established in 2008. It is important that Treasury meets its obligations under the PSPAs in order to not only fulfill its contractual obligations but also provide housing and financial stability while Fannie Mae and Freddie Mac are in conservatorship.

Question 7:

In your testimony, you stated that "...we have some authorities under Dodd-Frank to take a look at the role of credit rating agencies in rating sovereign debt..." Please explain, citing the relevant statutory authority that you believe is contained in the so-called "Dodd Frank Act" (Pub. L. 111-203), to "take a look at" the role in sovereign debt ratings of nationally recognized statistical rating organizations (NRSROs). What do you mean by "the role" of NRSROs in such ratings, and with respect to what elements of any such role do you believe Treasury has authority to conduct investigations?

Answer:

Title IX, Subtitle C of the Dodd-Frank Act required Treasury and other Federal agencies to review and remove any reference to, or requirement of, reliance on credit ratings from their regulations and to substitute alternative standards of credit-worthiness as appropriate. Treasury completed its review and transmitted a report to Congress in July 2011. Treasury and other Federal agencies continue to consider alternative standards of credit-worthiness.

In addition, Title IX mandates that the Securities and Exchange Commission prescribe rules for enhanced regulation, accountability, and transparency of NRSROs, and conduct a study of the independence of NRSROs. The SEC published its proposed NRSRO rules for public comment on June 8, 2011. Its study on NRSRO independence is due July 2013.

Further, Title IX requires the Government Accountability Office (GAO) to conduct a study, due January 2012, on alternative means for compensating NRSROs in order to create incentives for NRSROs to provide more accurate credit ratings. GAO also must conduct a study on the feasibility and merits of creating an independent professional organization for rating analysts. This latter study is due one year following the final rules required by section 936 of the Dodd-Frank Act, which are required to ensure that any person employed by an NRSRO to perform credit ratings meets standards of training, experience, and competence and is tested for knowledge of the credit rating process.

Question 8:

What is the date on which Treasury projects (point estimate) that the U.S. Treasury will reach the statutory debt limit? Given that projection, what is the date on which Treasury projects (point estimate) that it would exhaust all available "extraordinary measures" to operate government while at or near the debt limit and on what date do you project that Treasury would run dry of cash absent an increase in the debt limit?

Answer:

Under the Budget Control Act of 2011 (BCA), the President is to submit a certification to Congress when the debt subject to limit (DSL) is within $100 billion of the current statutory limit ($15,194 billion). Unless legislation is enacted disapproving the increase, an increase in the statutory limit occurs 15 calendar days after Congress receives this certification.

Treasury currently projects that the DSL will come within $100 billion of the statutory limit on December 30, 2011. We project that the DSL will reach the current statutory limit during the first week of January 2012. Assuming these projections prove accurate and the President's certification is submitted on December 30, then under the provisions of the BCA, the statutory limit would be increased by the middle of January (unless disapproval legislation is enacted). Treasury may need to employ some extraordinary measures in the first half of January during the 15-day waiting period provided by the BCA. However, because we expect the limit to be increased pursuant to the BCA in the timeframe described above, we do not anticipate that use or exhaustion of all of the extraordinary measures will be necessary.

In the absence of an increase in the statutory debt limit, it is impossible to know with any reasonable certainty how long Treasury's cash balance would last. As you know, Treasury's cash position is influenced by large and variable Federal receipts and outlays. With an annual budget in excess of $3.5 trillion, we need to ensure that Treasury always has sufficient cash available to meet all of the nation's obligations. In addition, as indicated in the response to Question 1 above, Treasury's cash position depends upon access to financial markets in order to roll over maturing debt. In January 2012, Treasury estimates that more than $500 billion in marketable debt will mature.

Question 9:

Yields on short-term Treasury securities have occasionally traded below zero in the secondary market. It is my understanding that under current Treasury auction rules, Treasury cannot sell bills at prices above par and therefore may be foregoing opportunities to capture the entire willingness to pay by market participants. Recent history suggests that there may be periods in which Treasury issues bills at yields above, and therefore prices below, what would clear market forces of supply and demand. What is the constraint on issuing Treasury bills at negative yields?

Answer:

Current Treasury auction rules prohibit bills and coupon-bearing securities from being sold with negative yields. In recent months, however, Treasury bills have at times traded at negative yields in the secondary market. At the November 2011 quarterly refunding, Treasury asked the primary dealers to comment on whether or not Treasury should change the rules to allow negative yields for bills and coupon-bearing security auctions.

A complicating factor in our decision is how this would impact retail Treasury investors. Currently there are a number of investors that are automatically rolling their maturing bill investments into new Treasury bills. The issuance of bills at negative yields would likely be a confusing change for retail investors, who may have difficulty understanding negative rates in the auction process.

We are assessing feedback from the dealers and the retail investor issue among other relevant considerations and will make a public announcement in the coming months if amending the auction rules is in the best interest of the U.S. taxpayer.

Question 10:

In 2008, then-candidate Obama wrote the following to textile organizations: "The massive current account surpluses accumulated by China are directly related to its manipulation of its currency's value." He went on to promise that, if elected, he would use all diplomatic means at his disposal to induce China to change its foreign exchange policies. Also, in 2009, during his confirmation hearing before the Senate Finance Committee, now-Secretary of Treasury Geithner stated that: "President Obama—backed by the conclusions of a broad range of economists—believes that China is manipulating its currency." Yet, during the President's and Treasury Secretary's tenures thus far, there has been no labeling of China as a country that manipulates its currency for unfair trade advantage in Treasury's semi-annual reports on international economic and exchange rate policies.

Answer:

While the evaluation of the exchange rate policies of our major trading partners under the terms of the Omnibus Trade and Competitiveness Act of 1988 would not be my responsibility at Treasury, I know that the Administration shares the concerns of Congress about Chinese exchange rate policy.

There has been progress: since June 2010 the renminbi has appreciated 10 percent against the U.S. dollar in real terms, adjusting for inflation, and by nearly 40 percent in real terms over the past 5 years. But the renminbi remains persistently undervalued, and the President and Secretary Geithner have made clear to Chinese leaders the importance of China moving more rapidly to a market-determined exchange rate and to shift towards domestic demand as a source of growth in China in order to support strong, sustained, and more balanced global growth, which also will create greater opportunities for U.S. firms and workers.

Question 11:

The depth and liquidity of global markets for U.S. Treasury securities depends, in part, on the evolution of the value of the U.S. dollar in foreign exchange markets and expectations about future values. Many believe that the Federal Reserve's "quantitative easing" policies serve to reduce the value of the dollar relative to other currencies that have floating exchange rates. Treasury officials have stated, however, that Treasury's policy will always be a strong dollar. Could you explain Treasury's policy toward the value of the dollar in foreign exchange markets; instruments available to Treasury to achieve its dollar-value policy objectives; and whether Federal Reserve actions are in any sense contrary to Treasury's strong dollar policy?

Answer:

It is longstanding U.S. government policy that only the Secretary of the Treasury speaks to issues concerning the U.S. dollar. As he has often said, a strong dollar is in the national interest of the United States.

While the evaluation of foreign exchange markets would not be my direct responsibility at Treasury, I can say that the Administration is fully committed to strengthening the U.S. economy and the U.S. financial system. We have made considerable progress since the recession, but much more remains to be done, especially with respect to creating jobs and achieving fiscal sustainability. Two key objectives of the Administration are to reduce the federal government's budget deficit over the medium-term and put federal finances on a sustainable path.

As a rule, the Treasury does not comment on the monetary policy of the Federal Reserve.

Question 12:

Though the Troubled Asset Relief Program, or TARP, remains active, no one has been nominated to replace former Special Inspector General Barofsky since his departure more than seven months ago in March. In fact, because of the Federal Vacancies Reform Act, my understanding is that the individual who had been serving as Acting Special Inspector General for the TARP is now unable to do so, though the Vacancies Act allowed that person to serve in an acting capacity for 210 days. I have four related questions. First, do you think it is important for continued and vigorous oversight to be exercised over the TARP program? Second, why hasn't a nomination already been made for a replacement of the former Special Inspector General? Third, when can Congress expect a nomination to be made? Fourth, how will you work to ensure that the intent of Congress regarding TARP and its oversight is realized and a suitable person is nominated?

Answer:

Oversight has played an important role in the Troubled Asset Relief Program (TARP). Treasury welcomes this oversight. TARP is subject to review by several oversight bodies including the Special Inspector General for TARP (SIGTARP), the Government Accountability Office (GAO), the Congressional Oversight Panel (COP, which ceased operations on April 3, 2011, as set out in Emergency Economic Stabilization Act of 2008 (EESA)) and the Financial Stability Oversight Board (FinSOB).

We continue to maintain a very cooperative relationship with our oversight bodies. Our Office of Financial Stability (OFS) works daily with them to provide information they request to conduct oversight of TARP. On average, Treasury responds to approximately 85 requests for information per month (more than four per business day) by these entities. Treasury also has responded to over 80 reports from the oversight bodies and has participated in at least 25 Congressional hearings on TARP. Individually and collectively, the work performed by TARP's oversight bodies has made, and continues to make, important contributions to the development, strength, and transparency of TARP programs. Treasury welcomes this oversight and, to date, has adopted more than 145 of the recommendations made by the oversight bodies.

The nomination of the next Special Inspector General for the TARP is of course left to the President's discretion. Treasury has had a productive working relationship with Acting SIGTARP Christy Romero and the many professionals who work for SIGTARP. I am confident that Treasury will maintain this strong relationship with whomever the President nominates and the Senate confirms to be the next SIGTARP.

If confirmed, I would continue to promote a strong working relationship with SIGTARP to make sure that the TARP program has appropriate oversight.

Question 13:

With respect to Dodd Frank implementation, regulators continue to struggle in their attempts to define the specifics of "proprietary trading" and how to differentiate trades made for reasons such as market making from those made by financial firms solely for proprietary gain. The Volcker idea is that risky trades should not be backed by the federal financial safety net and, therefore, that financial institutions enjoying deposit insurance protection should not be allowed to engage in speculation for proprietary gain. Treasury officials promised a workable definition of proprietary trading when the so-called "Volcker Rule" was initially proposed but, to my knowledge, never delivered. Do you believe that proprietary trading was a *cause* of the recent financial crisis (i.e., a cause, and not merely an activity that was undertaken by firms that were at the heart of stress episodes of the crisis, such as Bear Stearns)? Do you believe in the Volcker idea that risky trades for proprietary gain should not be backed by the federal financial safety net? If so, do you believe, symmetrically, that still-runnable money market mutual funds which effectively gained access to the federal financial safety net via special Federal Reserve liquidity provisions and federal guarantees, should also be subjected to a Volcker-type idea and either be forced to pay, ex ante, insurance premiums on deposits or be forced to alter their business models?

Answer:

The Treasury Department does not have rulemaking or supervisory authority related to the Volcker Rule. Rather, the Treasury Secretary, as Chairperson of the Financial Stability Oversight Council (Council), is statutorily responsible for coordinating the Voicker Rule regulations promulgated by the independent federal banking agencies, the CFTC, and the SEC.

The Volcker Rule is a critical component of the Dodd-Frank Act prohibiting banking entities that benefit from government protections – such as FDIC insurance on customer deposits or access to the Federal Reserve discount window – from making speculative bets for their own account or engaging in risky relationships with hedge funds or private equity funds. The Administration strongly supports this rule.

While the financial crisis was caused by a number of complex factors, the risky activities that the Volcker Rule is intended to address led to real losses and contributed to the magnitude of the crisis. The Government Accountability Office recently found, in its July 2011 "Proprietary Trading" report, that in the five worst quarters during the financial crisis, the country's six largest banks lost nearly $15.8 billion from their standalone proprietary trading activity.

While the SEC adopted new 2a-7 rules in 2010 to reduce risks associated with money market funds, more reform is needed to improve the stability of the industry and reduce money market funds' susceptibility to runs. In the Council's 2011 annual report, it made recommendations regarding money market fund reform. Specifically, the annual report recommended that "the Council should examine, and the SEC should continue to pursue, further reform alternatives to reduce money market funds' susceptibility to runs, with particular emphasis on (i) a mandatory floating net asset value, (ii) capital buffers to absorb fund losses to sustain a stable NAV, and (iii) deterrents to redemption, paired with capital buffers, to mitigate investor runs." SEC Chairman Mary Schapiro recently publicly stated that she expects that the SEC will propose additional regulations in the coming months.

Question 14:

Many, if not most, of the federal emergency responses during the recent financial crisis were directed at money market funds and, relatedly, the commercial paper market, and at the tri-party repo market. Do you believe that the Dodd Frank Act eliminated the fundamental causes of instability that arose from stresses in money market funds, the commercial paper market, and the tri-party repo market? Do you believe that money market funds remain runnable, with not insurance support behind them? Do you believe that there remain systemic risks in tri-party repo short-term credit risk exposures?

Answer:

As noted in the answer to the previous question, the SEC made a number of changes to rule 2a-7 in 2010, which improved the liquidity profiles and safety of money funds. However, more needs to be done to ensure that these funds are less susceptible to runs. Chairman Schapiro recently noted in a speech that this could be addressed through capital requirements or redemption restrictions. We continue to work with the SEC on this important issue.

The Task Force on Tri-Party Repo Infrastructure Reform has made great strides to strengthen the market. Importantly, the Task Force is working towards practically eliminating the extension of intraday credit between the clearing banks and dealers. This was a key vulnerability that was revealed during the financial crisis. Other priorities for reform include improving collateral management practices and considering ways to deal with a potential dealer default in the future.

Question 15:

Bills now pending in the House and Senate propose imposition of a tax on a wide range of financial transactions, including trades in Treasury securities (e.g., H.R. 3313, the "Wall Street Trading and Speculators Tax Act" and the similarly titled S. 1787). Those bills call for a tax of three basis points on base amounts of covered transactions. What do you believe would be the effects on the global market for U.S. Treasury securities of a hypothetical three-basis-point tax on the notional value of U.S. Treasury security trades, including derivative trades, with and without accompanying similar taxes levied abroad? Would there be any change in the depth and liquidity of Treasury security markets, and would the cost to taxpayers of Treasury borrowing be expected to change? If, hypothetically, a three-basis-point tax on trades in Treasury securities was imposed, what do you believe would be the effect on underlying real returns in the U.S. economy? Would such a tax increase yields demanded by investors in U.S. Treasury securities (because of the tax itself and perhaps also because of a possible rise in risk premiums demanded because of increased tax rate uncertainty for purchasers of Treasuries), leading to a situation where Treasury ends up paying higher yields (capturing lower prices) than would be the case absent the tax, thereby partially, fully, or more than fully offsetting any anticipated revenue gain expected from the tax under an assumption that investors' yield demands would not change?

Answer:

A three-basis-point tax on the value of U.S. Treasury securities trades would be significant relative to the current level of transaction costs. If the imposition of a tax substantially increases the transaction costs of trading or obtaining and holding an asset, it can be expected to have at least some marginal impact on the volume of such transactions. That said, it would be extremely hard to predict what the effect would be on the global market for U.S. Treasuries.

To the extent that investors demanded a higher yield to offset the cost of the tax, it could increase the cost of Treasury borrowing, all else being equal. To the extent that trading volume was reduced, there might be some small diminution in the breadth of the market in U.S. Treasuries. Determining the net impact is a large task that would require a number of assumptions and complex modeling; the lack of consensus in the research community regarding this net impact points to the difficulties involved.

Question 16:

Would you please provide the current status of international investment awards representing claims against the Argentine government granted by the International Center for Settlement of Investment Disputes (ICSID), including the U.S. positions on the awards and any actions taken by the U.S. to encourage settlements?

Answer:

While issues relating to ICSID would not be my responsibility at Treasury, I understand that there are currently three final ICSID awards against Argentina in favor of U.S. companies that Argentina has not yet paid.

The United States has repeatedly raised Argentina's final and enforceable ICSID awards with Argentine government officials at the highest level and will continue to do so in the future. The United States will continue to remind the Government of Argentina of its international obligations, stress the importance of maintaining a fair and transparent investment climate that includes functional dispute resolution mechanisms, and underscore the extent to which foreign investment is critical to Argentina's economy.

In September 2011, the Treasury Department began instructing the U.S. Executive Directors at the World Bank and Inter-American Development Bank to vote against all loans to Argentina. This policy responds to serious concerns about Argentina's failure to fulfill its international obligations and lack of engagement with international institutions. The Treasury Department may make exceptions when programs effectively target very poor and vulnerable populations, because the Administration does not believe these populations should be denied assistance as a result of their government's policy choices.

Question 17:

Ms. Miller, if confirmed, your responsibilities would include oversight of the Office of Financial Stability, which is responsibility for implementing the Troubled Asset Relief Program, or TARP. Though the ability of TARP to shoulder new commitments expired last year, there are still obligated funds under TARP that are eligible to be spent, and according to the Treasury Department more than $100 billion in TARP funds were outstanding as of the end of September. Though TARP is unable to incur new commitments, its programs are still very active and a massive amount of taxpayer money still demands careful attention.

The office of the Special Inspector General for TARP, or SIGTARP, issued the latest quarterly report to Congress on October 27. SIGTARP notes that "smaller and medium size banks are not exiting TARP with the same speed as the larger banks, with approximately 400 still in TARP." SIGTARP goes on to provide some recommendations to possibly improve outcomes. The point is that TARP still has significant issues that need attention.

Are you familiar with the work of the SIGTARP, and the SIGTARP's recommendations? How much attention will you devote to the TARP program and how will you ensure that TARP minimizes taxpayer losses to the greatest extent possible?

Answer:

The Capital Purchase Program (CPP) and the other programs for bank assistance that were implemented under TARP succeeded in helping to stabilize the financial system, and they did so without imposing any cost on the American taxpayer. We have already recovered an amount from all the bank programs that exceeds the amount invested—$258.1 billion recovered to date compared to $245.1 billion invested. In addition, the pace of recovery and exit has been faster than anyone expected. Indeed, the original design of the program provided that banks could not repay for three years from the date of investment. Today, of the 707 CPP participants, 311 have already exited the program. This includes 267 small- and medium-size institutions (those under $10 billion in assets).

As you may know, most CPP investments were made in the form of perpetual preferred stock.[1] Such an instrument does not have a maturity date, and so Treasury does not have a right to require banks to repay these investments. Rather, those CPP banks decide when to repay, in consultation with their primary federal banking regulator. Banks also may propose exchange offers, recapitalizations, or other restructuring actions to improve their financial condition and increase the likelihood of repayment to Treasury. Treasury can also exit by selling its investment to third parties.

I am familiar with SIGTARP's work, and more specifically its recent recommendations on small- and medium-size banks. Treasury's Office of Financial Stability has already published guidance, which sets forth how it has approached the subject of restructuring, exchanges, and

[1] Treasury received subordinated debentures in respect to its investments in Subchapter S-corporations, top-tier mutual holding companies, and mutual banks, which collectively represent a small percentage of the total.

sales for CPP banks. OFS continues to explore the best ways to manage and ultimately recover our remaining investments in order to promote financial stability and maximize taxpayer recovery. OFS also continues to work with the primary federal banking regulators on appropriate actions to accomplish these goals, and we will continue to work with SIGTARP as our plans develop.

If confirmed, I would work closely with the Assistant Secretary for Financial Stability to continue to wind down TARP's remaining investments in a way that is consistent with Treasury's duties to maximize value for taxpayers and promote financial stability.

Question 18:

In reports released on April 14, and September 28, of this year, the Special Inspector General for TARP, or SIGTARP, found weaknesses in the Office of Financial Stability's contracts with law firms and billing review procedures. Though SIGTARP identified "bills that contained either no descriptions or vague descriptions of work performed, block billing, unsupported expense charges, and administrative charges that were not allowed under the contract," Treasury has neither agreed nor disagreed with the 5 recommendations made by SIGTARP in its September 28, report. I don't expect you to have detailed knowledge of how this situation came about, but wonder if you think it is appropriate for an office you hope to have report to you to neither agree nor disagree with recommendations made by the SIGTARP. Two of the five recommendations deal with future solicitations for legal services, so they could have a bearing on actions taken by TARP under your watch.

If confirmed, what sort of relationship would you require the Office of Financial Stability to have with the SIGTARP, and do you think having the SIGTARP report to Congress that Treasury neither agrees nor disagrees with a recommendation is a satisfactory response?

Answer:

Treasury is committed to transparency and accountability in all of its programs and policies, including all programs established under the Emergency Economic Stabilization Act, which created TARP. Treasury has cooperated with SIGTARP's efforts to review TARP programs and to produce periodic audits and reports (see Question 12 for additional details regarding Treasury's level of cooperation with and responsiveness to SIGTARP). If confirmed, I would make it a priority for the Office of Financial Stability to continue to maintain a high level of cooperation and responsiveness to SIGTARP.

Your question asks about SIGTARP's recent audit on legal services contracting. Since before the release of SIGTARP's Interim Report in April 2011, OFS has adopted several of SIGTARP's recommendations and updated its policy and procedures to require additional training and guidance to staff interacting with and responsible for reviewing invoices from law firms. OFS carefully reviewed the "best practices" identified in the Interim Report, including the local rules of court established by the Delaware Bankruptcy Court and the FDIC's *Outside Counsel Deskbook*, and adopted guidance requiring the firms to provide additional details in their invoices. OFS distributed this guidance to all law firms currently under contract, and provided instructions and training to Contracting Officer Technical Representatives (COTRs) and staff responsible for the review of these invoices. Recently, OFS has incorporated its training materials and guidance into policies and procedures.

OFS also is in the process of working with the Office of Treasury Procurement Services under the Internal Revenue Service (OTPS) to review legal bills previously paid and determine what actions need to be taken. In doing so, OFS has been and will remain mindful of the balance between the expected return from these efforts and the cost of undertaking them. Given the ongoing nature of this collaborative effort and analysis, OFS neither agreed nor disagreed with SIGTARP's recommendations related to those bills. I believe this response was reasonable in light of the ongoing nature of Treasury's evaluation. If confirmed, I will carefully monitor OFS's progress in responding to these recommendations.

Question 19:

Ms. Miller, in an October 27, 2011 report to Congress, the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) recommended that Treasury, in consultation with the prudential regulators, develop a clear path to a Troubled Asset Relief Program (TARP) exit for community banks. As you know, of the 707 banks that received TARP funding, approximately 400 small and medium sized community banks have yet to repay TARP funds. Do you agree with the Special Inspector General for TARP that a clear TARP exit strategy for community banks needs to be put in place? Would this be a priority for you as Undersecretary for Domestic Finance, given the leading role this position has in domestic finance and the fact that, if confirmed, the Assistant Secretary for Financial Institutions would report to you? If so, what amount of time do you see as being necessary for such an exit strategy?

Answer:

The Capital Purchase Program and the other programs for bank assistance that were implemented under TARP succeeded in helping to stabilize the financial system, and they did so without imposing any cost on the American taxpayer. We have already recovered an amount from all the bank programs that exceeds the amount invested—$258.1 billion recovered to date compared to $245.1 billion invested. In addition, the pace of recovery and exit has been faster than anyone expected. Indeed, the original design of the program provided that banks could not repay for three years from the date of investment. Today, of the 707 CPP participants, 311 have already exited the program. This includes 267 small- and medium-size institutions (those under $10 billion in assets).

As you may know, most CPP investments were made in the form of perpetual preferred stock.[2] Such an instrument does not have a maturity date, and so Treasury does not have a right to require banks to repay these investments. Rather, those CPP banks decide when to repay, in consultation with their primary federal banking regulator. Banks may also propose exchange offers, recapitalizations, or other restructuring actions to improve their financial condition and increase the likelihood of repayment to Treasury. Treasury can also exit by selling its investment to third parties. In light of these variables, Treasury does not have a precise timetable for exiting these investments.

In regards to the recent SIGTARP recommendations on small- and medium-size banks, Treasury's Office of Financial Stability has already published guidance, which sets forth how it has approached the subject of restructuring, exchanges, and sales for CPP banks. OFS continues to explore the best ways to manage and ultimately recover our remaining investments in order to promote financial stability and maximize taxpayer recovery. OFS also continues to work with the primary federal banking regulators on appropriate actions to accomplish these goals, and we will continue to work with SIGTARP as our plans develop.

If confirmed, I would work closely with the Assistant Secretary for Financial Stability to continue to wind down TARP's remaining investments in a way that is consistent with Treasury's duties to maximize value for taxpayers and promote financial stability.

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[2] Treasury received subordinated debentures in respect to its investments in Subchapter S-corporations, top-tier mutual holding companies, and mutual banks, which collectively represent a small percentage of the total.

Mary Miller QFR Round Two Answers
Submitted on December 11, 2011

Question 1:

Ms. Miller, according to The White House web page, President Obama said the following while responding to questions from press on Thursday, December 8. "But part of what's happened over on Capitol Hill -- not just on this issue, but on every issue -- is they will hold up nominations, well-qualified judges aren't getting a vote -- I've got assistant secretaries to the Treasury who get held up for no reason, just because they're trying to see if they can use that to reverse some sort of law that's already been passed. And that's part of what gets the American people so frustrated -- because they don't feel like this thing is on the level." (http://www.whitehouse.gov/the-press-office/2011/12/08/statement-president).

Of course, as I am sure you are aware, Congress has a Constitutional obligation to exercise oversight responsibilities, and I am troubled to hear that so doing may be viewed as a hold up in any sense.

a. Could you please let me know which assistant secretaries of the Treasury are being held up?

Answer:

I can't speak for the President, but my impression from reading the transcript of his remarks is that he was not referring to any pending nominations or placing responsibility on one party or another.

b. Are you aware of who are the "they" the President refers to as those holding up nominations, and what is the "some sort of law" to which the President makes reference?

Answer:

No. I can't speak for the President, but my impression from reading the transcript is that he was referring to the concerns he raised earlier in his remarks relating to the changes being sought to the Dodd-Frank Act regarding the Consumer Financial Protection Bureau.

Question 2:
In your response to my question (question 12) regarding the lack of a new Special Inspector General for the Troubled Asset Relief Program (SIGTARP) from the administration, you note that "Treasury has had a productive working relationship with Acting SIGTARP Christy Romero." However, as I noted in the question to which you were responding, my understanding is that because of the Federal Vacancies Reform Act, Ms. Romero is now serving as Deputy Special Inspector General (see http://www.sigtarp.gov/about_ig.shtml).

a. Does Ms. Romero's transition from Acting SIGTARP to Deputy Special Inspector General affect Treasury's relationship with her and her office?

Answer:

No.

b. Does the Treasury Department see any difference between an Acting SIGTARP (temporarily filling a role requiring Senate confirmation) and a Deputy SIGTARP (does not require Senate confirmation)?

Answer:

Yes. With regard to SigTARP as well as other positions requiring Senate confirmation, it is definitely preferable for those roles to be filled with an incumbent who has been nominated by the President and confirmed by the Senate.

Question 3:
In your response to my question (question 1) regarding Treasury projections around the time of the recent debt limit impasse, you kindly provided Treasury's cash balance projections for August 2 on July 29 and on August 1. Could you also please provide to me Treasury's projections made on July 29 and on August 1 of amounts of cash that you projected Treasury would have to pay out on August 2?

Answer:

On July 29, 2011 (the last business day in July) and August 1, 2011, Treasury projected that it would need to make payments of approximately $22 billion on August 2, 2011. These projected payments were factored into Treasury's estimates of its closing cash balance on August 2. As described previously, payments can be projected, but some payments are subject to significant timing variations. (Treasury's projections, on July 29 and August 1, regarding its closing cash balance on August 2 were described in a previous response.)

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