

**NOMINATIONS OF DAVID S. COHEN
AND JENNI RANE LeCOMPTE**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF

DAVID S. COHEN, TO BE UNDER SECRETARY FOR TERRORISM AND FINANCIAL CRIMES, DEPARTMENT OF THE TREASURY; AND JENNI RANE LeCOMPTE, TO BE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, DEPARTMENT OF THE TREASURY

APRIL 7, 2011



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 2011

74-835—PDF

For sale by the Superintendent of Documents, U.S. Government Printing Office
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**NOMINATIONS OF DAVID S. COHEN,
TO BE UNDER SECRETARY FOR
TERRORISM AND FINANCIAL CRIMES,
DEPARTMENT OF THE TREASURY;
AND JENNI RANE LeCOMPTE, TO BE
ASSISTANT SECRETARY FOR PUBLIC
AFFAIRS, DEPARTMENT OF THE TREASURY**

THURSDAY, APRIL 7, 2011

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

The hearing was convened, pursuant to notice, at 10:08 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Wyden, Schumer, Cardin, and Hatch.

Also present: Democratic Staff: Russ Sullivan, Staff Director; John Angell, Senior Advisor; Ayesha Khanna, International Trade Counsel; Rory Murphy, Staff Assistant; and Chelsea Thomas, Professional Staff. Republican Staff: Chris Campbell, Staff Director; 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.

President Dwight D. Eisenhower once said, "We seek peace, knowing that peace is the climate of freedom."

Our country is founded on the principles of freedom and liberty. In fact, our Constitution makes clear that we strive to secure the blessings of liberty to ourselves and our posterity. And throughout American history, we have dedicated ourselves to upholding these principles. We strive to ensure liberty at home and support freedom abroad.

As our world changes, we face new challenges in meeting this goal. Today, it is not enough to fight the dangers that we see; we need to address those that we cannot see as well.

Mr. Cohen, as Under Secretary of Treasury for Terrorism and Financial Crimes, much of this task falls on your shoulders.

You must fight terrorism where it often starts, at the beginning of the money trail. You must find and eliminate the funding that terrorists rely on. You must fight financial crimes and impose economic sanctions. And the Office of Terrorism and Financial Intel-

ligence, or TFI, has a track record of success in carrying out this task.

Your predecessor, Stuart Levey, guided TFI from its creation 7 years ago to its status today as a powerful tool to fight against terrorism. This office has been active on many fronts, combatting financial support networks to al Qaeda, Iran, North Korea, and the Taliban in Afghanistan.

In fact, I was able to visit the Afghan Threat Finance Cell Team in Afghanistan last year and was impressed by their efforts. They are working very hard. They showed me all they are doing with cells, and it was very, very impressive, their effort, and also their effectiveness. They showed me their efforts in cutting off funding for the Taliban and al Qaeda in that region.

And TFI has proven agile in facing new threats as they emerge. The office has taken aggressive steps in recent weeks to freeze assets totaling over \$30 billion associated with the regime of Muammar al-Qaddafi, further isolating the regime.

But issues remain with our U.S. antiterrorism funding efforts. To ensure the effectiveness of our efforts, we need to maximize our resources without duplicating them.

We need to coordinate the 19 Federal offices that work on terrorism financing. We need to work seamlessly with the Justice Department, FBI, and other law enforcement agencies that oversee this issue. And we need to make sure we have the training and resources to anticipate—not just react to—the next generation of issues.

It is a huge challenge. I remind you of the words of British terrorism expert, Paul Wilkinson, who once said, “Fighting terrorism is like being a goalkeeper. You can make 100 brilliant saves, but the only shot that people remember is the one that gets past you.”

Ms. LeCompte, you have been nominated to be the Assistant Secretary of Treasury for Public Affairs. In this capacity, you must ensure that the American people are aware of the enormous tasks that the Treasury Department undertakes.

From printing our money to collecting our taxes to overseeing our banking system to stamping out terrorism financing, the Treasury Department is responsible for much of what makes this country function.

And I might add, one big challenge we have is educating the American people on what the effect would be on failure to increase the debt limit. I do not think they know that, and I think that is a big challenge that we all face.

Your role will be to inform the American people of all that you do, and do so in an objective and transparent manner. I urge you to fulfill this role with clarity of purpose and precision.

You both bring experience, you bring vigor to your jobs. Should you be confirmed, you will be required to maximize both of those properties in your new roles. I urge you to do your very best. I know you will do that. And I will urge my colleagues to confirm you without delay.

Finally, I would just say thank you very much for accepting these challenges. They are not easy. They are huge sacrifices, both on your part and your family, and I just thank you very much for your service.

[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. I am looking forward to hearing from both of our witnesses here today.

David Cohen appears before us as President Obama's nominee for the position of Under Secretary for Terrorism and Financial Crimes. He currently occupies this position in an acting capacity, where he has significant responsibility for enforcing our country's national security policies.

Now, this position is a critical one for maintaining the integrity of our Nation's fiscal system, and the issues that come before him are ones that this committee takes with the utmost seriousness.

Mr. Cohen's educational background is an impressive one. After graduating from Cornell University, he went on to receive his J.D. from Yale Law School. He has experience at the Treasury Department working in different roles, and previously developed the Department's anti-money laundering policies. Given the importance of the position for which he has been nominated, I look forward to hearing his testimony today and evaluating his responses to inquiries from the committee.

We will also hear from Jenni LeCompte, nominated to be Assistant Secretary for Public Affairs at the Treasury Department. Ms. LeCompte comes to us with legislative branch experience, some of which was for a member of this committee. She also has campaign experience, also partially for a member of this committee, and previous experience working within the executive branch.

In her testimony, Ms. LeCompte notes that, if confirmed, she would not develop or set policy, but that at Treasury, "the public affairs team is responsible for developing and implementing communications strategy for the Department."

This is a very important job and will play a significant part in how policies are perceived and understood by our citizens, taxpayers, businesses, and foreign nations.

The Assistant Secretary for Public Affairs has an important decision to make. Is it her role to inform and educate the American people, or to promote a political agenda and score political points? I think all of us agree that the best way for Americans to understand policy alternatives and make informed choices is for accurate and reliable information to be presented to them.

Now, this is the first nomination hearing held by the Senate Finance Committee in the 112th Congress, and the first nomination hearing where I have served as ranking member on this committee. This committee has a tradition of thoroughly vetting nominees, and I intend to continue that practice.

I believe that the President, no matter who that person is and no matter the political party, has the right to nominate whomever he or she wants. He or she is free to nominate individuals who share his or her mindset.

I take very seriously, however, the Senate's independent constitutional role in this process. The constitutional power of advice

and consent is a responsibility that I take with the utmost seriousness. It is not effectively exercised with either a rubber stamp or with an axe to grind, although I have a tendency to rubber stamp both of these nominees this morning.

What I promise is to make sure that the individuals selected by the President to serve our Nation have a level of competence and integrity necessary to carry out their duties and great responsibilities.

As Senators, the only power that we have is derived from the Constitution and our constituents, and I promise to exercise this authority with a commitment to both.

I also expect that the President will treat the Senate's role in this process with the respect that it deserves. As a coordinate branch of government, the Senate's constitutional role in the confirmation process is not to be taken lightly, and, of course, I will not tolerate its circumvention for political expediency.

The citizens of Utah, my fellow Utahans, like citizens everywhere, expect that those in government will abide by the same rules and laws that they do. The vetting done by this committee helps to deliver on this expectation.

As the Senate committee of jurisdiction over the Internal Revenue Code, we examine the last three individual income tax returns as filed for each nominee; and, though this does not constitute an audit, it does verify a basic level of compliance with rules that every single family and individual that pays income taxes must comply with.

Our constituents need assurance that their country is governed by fellow citizens who work for the people and that it is not ruled by elites who live by their own set of rules.

I am looking forward to working with the chairman and continuing to exercise our role of advice and consent in a fair and consistent manner, and I welcome both of these nominees today. I look forward to their testimony and to the opportunity of asking questions.

And I have to say that I believe both of you will be confirmed and, hopefully, expeditiously.

Mr. Chairman, I will be cooperative in helping to push these nominees through as fast as we can, because I think these are very, very important positions.

The CHAIRMAN. Thank you, Senator. I agree.

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

The CHAIRMAN. I would now like to introduce our witnesses—our first witness is Mr. David Cohen—and Senator Cardin will do so.

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

Senator CARDIN. Mr. Chairman, thank you for the courtesy of introducing a fellow Marylander, whose family I have known for a long period of time.

I want to welcome both of our witnesses. Ms. LeCompte, I want to thank you for your public service and thank your family for the sacrifices that they make, and we look forward to your service in this very important position.

Mr. Cohen, let me welcome you to the committee and welcome your family, whom I have known for a long period of time. Your dad, Jordan, has been a close advisor of mine for many years. He was intimately involved in the policy process here for many years in a very constructive, bipartisan way, and added greatly, I think, to the debate of preserving the best in our health care system.

So it is nice to have your dad with us, and I welcome Suzy and your family. And we are glad that you are willing to continue to serve in public life, and we thank you. And we know this is a family sacrifice and the time that you spend.

It is an incredibly important position that you are seeking Senate confirmation for, because we are talking about disrupting and hopefully dismantling the networks that finance terrorists, that finance weapons of mass destruction, and that deal with the drug trafficking. All those issues that we are trying to disrupt fall under the portfolio of the position that you are seeking.

Mr. Chairman, I would tell you, Mr. Cohen comes well-qualified. He has long experience within the Treasury Department. He started there shortly after law school—graduated from Yale Law School; undergraduate work at Cornell. He used that experience in government and Treasury and then used it in the private sector in the private law firm where he was known for his dealing with these types of issues.

He also dealt with white collar criminal defense. He dealt with advising people on anti-money laundering type issues.

So he brings to this position the experience that I think is vitally important. But I can tell you: you look at his resume, you know that he has the talent, you know that he has the background. But I can tell you, knowing the family, that we are going to be well-served with Mr. Cohen in this very important position.

And I thank you for being willing to step forward. I urge the committee to promptly consider his confirmation.

The CHAIRMAN. Thank you, Senator, very much.

I would now like also to introduce our second witness, Ms. Jenni LeCompte. Senator Schumer would like to be here to introduce you, and I have a statement here that he would like inserted in the record if he does not make it. He praised you very highly.

I also now have several mandatory questions I would like to ask each of you.

Before I do that, though, this is a big day. Mr. Cohen, do you have family or friends here you would like to introduce?

Mr. COHEN. I do, Mr. Chairman. Thank you very much for the opportunity to introduce my family.

I have with me my father, Dr. Jordan Cohen—

The CHAIRMAN. Dr. Cohen.

Mr. COHEN [continuing]. My wonderful wife, Suzy; and my sons, Sam and Zeke.

The CHAIRMAN. Would you all stand up, please, so we can give you a round of applause and recognize you? [Applause.]

Ms. LeCompte, do you have family or friends here?

Ms. LECOMPTE. I do, yes. I am joined by my husband, Theodore LeCompte. He is here today.

The CHAIRMAN. Theodore, why don't you stand so we can recognize you? [Applause.]

I would now like to ask each of you three standard questions which I ask all nominees.

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

Mr. Cohen?

Mr. COHEN. No, Mr. Chairman.

The CHAIRMAN. Ms. LeCompte?

Ms. LECOMPTE. No.

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

Mr. Cohen?

Mr. COHEN. No.

Ms. LECOMPTE. No, Mr. Chairman.

The CHAIRMAN. And, finally, do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress, if you are confirmed?

Mr. COHEN. I do, Mr. Chairman.

Ms. LECOMPTE. Yes, I do.

The CHAIRMAN. Thank you. All right. Now, I would like you to explain to us why you think you should have these jobs.

Your full statements will be in the record, and I would just urge you to summarize your statements for about 5 minutes.

STATEMENT OF DAVID S. COHEN, NOMINATED TO BE UNDER SECRETARY FOR TERRORISM AND FINANCIAL CRIMES, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. COHEN. Thank you, Chairman Baucus, Ranking Member Hatch, Senator Cardin. Thank you very much for the opportunity to appear before you today.

It is an honor to be the nominee to serve as Under Secretary for Terrorism and Financial Crimes.

I want to thank President Obama for the confidence he has shown in me by nominating me, and Secretary Geithner for recommending me to serve in this position.

Having served for the past 2 years as the Assistant Secretary for Terrorist Financing, I am keenly aware of the very significant responsibilities assigned to the Under Secretary for Terrorism and Financial Crimes, as well as the consequential contributions that the Under Secretary can make in advancing our Nation's security.

Illicit finance, in its many forms, is a threat to the integrity of our financial system, both domestically and internationally. Combatting illicit finance not only protects our financial system from abuse by money launderers, terrorist financiers, weapons proliferators, and others engaged in financial crime, but it helps to advance our most critical foreign policy and national security objectives.

The many tools that the Treasury Department can deploy, ranging from anti-money laundering regulatory oversight, to outreach to counterparts overseas, to deploying targeted financial measures

focused on particular individuals and entities, play an integral role in responding to the many challenges we face.

Treasury's unique capacity to understand financial flows and the operation of the financial system, to analyze financial intelligence, to map financial and material support networks, and to take targeted, powerful actions is key to meeting these challenges.

As Assistant Secretary, I had the opportunity to work very closely with the previous Under Secretary, participating in almost all aspects of the work of the Office of Terrorism and Financial Intelligence.

If confirmed, I intend to continue to work intently on the issues that I focused on as Assistant Secretary, as I also take on the broader range of responsibilities assigned to the Under Secretary.

In closing, I want to thank the committee for the attention it has given to my nomination. If confirmed, I intend to work closely with you, Mr. Chairman, and other members of this committee and your staff to pursue our shared objective of protecting national security and the integrity of the financial system.

I am deeply committed to maintaining the very productive and close relationship that exists between this committee and the office that I have been nominated to lead.

Mr. Chairman, I would be pleased to respond to any questions that you or members of the committee may have.

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

The CHAIRMAN. I think that is a record, the shortest statement I have yet experienced. [Laughter.]

Mr. COHEN. I am very good at following directions, Mr. Chairman.

The CHAIRMAN. Ms. LeCompte?

STATEMENT OF JENNI RANE LeCOMPTE, NOMINATED TO BE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Ms. LeCOMPTE. Thank you. Chairman Baucus, Ranking Member Hatch, and members of the Senate Finance Committee. It is a privilege to have my nomination come before you today.

As a former Senate staffer, I have tremendous respect for this institution and for the relationship between the legislative and executive branches.

I am honored to be President Obama's nominee for this position and deeply grateful to Secretary Geithner for his trust in presenting me, if confirmed, with this opportunity to grow my role within the Department.

I grew up in Wisconsin, the daughter of public school teachers. My mother, Kathleen, served nearly 20 years teaching art education before she retired. My father, Arnie, taught mathematics for 29 years. He passed away in 1998, but I know he would be extremely proud to see me sitting here today.

I was a college journalism major who came to Washington, DC for a summer internship at the White House and found that I shared a passion for public service with my parents. After starting on overnight clips duty and then serving as a press assistant in the White House, I came here to the Senate, landing a position in Senator Schumer's press office.

As members of this committee might guess, he certainly kept me on my toes, and that has served me well ever since.

I also had the good fortune of working for Senator Durbin in his communications office here in DC.

Since leaving the Hill, I have held communications positions on campaigns for public office at two nominating conventions, most recently serving as deputy CEO for public affairs at the 2008 Democratic national convention in Denver.

I now find myself back in the executive branch of the Federal Government. Without question, the last 2 years at Treasury have been the most challenging of my career. I was welcomed on day one of this administration by a career staff that never skipped a beat, and I am awed on a daily basis by my colleagues at Treasury who have carried tremendous responsibility in pulling our country back from the worst global economic crisis since the Great Depression.

The institutional knowledge of the Department and the issues that I have come to know during this time, as well as my strong skills in strategic planning, operational management, and project execution make me well-suited to serve as Assistant Secretary for Public Affairs.

At Treasury, the Public Affairs team is responsible for developing and implementing communications strategy for the Department and advises officials within the Department and its bureaus on how best to communicate with the American people on issues and priorities of public interest.

While Public Affairs does not develop or set policy, it carries a frontline responsibility for communication with the media, the business community, and the public at large.

It is a privilege to be considered for this position and even more so at this particular time. Economic news continues to dominate home pages and front pages with great frequency. It permeates conversation during broadcast roundtables and at kitchen tables across the country.

The Treasury Department and the Treasury Secretary are central to that dialogue, and today there are unprecedented expectations and obligations on the ways in which we communicate and the clarity with which we do it.

I look forward to continuing and expanding my contribution to this effort, should the Senate choose to confirm me.

Thank you, Chairman Baucus and Ranking Member Hatch, for this opportunity, and I look forward to taking your questions.

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

The CHAIRMAN. Thank you very much.

Before we go with questions, Senator, why don't you more properly introduce Ms. LeCompte?

**OPENING STATEMENT OF HON. CHARLES E. SCHUMER,
A U.S. SENATOR FROM NEW YORK**

Senator SCHUMER. Thank you, Mr. Chairman. And good morning and thank you, Ranking Member Hatch. And I want to thank both of you for holding this hearing, for allowing me to take a few moments to introduce a good friend of mine, a former employee, and someone of extreme competence—that was a joke.

The CHAIRMAN. I hope not. [Laughter.]

Senator SCHUMER. The extreme part, you know. Jenni LeCompte. But you are right, Mr. Chairman, she is very, very capable and competent.

Jenni LeCompte, formerly—and I liked her maiden name better—Engbretsen. It took me a little while to say it right. So Jenni Engbretsen LeCompte, on the occasion of her nomination to be Assistant Secretary for Public Affairs at Treasury.

I first met Jenni when her name, as I mentioned, was Jenni Engbretsen—all Es, by the way, E-n-g-e-b-r-e-t-s-e-n. And she was my first deputy communications director. Since then, she has had a remarkable career in public life, spanning more than a decade.

She was born in Madison, WI to two public school teachers. She learned the value of public service early.

After graduating from Northwestern's Medill School of Journalism, she moved to DC, where her career took her to two Senate offices, both my own and that of my good friend, Senator Durbin.

Her talent for writing and communicating were a great asset to my office. She was on my staff in September of 2001 and served the people of New York so well in those horrible days and weeks and months after 9/11.

Jenni also had the honor of serving her President in two different administrations. All of these experiences have led her to where she is today, serving as Deputy Assistant Secretary for Public Affairs at Treasury and nominated by President Obama to serve as Assistant Secretary of the Department of Treasury.

Jenni's experience at Treasury for the past few years no doubt more than qualifies her for the position to which she has been nominated. Her expertise in both public affairs and the work of the Department of Treasury are without rival, and I have no doubt she will thrive in her new position.

I am confident that Jenni's remarkable intelligence, diligence, and extraordinary public knowledge make her the ideal candidate for Assistant Secretary for Public Affairs.

I am honored to have worked so closely with her and proud of how her career has thrived in the 10 years I have known her.

Thank you, Mr. Chairman.

The CHAIRMAN. Very nice. Thank you, Senator, very much.

I will begin asking you a couple of questions, Mr. Cohen. Can you bring us up-to-date on the actions your office has taken with respect to Libya—Libyan financing—financing of Qaddafi's assets and so forth? Just bring us up-to-date.

Mr. COHEN. Yes, Mr. Chairman. As you know, on February 25, the President signed an executive order that froze the assets of Colonel Qaddafi, several of his children, as well as all government of Libya entities and instrumentalities.

That has resulted in the freezing of something slightly beyond \$34 billion under U.S. jurisdiction. We have followed up the initial signing of the executive order with a series of additional designations of senior government officials and other family members of Colonel Qaddafi, and we have today, I think, nine people who are subject to sanctions.

And we have also identified close to 30 entities that are affiliated with the government of Libya, all of whose assets are frozen under the executive order.

As President Obama made clear when he signed the executive order and then again a week ago Monday in his speech to the Nation, the assets are frozen for the benefit of the Libyan people. We are holding them for the day when Qaddafi is no longer in power in Libya, and the assets of the Libyan people can be returned to their use.

The CHAIRMAN. So the assets now are frozen in accounts, bank accounts, essentially. Where are these accounts?

Mr. COHEN. The way that the executive order operates is that any U.S. person, which means any bank here in the United States or that is organized in the United States operating overseas, if they have accounts that are either government of Libya accounts or accounts for any of the individuals who have been designated under the executive order, they are required to freeze those accounts.

And so the \$34-plus billion that have been frozen are all under U.S. jurisdiction in various accounts of U.S. financial institutions here and abroad.

The CHAIRMAN. What about other assets? What other assets does he have within the purview of that executive order?

Mr. COHEN. It is my understanding, Mr. Chairman, that there are a substantial number of assets that have also been frozen in Europe. As you know, the U.N. Security Council has adopted two resolutions in the last several weeks, which also include asset freeze provisions.

The EU has followed on with its own regulations to freeze assets in all of the EU. We have been in contact with many of our allies in Europe to try to get a sense of what is frozen under European jurisdiction.

There is a substantial additional amount of money in Europe that is frozen as—

The CHAIRMAN. Do you know the amount, roughly?

Mr. COHEN. It is actually quite hard to get a precise figure because of sort of potential double-counting and some lack of clarity in the European system.

I think it is probably not quite as great a number as we have frozen in the U.S., but I think it is approaching that.

The CHAIRMAN. I would guess that he has assets elsewhere, not in the U.S. system, not in the European system. Is that a fair assumption?

Mr. COHEN. I think it is a fair assumption.

The CHAIRMAN. And do you have any guess how much that is?

Mr. COHEN. I do not know, Mr. Chairman, but I will point out, again, that the Security Council resolution that was adopted about 2 weeks ago now, Security Council Resolution 1973, requires every member state to implement the asset freeze.

So wherever Colonel Qaddafi has money, and wherever the Central Bank of Libya has money, wherever the Libyan Investment Authority has money, the U.N. Security Council directs that that money be frozen.

The CHAIRMAN. He is a pretty crafty guy. I would guess that there are other assets elsewhere that are very difficult to find.

Now, \$34 billion, how is that going to be disposed of?

Mr. COHEN. Well, currently, Mr. Chairman, those assets are frozen. They are immobilized and are being held essentially in trust for the Libyan people.

There have been some discussions, I know, within the administration and with members of Congress about the possibility of using some of those assets to defray some of the humanitarian needs and costs for the Libyan people. I think those conversations are still in progress, but as we sit here today, that money is frozen.

Colonel Qaddafi and his government cannot get access to it, and we are holding it, as I said, for the Libyan people.

The CHAIRMAN. So who is going to decide how the assets are disposed of? Who in the U.S. will decide what happens to the \$34 billion?

Mr. COHEN. Well, Mr. Chairman, I think it is a question of working with Congress and in the administration to make a sort of initial determination of whether, as we proceed along with these frozen assets, whether we treat them essentially the way we have treated all other blocked assets, with very rare exception, which is the assets remain blocked, remain frozen until such time as the sanctions are lifted; and, at that point, the assets are returned to their rightful owner. In this case, they would be returned to the Libyan people, presumably after Colonel Qaddafi has left the scene.

The CHAIRMAN. So the answer to my question is, you anticipate that to be a joint determination by both the President and the Congress; that is, the question of who decides.

Mr. COHEN. I am quite certain, Mr. Chairman, that there will be—and I think there already has been—but there will be consultation between the administration and Congress on how best to dispose of these assets.

The CHAIRMAN. I do not mean to pursue this too far, but who are the Libyan people?

Mr. COHEN. Well, I can tell you who they are not. I think one thing that is clear is that we are not going to return these assets to Colonel Qaddafi and the people who are currently in power in Tripoli. I think it, obviously, remains to be seen exactly how events will unfold in Libya, but what the sanctions are designed to do in the first instance is to ensure that Colonel Qaddafi and his government do not get access to this money.

The CHAIRMAN. I am asking a different question. Who are they, not who are they not? Clearly, it is not Colonel Qaddafi, because they are his assets. But this is going to be quite complicated, it seems to me. There may be terrorist elements among the Libyan people.

If it devolves into a civil war—and in the case of settlement—who are the Libyan people? Is it both sides, assuming there is a truce, or is there just one side? There are a lot of sides, I am guessing.

Mr. COHEN. Mr. Chairman, I think your question is a very good one, and I think that counsels real caution as we proceed here with this \$34 billion that has been frozen to ensure that, if we make the determination jointly with Congress of unfreezing any of these assets and making them available, as I say, to defray humanitarian

costs or for other related expenses, that we know with a great deal of precision exactly what we are doing and who we are doing it for.

And the situation on the ground in Libya today is, obviously, one with a great deal of uncertainty, and I think we all need to proceed with due caution.

The CHAIRMAN. Thank you.

Senator Hatch?

Senator HATCH. Thank you, Mr. Chairman.

In June of 2006, the *New York Times* published a story which exposed a classified program, the terrorist finance tracking program. Now, your predecessor, Stuart Levey, provided the following quote relating to the paper's decision. "This disclosure compromised one of our most valuable programs and will only make our efforts to track terrorist financing—and to prevent terrorist attacks—harder. Tracking terrorist money trails is difficult enough without having our sources and methods reported on the front page of newspapers."

Do you agree with the *New York Times*' decision to publish this specific story?

Mr. COHEN. Senator Hatch, I think the *New York Times*' decision to publish that story was quite regrettable. I, of course, was not at the Treasury Department at the time, but I have spoken with Under Secretary Levey about the efforts that were undertaken at that time to try to persuade the *New York Times* not to publish that story, both because the program was entirely lawful and because, as Stuart Levey said in that statement, it does make our job more difficult having that program revealed.

The *Times* went ahead and published the story. I think 6 or 9 months later, the public editor, I think, published a column in the newspaper in which he expressed regret at having the story published, and I think that is the—I associate myself with that—

Senator HATCH. What policies and procedures would you pursue, if confirmed, which would minimize the instances of illegal disclosure of classified information by government employees?

Mr. COHEN. Well, Senator, we have a very strong office in the Office of Intelligence, in-house within TFI, that is dedicated to information security. We take it very, very seriously, have procedures, as you might imagine, to ensure that classified information is handled appropriately.

And I will continue to support those efforts, because I think they are quite important as part of our efforts to do our job.

Senator HATCH. Given the strong expectation of integrity in our Nation's security documents, can you explain what efforts you have made at Treasury to monitor the international security document printing industry, and what outreach has been made to industry elements, and what efforts you have made in the prevention of foreign countries' attempts to create counterfeit Treasury obligations and securities?

Mr. COHEN. We work closely with the Secret Service on those efforts. I personally have been involved with the Secret Service in efforts to address the North Korean counterfeit of the \$100 bill, the so-called super note, and have also been working with the Bureau of Engraving and Printing on some related issues that I think are probably not for discussion in this setting.

But we are very much focused on preventing the counterfeit of U.S. currency.

Senator HATCH. That is good.

Now, Ms. LeCompte, as I discussed in my opening statement, in the course of carrying out your duties, if you are confirmed, you will need to balance whether your priority is to provide useful information to the American people or to advance a political agenda.

Now, what part would politics play in developing a communication strategy in your Office of Public Affairs, and do you think it is your job to inform people or to shape what people think?

Ms. LECOMPTE. Thank you. Certainly an important question, and as you might expect, I certainly believe that communication plays a critical role in the successful operations of any organization.

At the Treasury Department, Public Affairs is responsible for developing and implementing a communications strategy that best serves the interests of the Department and, also, advising the senior officials on the best means with which to communicate on issues and priorities of public interest.

As you both alluded to in opening statements, there is a tremendous desire and need on the part of the American people to understand the work that we do at the Treasury Department, particularly during these very important times for our country's economy, and much of what we do in the Public Affairs Department is moving facts out on a host of programs and initiatives that we are working on.

In the modern media environment, with so many mediums and even more voices out there, we are frequently spending a good bit of time, as well, correcting the record on misinformation, misperceptions around our programs, and that too is something that is very important.

As for the Treasury Department, I think the Department has a longstanding reputation of work that is very thoughtful and very serious analysis grounded in policy, and the Treasury Secretary, Secretary Geithner, who is setting the agenda for the Department and the work that we do, himself began as a career public servant, working himself up through the ranks, and that reputation, that tradition is something very much wired in everything that he does and the agenda he asks of us for the Department.

So that is certainly something that I would work to uphold, if confirmed, in the work that we would do for public affairs.

Senator HATCH. Thank you.

Mr. Chairman, I have to go to Judiciary. Could I ask one other question? And then I will leave.

The CHAIRMAN. Absolutely, sure.

Senator HATCH. Mr. Cohen, I sent a letter yesterday, on the following issue, to Secretary Geithner. The administration's proposed 2012 fiscal year budget appears to call for the cancellation of 142 current State and local law enforcement access agreements to Bank Secrecy Act, or BSA, data.

Given the wide variety of criminal investigations which utilize direct access to FinCEN, I am concerned that the proposed action will adversely affect investigations and hinder the investigators whose goal is to follow the money that finances terrorist organizations and crime syndicates.

Now, let me just ask you three basic questions. Is it your opinion that this decision will result in an experience for the law enforcement user that is identical to the current system and that there will be no adverse impact on local law enforcement?

Mr. COHEN. Senator Hatch, I have actually seen the letter that you sent yesterday and have been working on this issue for a number of weeks now, and I do share your concern about the impact that this may have on local law enforcement's ability to conduct its investigations.

I think the answer to the question of whether it would be the identical user experience for all local law enforcement is that, if they do not have direct access to the BSA database, it will not be the identical experience; that going through a State coordinator would add another step in the process, and I understand the concern with that.

Senator HATCH. Do you believe that a Federal statute exists which requires FinCEN to retain auditors in order for local law enforcement to directly access BSA data?

Mr. COHEN. I think FinCEN's obligation to ensure that its data is properly used is, if not explicit in the statute, it is certainly implicit in all that FinCEN does and is an important part of what it does protecting that.

Senator HATCH. Is it your opinion that the only way to reduce the budget of FinCEN is by incorporating this administration proposal? And just an add-on question: is this really the only way that FinCEN can lighten its investigatory—its budgetary belt, I guess would be a better way to say it?

Mr. COHEN. I do not know that it is, and what I have asked the director of FinCEN to do is to look at his operation overall, keeping the baseline steady, but to look at his overall operation and see what can be done to mitigate the effect of some reduction in this particular function, because I, like you, Senator Hatch, share the view that supporting local law enforcement's ability to effectively conduct investigations is critically important.

And I know that that is a view shared not just by me, but by Secretary Geithner and Director Freis as well.

Senator HATCH. Mr. Chairman, I have a lot of advance knowledge about Mr. Cohen, and I have to say I just want to congratulate you and thank you for being willing to give time to our country in this very, very important position.

Your predecessor, Stuart Levey, thinks the world of you, and I know him very well, and he is a totally honest, really good man. And I think the two of you have done really wonderful service for our country there.

And, Ms. LeCompte, I commend you. This is a great opportunity for you to not only represent this administration, but also to learn an awful lot about what really means so much to this country in the order of Treasury affairs and to be able to articulate that in the best interest of the public and the people.

So, Mr. Chairman, I would reiterate my statement. I would like these two to go through as quickly as possible. If we can expedite the process, I would be happy to cooperate and try to make sure that our side is cooperative.

I think these positions have to be filled, and these are two excellent people, and that is the way I feel.

The CHAIRMAN. Thank you, Senator. I agree, and, clearly, we will do our best.

Senator HATCH. All right. If you will excuse me, I am going to have to get over to the other markup.

Thank you.

The CHAIRMAN. Thank you, Senator.

Mr. Cohen, how are other countries cooperating? The Arab League, for example, China, Russia, how well are they cooperating in sanctions efforts?

Mr. COHEN. Well, Senator, I think the level of cooperation differs somewhat depending on which sanctions program is being considered. We have had, I think, very good success in bringing along Russia, China, the Arab League, the Arab world more generally, in our efforts to combat terrorist financing.

Beginning with U.N. Security Council Resolution 1267 and the efforts that we have domestically to designate terrorist financiers, we have had quite good success in internationalizing that effort.

With respect to our program on combatting proliferation of nuclear weapons and weapons of mass destruction more generally, with Iran, we have had really remarkable, I think, success in the last 6 to 9 months in bringing together a broad coalition of countries to increase the pressure on Iran, and, similarly, pressure on North Korea with respect to their illicit activity in their nuclear program.

So I think there are, obviously, variations between countries and between programs, but one of the things that we work very hard at—and we have had some success, although by no means complete success—is to internationalize these efforts.

It is very important that we do that because the strength of these programs is largely dependent on the extent to which we have broader buy-in and cooperation.

The CHAIRMAN. How is the coordination? There are about 20 different offices involved in terrorism financing, about 20. It sounds like a lot. And I bet to the American people, that sounds like too many. And, as we try to whittle down our national debt, there is great pressure, proper pressure, to reduce unnecessary duplication, et cetera.

So part of the question is, how well do they all work together? Second, is there overlap and duplication that perhaps we should address?

Mr. COHEN. I think we work well, really quite well with our colleagues in other agencies that are focused on illicit finance and threat finance.

The sort of overall effort in terms of taking action is coordinated through the National Security Council. But I think we at the Treasury Department are viewed in the interagency effort as sort of the first among equals, I would say, in terms of combatting illicit finance.

And I think that was recognized recently by Director Clapper, the DNI, who identified the Assistant Secretary for Intelligence at Treasury, Leslie Ireland, as the national mission manager for threat finance.

So her job is to coordinate the intelligence community's efforts to combat illicit finance. And so I think the concern that you express of having a number of different agencies involved in this effort, this new position of national mission manager for threat finance, I think, is in part designed to ensure that everybody is working well together, that there is not unnecessary duplication, and that the mission is achieved in the most efficient fashion.

The CHAIRMAN. I would just encourage you—I know you want to—just do your very, very best and just follow the money and just really perform your job as well as you possibly can.

I am thinking of the special IG that just retired, Neil Barofsky, who may not be terribly popular over at Treasury because he did such a good job, in my judgment. We created that position in this committee. It was my idea. And, second, we pushed him to take the job. I think he has been very, very good.

And I would just urge you—your job is a little different, you are not an IG, but nevertheless, your job is to pursue your responsibilities with total integrity and professionalism and get politics out of the way. I just urge you to kind of think of Neil Barofsky a couple times a week as you are pursuing your job.

How well is lifting sanctions working to get some people to defect from Qaddafi? I notice that you unfroze the assets, I think, of Moussa Koussa.

Mr. COHEN. Right.

The CHAIRMAN. And has that worked, and are there other examples of unfreezing assets? I guess the deeper question is, to what degree is all this working? To what degree—not only the unfreezing, but also the sanctions—to what degree is it degrading Qaddafi, and is it working, and how do you know if it is working? What is your measure?

Mr. COHEN. Those are all great questions. On the delisting, the unblocking of Moussa Koussa, he was identified for sanctions because he was a senior official in the Libyan government. He was the foreign minister. And so he was added to the sanctions several weeks ago.

He has defected, has gone to Britain and renounced his position. As a result, he was no longer subject to the sanctions. So we lifted the blocking of Moussa Koussa's assets.

Whether he defected because of the coercive effect of the sanctions or not I think is an open question. Certainly, in the Libya program, as well as in our other sanctions programs, the idea, particularly in these conduct-based programs, is to encourage a change in behavior, whether it is the terrorist financing program or the weapons proliferation program or the Libya program.

We are encouraging people to choose a different course, and one of the tools is the ability to apply sanctions and to relieve sanctions as a reward for the behavior that we are looking to encourage.

More broadly, on whether the Libyan sanctions are working, they are certainly working to the extent that Colonel Qaddafi does not have access to the resources that we have frozen.

One of the theories behind blocking all of those assets, and his assets as well, is to try to squeeze him financially. He is in a cash-intensive business. He needs to pay his military, he needs to pay mercenaries, he needs to pay for loyalty for people around him,

and, to make those payments, he needs hard currency. Libyan dinars are not that useful when you are trying to buy the loyalties of mercenaries or trying to buy weapons on the black market.

And so the theory behind the sanctions is to try to put the financial squeeze on Qaddafi.

The CHAIRMAN. He has been around quite a while. What else do you think he has stashed away? What is your best guess as to what is unfrozen, an amount?

Mr. COHEN. What he has inside Libya?

The CHAIRMAN. Or wherever.

Mr. COHEN. Well, I think we need to think differently about what he has outside the country and what he has inside the country. I think his resources outside the country are much more difficult for him to get access to.

In terms of what resources he has in the country in terms of hard currency, I think the short answer is we do not know exactly, but we think there is clearly a limited supply. And at some point, that supply of hard currency, if it is not replenished—and the sanctions are designed to ensure that he does not replenish that supply of hard currency—it will get depleted as he needs to spend that money to, say, pay his mercenaries, buy loyalty for others in the regime, and that is part of what the overall strategy with Colonel Qaddafi is about.

The CHAIRMAN. I regret I have a telephone call I have to take. Senator Wyden, you are in charge.

Senator WYDEN [presiding]. Mr. Chairman, thank you very much, because I know you have a tight schedule, and I appreciate this.

Mr. Cohen, I spend a considerable amount of time on these issues, because I also serve on the Intelligence Committee. And I am particularly concerned, and what I would like to start with is an area that Mr. Levey and I talked a lot about, and that is Iran.

I continue to believe that the Iranians are finding ways to get around the sanctions, continue to think that this is a problem, that we ought to look for ways to up the ante, to put more pressure on them through effective use of sanctions to close these loopholes.

What is the latest update you can give us on the approaches the Iranians are using to get around sanctions, and what, if anything, would you recommend that the Senate do next to deal with that?

Mr. COHEN. Well, Senator Wyden, I know that you have been focused on these issues for quite some time, and I appreciate your attention to them.

The current state of affairs with Iran, and in particular the financial sanctions, is that, as we sit here today, the Iranians are largely frozen out of Europe, unable to use the euro in large measure with, I think, one very important exception that I want to come back to. They are certainly frozen out of the dollar.

Major financial institutions around the world are largely not doing business with Iran, certainly the financial institutions in the United States and Europe. And elsewhere around the world, I think we are seeing—and we have seen increasing shunning of Iranian financial institutions, which really has had, I think, a quite palpable effect on the Iranians' ability to conduct their proliferation-related activity and conduct transactions more generally.

It is clear to us, though, as it is to you, that the Iranians are looking for new outlets, for new ways to engage in transactions. We are very much focused on identifying these new outlets that the Iranians are trying to establish and to shut them down.

Senator WYDEN. Can you say this morning—and if we have to have this conversation in the intelligence room at some point, we can do it. Can you tell us what the outlets are that they are most aggressively trying to tap as the new approach around sanctions?

Mr. COHEN. Well, the outlet that is currently in existence that I think is probably the most important outlet into Europe is the bank in Hamburg, Germany, EIH. That remains the principal financial lifeline for the Iranian regime into Europe.

And, as you know, we designated EIH in early September of last year and are working quite aggressively to try to shut down the Iranians' ability to use that financial institution.

In terms of other new outlets that the Iranians are trying to establish, I do think that that is probably a topic that is better suited for a different setting. But what I can tell you here, though, is that we have been using CISADA, the Comprehensive Iran Sanctions, Accountability, and Divestiture Act, the new Iran sanctions law that was enacted on July 1, to go to financial institutions around the world where we have some reason to suspect that they are engaged in significant transactions with designated Iranian banks, and have made very clear to them the choice that they face, which is the choice that is laid out in CISADA, which is, either you can have access to the United States' financial system or you can do significant transactions with these designated Iranian banks, but you cannot do both.

We have had interactions in, I think, close to 20 countries and more than 40 different financial institutions and have made this as clear to them as possible. And I think, generally speaking, we have had quite good success in encouraging these financial institutions to sever their relationships with the designated Iranian banks.

Senator WYDEN. Another question with respect to Iran. I know my time is almost up on this round.

U.S. pension funds, and particularly the question of divestment, because there has been a great interest in this whole issue and pretty spirited debates, as well. Is divestment by U.S. entities having a significant impact?

Mr. COHEN. Senator, I do not know the answer to that question. I would be happy to look into it and get back to you.

Senator WYDEN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Mr. Cohen, what about Cuba? We have to lift the travel ban and the trade ban with Cuba. For a long time, OFAC, in my judgment, has dedicated way too many resources to Cuba—I do not think Cuba is a national security threat to the United States—and rather has not spent enough time with other countries that are.

What changes are you making? For example, the cash in advance regulations are a huge impediment to U.S. exports to Cuba. They have fallen off dramatically with the policy of cash in advance.

As I recall, maybe you can correct me, this administration has not rescinded that or changed that cash in advance requirement.

I have gone to Cuba a couple of times. It makes no sense for us to have these bans, these limitations. Other countries do not.

Mr. COHEN. Right.

The CHAIRMAN. It makes no sense. And I understand a little bit of the politics in southern Florida. But come on, you have to do what is right here and loosen up a little so we can help the American people who need jobs.

Mr. COHEN. In terms of contact with the Cuban people, as you know, we have implemented direction from the President to relax both the purposeful travel restrictions, as well as remittance between family members, and that is all designed to increase contact between the U.S. citizens and citizens in Cuba to try to fulfill the democratic aspirations of the Cuban people.

With respect to the cash in advance, what OFAC has done is to try to implement, as best they can, what they understand to be the intent of Congress. And, as you know, the interpretation of the term "cash in advance" meaning "payment must be received before the goods leave the U.S. port" is the industry standard understanding of that term.

I know in recent appropriations bills, it has been directed that the payment can be made after the goods leave the port and just before they are transferred at the Cuban port, and I think we have been, as directed by Congress, applying that understanding of the term during the time that the appropriations bills were in effect.

I think, from where we sit, all we are trying to do is implement the directive of Congress in the best fashion that we can.

The CHAIRMAN. Well, I appreciate that. I just urge you to define "best fashion" in a way that is most helpful to U.S. businessmen and women exporting products to Cuba. Of course, you have to live within the law, but you also can interpret the law. I am just asking you to interpret it in a way that helps us as Americans exporting to Cuba.

Ms. LeCompte, you have been very patient, the patience of Job, I might say. You also confirmed one of my theories. One of my theories is, you show me an achiever, and I will show you that person had a teacher as a mother or a father or somewhere in the family, and I suspect that they have had a huge effect on you and they are the reason why you are so actively involved in public service, and I just thank them for that, for being teachers.

Tell us a little more, again, what you might do to help explain to the American people all these issues, in a way that encourages people to start to think, "Gee, we have to figure out how to solve them in a nonpolitical way, in a substantive, pragmatic way."

The debt limit, for example, our large debt, it is, unfortunately about 70 percent of GDP, and it is an extremely serious problem our country is facing.

If you could just give us some of your thoughts on how your department might help the American people understand the gravity of the situation and the need for Americans to work better together to solve it.

Ms. LECOMPTE. Sure, absolutely. I think, first and foremost, making sure that we do have full, robust, accurate, free-flowing information about all of the programs that the Treasury is engaged in, and it does span, as you noted, quite a broad spectrum.

In these particular times, as I mentioned in my opening statement, we see economic headlines dominating newspapers, broadcast coverage, such a wide variety of online mediums, so many channels that we can really utilize to get information, facts and good information to the American people about the work that we are engaged in.

Secretary Geithner is certainly a strong messenger for us to deliver that, to convey that message, and really utilizing the full force of senior officials that we have across the Department to make sure that, both from Washington and out across the country, we are taking the time to explain what it is that we are doing and why those policy choices were the right ones to make and will benefit the American people in so many ways.

The CHAIRMAN. You mentioned you had spent some of your time correcting mistakes, with the advance of blogs and, I guess, Facebook and Twitter and all the new communications technologies.

Is that a growing trend? Do you find that you have to spend more time correcting mistakes than perhaps was the case a couple of years ago?

Ms. LECOMPTE. Well, I think in the modern world, with so many mediums, so many voices out there, and the 24-hour news cycle, it does really require someone dedicated full-time to thinking through how we are getting information across all of those channels, and I think there is just a much more populated landscape in terms of entities that are covering government.

The CHAIRMAN. Do you have to spend more time making corrections?

Ms. LECOMPTE. I think there are more outlets, and that does require both more proactive work to get the message out and to make sure that we are working to make sure that the facts out there are correct.

So certainly, with more channels, the burden and responsibility on our team are greater.

The CHAIRMAN. I understand there are developing sites, websites you can go to, probably have to pay them something, to correct information on other sites, whether it is Google or Wikipedia or whatever it might be, some sort of preventive action.

I am not surprised that these have developed because of all the information out there on the internet, much of it misinformation.

It is a challenge, but I urge you to do your very best—clearly, you will anyway—to make sure that misinformation is corrected. I think that is very important. But good luck.

Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman. Just one other area I was interested in asking about.

Mr. Cohen, as you are looking at ways to cut off the Taliban, al Qaeda, and the militants, you are, obviously, going to be looking a lot at the wealthy donors in the Persian Gulf. And, as you know, we spent a lot of time with Stu Levey on the Saudi side of this, but there are other wealthy countries in the region, and some of them have been a clear source of terrorism funding as well.

So I wanted to ask you in particular about Kuwait. How would you characterize the cooperation of the Kuwaiti government with regard to cutting off terrorism funding?

Mr. COHEN. I think we have a real challenge with the Kuwaiti government. Kuwait is the only country in the Gulf Cooperation Council that does not criminalize terrorist financing.

We have been urging the Kuwaitis for a number of years now to pass legislation that would criminalize terrorist financing, and that has not yet occurred, and I do not think there is any prospect in the near future that that is going to occur.

I think that creates or, in fact, reflects a problem in Kuwait, where the government there is not as focused on preventing terrorist financing from occurring in that country and, frankly, not as focused on restricting terrorist activity generally that is focused outside of Kuwait as they are on terrorist activity that may occur within Kuwait.

It is a problem. It is something that we have been closely engaged with the Kuwaitis on. And, as we have had greater success in other countries in the Gulf—Saudi Arabia, for one; we have good cooperation in the UAE—I think we have seen more of this activity sort of move toward more permissive environments, and that is a problem in Kuwait.

Senator WYDEN. When your office identifies the particularly suspicious financiers in Kuwait, the people whom we think are these wealthy private donors who are back-dooring money to the terrorists, when you bring that to the attention of the Kuwaiti government, does the Kuwaiti government take action against them?

Mr. COHEN. I think the record is quite mixed. To some extent, they do. To some extent, they do not. And that, as I say, is a real challenge for us and something that—

Senator WYDEN. Is it getting better? Because my understanding—and we can talk about this some more in the Intelligence Committee behind closed doors—is that this is still a particularly frustrating, unacceptable situation in Kuwait, that they are simply not stepping up, even when we are bringing them these cases where there is a strong pattern of evidence suggesting they are a route to terrorism finance.

And I gather you would say, at least for purposes of an open session, that this remains a significant problem.

Mr. COHEN. I think you characterized it accurately.

Senator WYDEN. Mr. Chairman, I would like to follow up with you on this, as well. I think part of this is what you talk about in open session and part of it is just the fact that you are using these kinds of sessions to spotlight some of these practices. So I would really like to work with you on it.

The CHAIRMAN. Yes. Thanks, Senator. You mentioned Kuwait is the only country that does not criminalize terrorism financing.

Having said that, are there other countries that are problems like Kuwait, along the lines that you and Senator Wyden have just described?

Mr. COHEN. Kuwait is the only country in the Gulf Cooperation Council, so in the Gulf, that has not criminalized terrorist financing. I think there are others around the world that have not done so.

As I had mentioned earlier, I think there is a range of effort, a range of political will, and a range of capacity across the world in terms of countries addressing terrorist financing.

In the Gulf region, in particular, as Senator Wyden noted, I think we have had some good success in recent years in working with the Saudis. I think we have had less success and a less productive relationship with Kuwait and with Qatar, which is also a country of some concern with respect to terrorist financing.

There are other countries where I think we have very good cooperation. And, if you look across Europe, I think we have a very good relationship with the British, for instance. If you look elsewhere within South Asia, the relationship with the Pakistanis is one where we are working with them very, very closely on a range of counterterrorism issues, including terrorist financing.

And there is a lot of work to be done. This is not an endeavor where I think any of us expect to be able to declare victory and go home. This is a long process, but I think we are making progress, and we will continue to work on this extremely hard.

The CHAIRMAN. To what degree is the tension between the Pakistani government, ISI, the Afghan government, the Saudis, and other countries operating in the region, a hindrance to your efforts?

Mr. COHEN. We get both cooperation and frustrations, as Senator Wyden said, in a number of countries, and Pakistan, Saudi Arabia, all of those countries, Afghanistan, I think their record is mixed in all of them.

And we have in Pakistan, for instance, we have a Treasury attaché who works with the Pakistani government to try to, on a day-to-day basis, move the needle as much as we can every day.

In Afghanistan, I could not help but smile when you mentioned the Afghan Threat Finance Cell, because I have been there also, and have seen the work that they are doing, which is—

The CHAIRMAN. They are still there, Kirk Meyer and his colleague?

Mr. COHEN. Kirk is still there and Frank Calestino, who is a Treasury employee, and the deputy lead of that operation is still there.

These are incredibly dedicated public servants. Frank had done that same job in Iraq and signed up to do it in Afghanistan, and they do tremendous work in mapping the financial support networks of the Taliban and help us enormously in being able to take action to try to disrupt the financing for the Taliban.

The CHAIRMAN. I do not have any more questions. All I am saying is, go for it, and, if you need help, let us know, because this is a team effort. Whether it is resources or legislation, whatever it is, telephone calls, whatever, we want to help.

Mr. COHEN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you for your efforts, both of you, very much.

Thank you. The hearing is adjourned.

[Whereupon, at 11:22 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Opening Statement of Senator Max Baucus Regarding the Nominations of David S. Cohen and Jenni R. LeCompte to the U.S. Treasury

President Dwight D. Eisenhower once said:

“We seek peace, knowing that peace is the climate of freedom.”

Our country is founded on the principles of freedom and liberty. In fact, our Constitution makes clear that we strive to “secure the Blessings of Liberty to ourselves and our Posterity.”

And throughout American history, we have dedicated ourselves to upholding these principles. We strive to ensure liberty at home and support freedom abroad.

As our world changes, we face new challenges in meeting this goal. Today, it is not enough to fight the dangers we can see. We need to address those we cannot see as well.

Mr. Cohen, as the Under Secretary of Treasury for Terrorism and Financial Crimes, much of this task falls on your shoulders.

You must fight terrorism where it often starts – at the beginning of the money trail. You must find and eliminate the funding that terrorists rely upon. You must fight financial crimes and impose economic sanctions.

The Office of Terrorism and Financial Intelligence, or TFI, has a track record of success in carrying out this task. Your predecessor, Stuart Levey, guided TFI from its creation seven years ago to its status today as a powerful tool in the fight against terrorism.

This office has been active on many fronts, combating financial support networks for al Qaeda, Iran, North Korea and the Taliban in Afghanistan.

In fact, I was able to visit the Afghan Threat Finance Cell team in Afghanistan last year and was impressed by their efforts to cut off funding for the Taliban and al Qaeda in that region.

And TFI has proven agile in facing new threats as they emerge. The office has taken aggressive steps in recent weeks to freeze assets totaling over \$30 billion associated with the regime of Muammar el-Qaddafi, further isolating the regime.

But issues remain with our U.S. anti-terrorism funding efforts. To ensure the effectiveness of our efforts, we need to maximize our resources without duplicating them.

We need to coordinate the 19 federal offices that work on terrorism financing. We need to work seamlessly with the Justice Department, FBI, and other law enforcement agencies that oversee this issue. And we need to make sure we have the training and resources to anticipate – not just react to – the next generation of issues we will face.

This is a huge challenge for you Mr. Cohen. I would remind you of the words of British terrorism expert Paul Wilkinson, who once said:

“Fighting terrorism is like being a goalkeeper. You can make a hundred brilliant saves, but the only shot that people remember is the one that gets past you.”

Ms. LeCompte, you have been nominated to be the Assistant Secretary of Treasury for Public Affairs. In this capacity, you must ensure the American people are aware of the enormous tasks that the Treasury Department undertakes.

From printing our money, to collecting our taxes, to overseeing our banking system, to stamping out terrorist financing, the Treasury Department is responsible for much of what makes this country function.

Your role will be to inform the American people of all that you do, in an objective and transparent manner. I urge to fulfill this role with clarity of purpose and precision.

You both bring experience and vigor to your jobs. Should you be confirmed, you will be required to maximize both in your new roles. I urge you to do so to the best of your ability. And I urge my colleagues to confirm you without delay.

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**Opening Statement of David S. Cohen
Nominee for Under Secretary for Terrorism and Financial Crimes
United States Department of the Treasury
United States Senate Committee on Finance
April 7, 2011**

Chairman Baucus, Ranking Member Hatch, and distinguished Members of this Committee: Thank you for the opportunity to appear before you today. It is an honor to be the nominee to serve as Under Secretary for Terrorism and Financial Crimes. I want to thank President Obama for the confidence he has shown in me by nominating me, and Secretary Geithner for recommending me, to serve in this position.

I would like to introduce the members of my family who are with me here today, my father, Jordan Cohen, my wonderful wife, Suzy, and our sons, Sam and Zeke. I am enormously indebted to them for their love and support.

Having served for the past two years as the Assistant Secretary of Treasury for Terrorist Financing, I am keenly aware of the very significant responsibilities assigned to the Under Secretary for Terrorism and Financial Crimes, as well as the consequential contributions that the Under Secretary can make in advancing our Nation's security.

Illicit finance, in its many forms, is a threat to the integrity of our financial system, both domestically and internationally. Combating illicit finance not only protects our financial system from abuse by money launderers, terrorist financiers, weapons proliferators and others engaged in financial crime, but it helps to advance our most critical foreign policy and national security objectives. The many tools that the Treasury Department can deploy – ranging from anti-money laundering regulatory oversight, to outreach to counterparts overseas, to deploying targeted financial measures focused on particular individuals and entities – play an integral role in responding to many of the challenges we face. Treasury's unique capacity to understand financial flows and the operation of the financial system, analyze financial intelligence, map financial and material support networks, and take targeted, powerful actions are key to meeting these challenges.

I believe that my professional experience, particularly serving as Assistant Secretary for Terrorist Finance since May 2009, has prepared me well to undertake the responsibilities of Under Secretary.

As Assistant Secretary, I have had the opportunity to work very closely with the previous Under Secretary, participating in almost all aspects of the work of the Office of Terrorism and Financial Intelligence (TFI). This has included coordinating closely with my colleagues in each of the components of TFI – the Office of Intelligence and Analysis, the Office of Foreign Assets

Control, the Financial Crimes Enforcement Network, and the Treasury Executive Office for Asset Forfeiture.

In my capacity as Assistant Secretary, I have had the chance to work on many of the issues in TFI, but I have focused most intently on several key issues: First, our use of targeted financial sanctions, as well as outreach to the private sector and foreign governments, to increase pressure on the government of Iran for its continued refusal to live up to its international non-proliferation obligations; second, and relatedly, our efforts to financially isolate and apply pressure on the North Korea regime for its continued provocative conduct; third, our efforts to combat the financing of terrorism, especially financial support for al Qaeda, the Taliban, and other violent extremist groups in South Asia; and finally, the effort to ensure that information about the true beneficial owners of corporations is available to state and federal law enforcement and regulators pursuing money laundering and terrorist financing investigations.

Prior to serving as Assistant Secretary, I was an attorney for close to twenty years, in both private practice and in government. In private practice, I represented institutions and individuals in complex financial investigations and litigation, and counseled clients on their obligations to comply with Treasury's anti-money laundering and economic sanctions laws and regulations. From late-1999 to mid-2001, I served in the Treasury's General Counsel's office, focusing much of my attention on anti-money laundering law and policy.

If confirmed, I look forward to working closely with you, as the Treasury Department continues to implement the President's priorities for safeguarding our financial system from illicit finance. The variety and intensity of these challenges are well known to this Committee. Effectively addressing them requires great vigilance and constant innovation. I would welcome the opportunity to serve our great Nation by taking on these challenges as the leader of Treasury's critical work to fight illicit finance.

In closing, I want to thank the Committee for the attention it has given to my nomination. If confirmed, I intend to work closely with you, Mr. Chairman, the other Members of this Committee and your staff to pursue our shared objective of protecting national security and the integrity of the financial system. I am deeply committed to maintaining the very productive and close relationship that exists between this Committee and the Office that I have been nominated to lead.

Mr. Chairman, I would be pleased to respond to any questions that you or Members of the Committee may have.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.) David Samuel Cohen
2. Position to which nominated: Under Secretary for Terrorism and Financial Crimes, Department of the Treasury
3. Date of nomination: January 26, 2011
4. Address: (List current residence, office, and mailing addresses.)

Residence:

Office:
5. Date and place of birth: Boston, MA; June 11, 1963
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.)

Buckingham, Browne & Nichols 1979-1981 H.S. Diploma (1981)
Cornell University 1981-1985 A.B. (1985)
Yale Law School 1986-1989 J.D. (1989)

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.)

June 1985 – July 1986
Assistant Project Director
Crisis Stability and Nuclear War Project
Cornell University
Ithaca, NY 14853

February 1987 – February 1989
Fellow and Intern
Connecticut Civil Liberties Union
Hartford, CT 06106

June 1987 – August 1987
Summer Associate
Jenner & Block
330 N. Wabash Avenue
Chicago, IL 60611

June 1988 – August 1988
Summer Associate
Public Citizen Litigation Group
1600 20th Street, NW
Washington, DC 20009

June 1989 – July 1989
Summer Associate
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, NY 10019

September 1989 – August 1990
Judicial Law Clerk
The Hon. Norman P. Ramsey
U.S. District Court for the District of Maryland
Baltimore, MD

November 1990 - October 1999
Associate (November 1990 – June 1996)
Partner (July 1996 – October 1999)
Miller, Cassidy, Larroca & Lewin, L.L.P.
2555 M Street, NW
Washington, DC 20037

November 1999 - July 2001
 Senior Counsel to the General Counsel (Nov. 1999 – Dec. 2000)
 Associate Deputy General Counsel (Jan. 2001 – July 2001)
 Acting Deputy General Counsel (Jan. 2001 – May 2001)
 United States Department of Treasury
 1500 Pennsylvania Avenue, NW
 Washington, DC 20220

October 2001 - February 2009
 Counsel (Oct. 2001 – Dec. 2003)
 Partner (Jan. 2004 – Feb. 2009)
 Wilmer Cutler Pickering Hale and Dorr LLP
 1875 Pennsylvania Avenue, NW
 Washington, DC 20006

March 2009 - present
 Counselor to the Secretary (Mar. 2009 – May 2009)
 Assistant Secretary for Terrorist Financing (May 2009 - present)
 United States Department of Treasury
 1500 Pennsylvania Avenue, NW
 Washington, DC 20220

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, Miller, Cassidy, Larroca & Lewin, L.L.P. (July 1996 - Oct 1999)
 Wilmer Cutler Pickering Hale and Dorr LLP
 Counsel, Oct 2001- Dec. 2003
 Partner, Jan 2004 - Feb 2009

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

Member, District of Columbia Bar (1991-present)
 Member, New York State Bar (1990-present)

Member, American Bar Association (2004-present)
 Member, Temple Sinai Congregation, Washington, DC (1998-present)
 Member, Bretton Woods Recreation Center (2008-present)
 Member, Chevy Chase Recreation Association (2009-present)
 Member, Edward Bennett Williams Inn of Court (1998-2009)

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, Kerry for President (Summer – Fall 2004 est.)
 Volunteer, Obama for America (July – November 2008 est.)
 Volunteer, Obama-Biden Transition Project (Fall 2010 – Jan. 2011 est.)

- 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.

<u>Date</u>	<u>Description</u>	<u>Amount</u>
8/5/2002	DCCC	50
8/5/2002	Ray For Congress	50
8/5/2002	Rivers For Congress	50
8/8/2002	Majette For Congress	200
9/6/2002	Hutchinson For Congress	50
10/16/2002	Van Hollen For Congress	100
6/30/2003	DNC/Federal Account	75
10/15/2003	Environment 2000	100
12/15/2003	Democratic National Committee	75
6/1/2004	John Kerry For President	2,000
7/20/2004	A Lot Of People Supporting Tom Daschle	300
7/21/2004	Human Rights Campaign	50
1/24/2005	Yassky For New York	100
7/4/2005	The Deval Patrick Committee	250
10/24/2005	The Cordray Committee	100
11/5/2005	The Deval Patrick Committee	250
2/7/2006	Brandman For Board Of Education	500
5/25/2006	Ben Cardin For Senate	250
6/7/2006	Friends Of Tom Perez	200
6/25/2006	Anthony Brown For Lieutenant Governor	200

9/27/2006	DCCC	250
3/3/2007	Hillary Clinton For President Exploratory Committee	1,000
4/12/2007	Obama For America	1,000
9/16/2007	Hillary Clinton For President	2,300
11/27/2007	Obama for America	1,000
10/22/2008	Elwyn Tinklenberg for Congress	250
2/13/2008	Mark Warner for Senate	300
3/6/2008	Obama for America	300
6/22/2008	Al Franken For Senate	25
6/30/2008	Obama For America	2,300
9/25/2008	DSCC	1,000
9/28/2009	DSCC	100

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.)

Harlan Fiske Stone Prize (Yale Law School)
 Potter Stewart Prize (Yale Law School)
 Treasury Secretary's Award

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

"Command in Crisis: A Middle East Scenario," 17 *Bulletin of Peace Proposals* 113 (1986) (with Bruce G. Blair and Kurt Gottfried).

"The Evidentiary Predicate for Affirmative Action After Croson: A Proposal for Shifting the Burdens of Proof," 7 *Yale Law & Policy Review* 489 (1990).

"Sentencing Commission: An Unlawful Hybrid," *The Washington Lawyer*, October 3, 1988 (with Patti A. Goldman).

"Headnote: The Money Laundering Abatement and Anti-Terrorist Financing Act of 2001," *The Banking Law Journal* (Jan. 2002) (with Todd Stern, Satish Kini and Stephen Heifetz).

"Anti-Money Laundering Rules for Insurance Companies Contain New Twists," *Privacy & Data Security Law Journal* (Feb. 2006).

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.)

On December 10, 2010, I spoke at the Johns Hopkins School of Advanced International Studies, Center for Transatlantic Affairs, on U.S.-EU Cooperation on Iran. I spoke from notes, and so do not have the text of my remarks.

"Remarks to the Washington Institute for Near East Policy," April 7, 2010, <http://www.treas.gov/press/releases/tg632.htm>

"Remarks on Terrorist Financing before the Council on Foreign Relations," January 28, 2010; <http://www.treas.gov/press/releases/tg515.htm>

"Business Formation and Financial Crime: Finding a Legislative Solution," Testimony before the Senate Committee on Homeland Security and Governmental Affairs, November 5, 2009, <http://www.treasury.gov/press-center/press-releases/Pages/tg353.aspx>

"Remarks to the ABA/ABA Money Laundering Enforcement Conference," October 12, 2009, <http://www.treas.gov/press/releases/tg317.htm>

Statement of David S. Cohen to be Assistant Secretary for Terrorist Financing, Department of the Treasury, before the Senate Committee on Banking, Housing and Urban Affairs, April 23, 2009.

On May 7, 2008, I spoke as part of a panel discussion at an event sponsored by the Executive Council entitled "The Flipside of Capitalism: Are there Solutions to Money Laundering's Chokehold on Corporate America." I spoke from notes, and so do not have the text of my remarks.

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

I have a long-standing and deep interest in the issues that are the focus of the work of the Office of Terrorism and Financial Intelligence. During my service in the Treasury Department's General Counsel's office from 1999-2001, I had substantial responsibility for developing and overseeing the implementation of the Department's anti-money laundering and counter-terrorist financing policies, including coordinating with the Financial Crimes Enforcement Network on regulatory initiatives; working with the federal banking regulators and the Department of State to develop anti-money laundering guidance; assisting in the preparation of the 2000 and 2001 National Money Laundering Strategies; and working with Congress on legislation to enhance our anti-money laundering laws.

After leaving the Treasury Department in July 2001, I re-entered private law practice and, over the ensuing seven-plus years, I represented a broad range of financial institutions and individuals concerning their compliance obligations with respect to the laws and regulations pertaining to money laundering and economic sanctions. In that capacity, I had frequent opportunity to advise on the applicability of the key laws and regulations that govern the Financial Crimes Enforcement Network and the Office of Foreign Assets Control.

Since being confirmed as the Assistant Secretary for Terrorist Financing on May 1, 2009, I have led Treasury's Office of Terrorist Financing and Financial Crime, and have participated in almost all aspects of the work of the Treasury's Office of Terrorism and Financial Intelligence ("TFI"). In close collaboration with the Undersecretary for Terrorism and Financial Crimes, I have been particularly focused on several key issues, including: our efforts to use targeted financial sanctions, along with outreach to the private sector and foreign governments, to increase pressure on the government of Iran for its continued refusal to live up to its international non-proliferation obligations; our efforts to combat the financing of terrorism, especially financial support for al Qaeda, the Taliban and other violent extremist groups operating in the Afghanistan and Pakistan region; and our efforts to ensure that information about the true beneficial owners of corporations is available to state and federal law enforcement and regulators pursuing money laundering and terrorist financing investigations. In the pursuit of these, and TFI's broader, objectives, I have worked closely with each of the components of TFI – the Office of Intelligence and Analysis ("OIA"), the Office of Foreign Assets Control ("OFAC"), and the Financial Crimes Enforcement Network ("FinCEN") – as well as colleagues in from the National Security Staff, and the Departments of State, Defense, Justice, and Homeland Security, and have engaged extensively with Congress and with foreign interlocutors.

In addition to my professional activities in this field, I have maintained an active and abiding interest in national security and foreign policy issues.

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 - I am currently serving in the Treasury Department as the Assistant Secretary for Terrorist Financing.

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 Department of the Treasury'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 of the Treasury'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 Department of the Treasury'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 of the Treasury'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.

I have not been engaged as a lobbyist and have not engaged in any lobbying activity during the past 10 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.)

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

Will be provided.

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.

Yes. In January 2007, I received a summons for reckless driving/speeding in Madison, Virginia. In March 2007, the Madison County General District Court (Traffic) reduced the summons to a simple speeding ticket.

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

Yes. In 1988, while I was in law school, I was a complainant (and *pro se* counsel) in a Freedom of Information Act case against the New Haven Superintendent of Schools. The proceeding challenged the Superintendent's refusal to allow the public to attend a meeting of the school's AIDS Task Force. The State Freedom of Information Commission found in my favor.

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
David. S. Cohen
Nominee to be Under Secretary for Terrorism and Financial Crimes
April 7, 2011

Chairman Max Baucus

- 1. *What is Treasury's best estimate of how much of Qaddafi's assets outside of both US jurisdiction and Libya are not yet frozen? How much has Europe frozen?***

Since the President signed Executive order 13566 on February 25, approximately \$34.5 billion has been blocked under U.S. jurisdiction. Treasury and others have been in close contact with our allies in Europe and elsewhere to underscore their obligations under UN Security Council Resolutions 1970 and 1973 to similarly freeze the assets of the Government of Libya. We believe that many of the countries thought to be holding significant regime assets have blocked assets within their jurisdiction. Given differing secrecy laws and the complexity of securities and other holdings, it is difficult to estimate totals of assets frozen outside U.S. jurisdiction but we believe it is on the order of tens of billions of dollars. We are actively working to obtain reliable information from foreign jurisdictions on the amount that they have blocked.

- 2. *Thank you for offering to develop a plan with Congress for the \$34 billion in Libyan assets frozen by the US. What is the legal range of possibilities for the assets. What options are on the table for returning the assets to the Libyan people? Who has the authority to develop and execute this plan?***

The USG's first priority in blocking the assets of the Qadhafi regime and the Government of Libya is to safeguard them from possible misappropriation. Under a typical International Emergency Economic Powers Act sanctions program, the USG would continue to block assets until the threat addressed by a national emergency, underlying the sanctions program, no longer exists. In this case, once the circumstances constituting the national emergency cease, the President could unblock Libyan government assets. To the extent that other options for using the assets are considered, the Administration will continue to be in close consultation with Congress.

- 3. *How would you rate Russia, China and Arab League cooperation on sanctions against Qaddafi? Are there any nations/entities not cooperating with our efforts to cut off funding from Qaddafi?***

UN Security Council Resolutions 1970 and 1973 obligate all member states to freeze certain assets of the Qadhafi regime and the Government of Libya, and we are not aware of any country that has failed to fulfill this obligation.

Ranking Member Orrin Hatch

1. *Despite the fact that the Bank Secrecy Act was signed over 40 years ago, there are reports of confusion among various financial institutions in interpreting BSA compliance rules. What efforts have you made to ensure that the Treasury Department is presenting unambiguous information concerning specific BSA compliance rules? What sort of assistance do you provide to institutions to ensure consistent BSA data is provided?*

Treasury's Financial Crimes Enforcement Network (FinCEN), through its Office of Compliance, works closely with Federal and State regulatory agencies to promote consistent application of Bank Secrecy Act (BSA) regulations through information-sharing agreements and cooperation on examination procedures, such as the Federal Financial Institutions Examination Council BSA/AML Examination Manual. In addition, FinCEN's regulatory helpline is available for financial institutions with questions about BSA requirements or forms, which have evolved over the years as a result of changes to the statute and regulations. These inquiries to the helpline are continually monitored to determine if additional guidance to industry is necessary or whether a particular piece of guidance should be prioritized as part of its regular and ongoing industry outreach.

2. *When the Department of Homeland Security was created, the Treasury Department lost the United States Secret Service, as well as other law enforcement entities including the ATF and US Customs. Given your experience at Treasury both before and after the creation of DHS, what affect have you seen regarding the ability of the Treasury to conduct adequate investigations?*

Treasury continues to work very closely with a variety of law enforcement entities – particularly Customs, USSS, DEA, FBI, IRS-CI and the Department of Justice – on investigative matters and receives excellent cooperation and support from law enforcement agencies.

- a. *What is the level of inter-agency cooperation among law enforcement entities?*

The level of cooperation among law enforcement entities is excellent.

- b. *Do you foresee proposals for the Treasury Department to increase its investigative responsibilities?*

Not at this time.

3. *Reports allege that shell companies located here in the United States have been linked to criminal and terror organizations. For example, the Mexican drug trafficking organization known as the Sinaloa Cartel reportedly established a shell company to launder drug profits.*

A Senate investigative report last year found evidence of African leaders using shell companies to bring funds into the United States. At the same time federal investigators are telling Congress that they have seen a trend of individuals buying businesses and shell companies with established banking histories in an effort to avoid bank scrutiny under “Know Your Customer” requirements.

Identifying facilitators and shell companies should be a priority for the Treasury Department that ultimately leads to prosecutions by the Justice Department’s Asset Forfeiture and Money Laundering Section.

If confirmed, what proposals do you have in mind to curtail the use of United States shell companies as vehicles for money laundering? Also, can this be done without deterring entrepreneurs and innovators who want to form legitimate businesses and seek incorporation?

Treasury is committed to developing a solution to the misuse of shell companies by increasing the beneficial ownership information available to law enforcement without hampering the company formation process. To meet this goal, Treasury, in collaboration with the Departments of Justice and Homeland Security, is working closely with Senator Levin and other members of Congress to draft legislation that would require disclosure of beneficial ownership information in the company registration process. In the meantime, FinCEN jointly issued guidance with the federal regulatory agencies to clarify and strengthen obligations on U.S. financial institutions regarding the collection of beneficial ownership information on certain accounts and customer relationships. Treasury is working with the federal law enforcement and regulatory communities, and the private sector, to determine what additional steps may be necessary domestically. Internationally, Treasury is working through the Financial Action Task Force (FATF) to clarify and facilitate global implementation of the FATF standards regarding collection of beneficial ownership information both in the company registration and account-opening processes.

- 4. *During your first stint at the Treasury Department, you were reportedly involved in the drafting of what became title 3 of the USA PATRIOT Act. Please explain your involvement with this legislation.***

While in the General Counsel’s Office of Treasury from November 1999 – July 2001, I helped draft portions of what became title III of the USA PATRIOT Act. Working with a team at Treasury that was focused specifically on anti-money laundering policy, I helped draft what became Section 311 of the USA PATRIOT Act, 31 USC 5318A, which authorizes the Secretary of the Treasury to impose “special measures” on jurisdictions, financial institutions, and international transactions that are found to be “primary money laundering concerns.”

- a) *What is your opinion of the importance of the PATRIOT Act?***

The provisions of title III of the USA PATRIOT have enhanced significantly the government's ability to combat money laundering, terrorist financing and financial crime more generally. It is very valuable legislation.

b) Do you feel that title 3 of the PATRIOT Act should be amended or repealed?

No, I do not.

Senator Charles GrassleyPrepaid access card regulations

Prepaid access cards have proliferated since the 1990's and can often provide a beneficial means of attracting people such as college teens and individuals who prefer to avoid the banking system. These cards can be accessed without the traditional need of a bank account and can be used at point of sale terminals to purchase goods and services. However, since these cards are unregulated, criminals often use them to facilitate money laundering and bulk cash smuggling across the border since they are not defined as a financial instrument and thus not reportable under current reports of International Transportation of Currency and Monetary Instrument Reports (CMIR). Additionally, many prepaid access cards, specifically cards that are "open-loop" are used by criminals to commit money laundering. Criminals can use prepaid access card to easily integrate illegal proceeds into the financial system so that they eventually appear legitimate. Unfortunately, the United States Treasury has failed to establish the anti-money laundering rules that were mandated by the Credit Card Accountability Responsibility and Disclosure Act of 2009. The Financial Crimes Enforcement Network (FinCEN) was required to enact the aforementioned rules and in June 2010, issued a Notice of Proposed Rulemaking. However, to date these rules have still yet to be enacted.

1. *Will the U.S. Treasury issue regulations for prepaid access cards?*

Yes.

2. *If so, what is the definitive date for these regulations to be published?*

A final rule regulating prepaid access has been submitted to the Office of Management and Budget (OMB) for regulatory review.

3. *If you are unable to disclose the date of enactment for prepaid access card regulations, can you describe why it has taken so long to enact these regulations, and why did the U.S. Treasury disregard the deadline as mandated by law?*

N/A.

4. *How does the U.S. Treasury define prepaid access cards? Do you view them as an access device, given that the cards don't actually hold the value or would you define them as a monetary instrument given that they do not meet that definition in either Title 31 U.S.C. § 5312(a)(3) or Title 18 U.S.C. § 1956?*

While the definition of monetary instrument under Title 18 is not applicable to the term as it is used in the Bank Secrecy Act (BSA), the phrase “monetary instrument” is defined in 31 U.S.C. § 5312(a)(3) for purposes of the BSA. In this regard, while prepaid access devices are not currently defined as monetary instruments in FinCEN regulations under 31 CFR Chapter X, there is sufficient statutory authority under the BSA to include them within the regulatory definition of monetary instruments as appropriate.

5. *How would you recommend solving the issue of criminals using prepaid access cards to facilitate bulk cash smuggling across the border?*

Although U.S. depository institutions involved in the issuance or use of prepaid access are subject to comprehensive BSA regulations, Treasury recognized that the limited regulatory framework for certain non-bank prepaid products requires modernization and improvement. Accordingly, in June 2010, FinCEN proposed a more comprehensive regulatory framework for non-bank-issued prepaid access and has submitted to OMB for clearance a final rule regulating prepaid access. FinCEN is also preparing a notice of proposed rulemaking that would make prepaid access devices declarable as monetary instruments when entering or leaving the country.

6. *Do you view traditional gift cards as a risk for money laundering schemes and evading financial transparency given that criminals often purchase them with stolen credit cards and they are often used to purchase items for sale in other locations which integrates unlawfully obtained proceeds into legitimate businesses?*

Yes, I believe that gift cards can present money laundering risks.

7. *With the understanding that gift cards are often used by criminals to integrate unlawfully obtained proceeds into legitimate businesses, why does FinCEN believe that gift cards should remain separate and independent from their proposed rulemaking considerations?*

FinCEN’s June 2010 NPRM proposed requirements to regulate closed-loop cards in a manner that was designed to be commensurate with the risks presented. FinCEN received a number of comments on its proposal and has adjusted the final rule accordingly.

8. *Do you support requiring providers of prepaid access cards to register as Money Services Businesses (MSB)?*

Yes.

9. *Do you also support requiring providers of prepaid access cards to maintain financial records which will assist law enforcement with subpoena requests?*

Yes.

10. *Do you support requiring providers of prepaid access cards to file currency transaction reports (CTRs) to FinCEN for transactions in currency greater than \$5,000?*

The June 2010 NPRM proposes to define providers of prepaid access as both “money services businesses” and “financial institutions,” which would subject providers of prepaid access to FinCEN’s currency transaction requirements for transactions in currency exceeding \$10,000 in one day – which is the current threshold for all financial institutions that file CTRs.

Senator Olympia J. Snowe**Question 1****Issue: Duplication of Resources in Fight against Financial Crimes**

The Office of Terrorism and Financial Intelligence (TFI) is responsible for coordinating Treasury's efforts to safeguard the nation's financial system and combat money launders, drug kingpins, and those seeking to proliferate weapons of mass destruction. TFI oversees several other Treasury bureaus to help it accomplish these necessary goals. As I review the missions of some of the bureaus TFI oversees, it struck me that many have similar goals.

For example, the Office of Terrorist Financing and Financial Crimes on its website reports that its mission is to develop "initiatives and strategies to deploy the full range of financial authorities to combat money laundering, terrorist financing, WMD proliferation, and other criminal and illicit activities both at home and abroad." Meanwhile, the Financial Crimes Enforcement Network (FinCEN) says on its webpage that it "is a network, a means of bringing people and information together to fight the complex problem of money laundering." To me, those missions sound quite similar.

Question: *To what degree are the activities of TFI and the bureaus over which it has oversight duplicative and performing similar functions? Is this nation properly and efficiently organizing its resources to fight money laundering and other financial crimes, or should Congress and the Administration be thinking about ways to reorganize these resources?*

TFI's component offices each bring unique capabilities to the TFI mission and their functions are not duplicative. For example, the Office of Terrorist Financing and Financial Crimes is the policy development component of TFI, while FinCEN is principally focused on administering the anti-money laundering and counter-terrorist financing provisions of the Bank Secrecy Act and its implementing regulations. TFI works closely with its partners in the interagency – who in turn have unique capabilities – to fight money laundering and other financial crimes. If confirmed, I look forward to working with Congress to identify any inefficiencies and take appropriate action.

Question 2**Issue: Enforcement of Burmese Sanctions against Chinese Entities**

As a **founding member of the Senate Women's Caucus on Burma**, I will be continuing to press the Administration to investigate and if necessary sanction certain companies and individuals that have provided financing and other material support to the oppressive junta in Rangoon.

Our message to the military rulers of Burma must remain clear: for so long as thousands of prisoners of conscience languish under their grip, so shall their government be shunned from the community of nations. Sadly, a few countries within that community have acted in a manner which weakens that stance, and thus exacerbates the plight of Burmese democracy activists.

China has provided Burma with an estimated \$3 billion in military aid since the early 1990s. This funding enabled the Burmese army— which perpetrates human rights crimes against nonviolent ethnic minorities and political opponents in Burma-- to expand from 180,000 to 450,000. Beyond financing Burma's bloody internal purges, China has also blocked action in the UN Security Council to sanction its military rules for terrorizing thousands of their own countrymen.

And of course, China's enabling of the Burmese junta's persecution of its own people— including thousands of Buddhist monks who rose up in peaceful protest last year— was disturbingly reflected in China's own bloody suppression of a similar movement in Tibet last month.

Question: What is the Office of Terrorism and Financial Intelligence doing to investigate the extent to which the plethora of Chinese state-owned and state-controlled entities may be financing or otherwise facilitating the Burmese junta's terrorizing of its own people?

I share your concern about the Burmese junta's repression of their people and take seriously Treasury's role of cutting off international financial access to those who repress the Burmese people or those who provide the junta support. Treasury has moved aggressively to designate a number of Burmese entities, senior leaders, and junta cronies and to ensure that banks continue to block transactions associated with those designated individuals or entities. Although I cannot comment on possible future actions, we continue to investigate targets under the Burma sanctions.

Senator Jon Kyl

- 1) *Are you familiar with the so-called “Know Your Correspondents Correspondent” provision of CISADA, section 104(e), whereby a bank is required to know not just that a bank with which it has a correspondent relationship has no ties to Iran, but that that correspondent bank has no correspondent relationships with banks in Iran? To my knowledge, there have been no sanctions imposed under that act, nor implementing regulations promulgated. It appears the Treasury Department is dragging its feet on this provision. In fact I am reliably informed that banks are saying that United States government officials have privately reassured them that it won’t do anything to enforce this provision.*
- a. *What can you point to as proof that this provision is being enforced?*
 - b. *Where are the regulations to implement section 104(e)?*
 - c. *Can you state unequivocally today that banks should expect the Treasury Department to come ask for proof that they are in compliance with the “Know Your Correspondent’s Correspondent” provision of CISADA?*

Section 104(e) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) requires the Secretary to prescribe regulations to establish one or more specific requirements for U.S. financial institutions maintaining correspondent accounts for foreign financial institutions, in connection with the sanctionable activities described in section 104(c)(2) of CISADA. FinCEN has developed a NPRM to implement this section that is currently being cleared through the Office of Management and Budget (OMB) regulatory review. We intend to publish this NPRM as soon as possible.

- 2) *Last month, the Treasury Department sanctioned the National Oil Company of Libya, with Adam Szubin of your bureau saying it is “the center piece of Libya’s state-owned oil apparatus” and “all governments should block the National Oil Corporation’s assets and ensure that Gadhafi cannot use this network of companies to support his activities.”*
- a. *As you know, the Iranian regime is also despotic and it too has denied its people representative government and oppressed lawful dissent. It too is using revenues from energy exports to finance its illicit activities, which include, in the case of Iran, terrorism against the West and its illicit nuclear weapons program. It seems to me that you could substitute “Libya” with “Iran” and “Gadhafi” with “Ahmadinejad” in the above quotes. When can we expect to see the same action taken against the National Iranian Oil Company?*

Each sanctions program administered by the Treasury Department is separate from, and independent of, other sanctions programs. Foreign policy and national security considerations often vary between sanctions programs, demanding the application of different sanctions measures or resulting in a differing interpretation or application of similar measures. With respect to Iran and Libya, Treasury’s sanctions programs differ in part due to the particular circumstances of the two nations in question.

With regard to Libya, the President declared a national emergency on February 25 in response to the threat posed by the Qadhafi regime's use of wanton violence against unarmed civilians and the serious risk that the Qadhafi regime would misappropriate Libyan state assets. Executive Order 13566 imposes sanctions on the Government of Libya, its agencies, instrumentalities, and controlled entities, and on certain members of the Qadhafi family, among others. The USG also actively supported the adoption of UN Security Council Resolutions 1970 and 1973, which directed member states to freeze certain assets of the Government of Libya and further authorized member states to take necessary measures to protect civilians in Libya.

With regard to Iran, the U.S. government has supported the adoption of a number of UN resolutions, including UNSCR 1929, and has imposed sanctions using a wide range of Treasury authorities, including Executive Orders 13382, 13224, and 13553. Treasury's sanctions strategy has focused on conduct-based measures that target the full range of Iran's illicit activities, to include Iran's WMD proliferation efforts, support for terrorism, and human rights abuses. With respect to the National Iranian Oil Company (NIOC), the Iranian Transactions Regulations already generally prohibit transactions with NIOC, which OFAC has identified as being the Government of Iran.

As a matter of long-standing policy, Treasury does not comment on possible or pending investigations or enforcement actions.

- 3) *A March 2008 Financial Crimes Enforcement Network Advisory to domestic and foreign banks lists 30 banks that it has determined constitute a "continuing money laundering threat involving illicit Iranian activity." To date, however, the United States has only designated for sanctions 20 of those 30 Iranian banks.*
- a. *What is the status of the sanctions designations involving the other 10 banks? How soon can we expect to see sanctions issued by your bureau against these ten banks?*

Although as a matter of long-standing policy, Treasury does not comment on possible or pending investigations or enforcement actions, Treasury nonetheless continues to vigilantly monitor the activities of all Iranian banks. Treasury has a demonstrated record of taking action against those Iranian banks engaged in illicit activity under relevant Treasury authorities that I fully intend to continue, should I be confirmed.

- 4) *I appreciated our meeting almost two months ago as you were making the rounds of the Finance Committee in anticipation of today's hearing. A few days after that meeting, my staff sent you a list of questions on a variety of subjects concerning your responsibilities if confirmed. As of now, I haven't received any answers to those questions. When should I expect your answers to my questions?*

Responses to your questions are attached.

- 5) *Mr. Cohen, on March 29th, out of profound concern that the Administration is not fully and faithfully enforcing the Comprehensive Iran Sanctions and Divestment Act (CISADA), Senators Kirk, Lieberman and I sent an unclassified letter to Secretary Clinton and Secretary Geithner with a 54 page classified annex detailing additional sanctions violations of which we are aware. As the Acting Under Secretary, can you commit to a date when we can expect a response to this letter?*

I am honored to be serving as the Acting Under Secretary. As these questions relate to my nomination to be the Under Secretary, I will respond as the nominee. While I cannot commit to an exact date, I appreciate the importance of prompt responses to inquiries from Members of Congress, and expect that a response will be provided shortly to your letter of March 29, 2011 to Secretary Clinton and Secretary Geithner.

- a. *Likewise, on March 10th, several members of this committee, including Senator Menendez, Senator Cardin and Senator Bill Nelson, and I sent a letter to Secretary Clinton that we carbon copied to the Secretary of the Treasury detailing a variety of CISADA violations, including violations of Section 104 of CISADA (the banking sanctions of that Act), particularly involving Chinese entities. As the Acting Under Secretary, can you commit to a date when we can expect a response to this letter?*

I am honored to be serving as the Acting Under Secretary. As these questions relate to my nomination to be the Under Secretary, I will respond as the nominee. While I cannot commit to an exact date, I appreciate the importance of prompt responses to inquiries from Members of Congress, and expect that a response will be provided shortly to your letter of March 10, 2011 to Secretary Clinton, which was copied to Secretary Geithner.

Senator Pat Roberts

- 1) *Since the Treasury Department's Office of Terrorism and Financial Intelligence was created in 2004, much progress has been made in securing the formal financial system and making it less hospitable for terrorist financiers to transfer assets. As the formal financial system has been strengthened, however, informal channels of asset transfer have become more popular among terrorist groups. Please describe some of the Treasury Department's efforts in combating the less regulated and cash-based asset transfer methods.*

The Treasury Department is currently conducting a comprehensive analysis of hawalas in the United States, identifying relevant communities using hawalas and determining the volume, frequency, and method of remittances sent abroad in an effort to sharpen our estimates of the number of these money transmitters. Money transmitters are obligated to register with the Financial Crimes Enforcement Network (FinCEN) and are also required to be licensed or meet other requirements in 48 states (South Carolina and Montana are the exceptions). FinCEN defines a money transmitter to include hawalas.

As of April 2010, 18,913 money transmitters were registered with FinCEN. No credible estimate exists of the number of unregistered money transmitters operating in the United States. Nearly 15% of the registered money transmitters acknowledge that they participate in an "informal value transfer system (IVTS)," a category that includes hawalas. A division of the Internal Revenue Service conducts Bank Secrecy Act compliance examinations for money transmitters and other categories of money services businesses (MSBs). In 2009 there were 10,403 BSA compliance exams for MSBs. If an examination demonstrates that the MSB was materially non-compliant, the IRS can refer the MSB to FinCEN for civil enforcement or can make a referral for criminal investigation. DHS Immigration and Customs Enforcement and IRS-Criminal Investigation lead U.S. law enforcement efforts against unlicensed MSBs. In addition, to promote registration and BSA compliance, FinCEN maintains an aggressive ongoing public education campaign.

- 2) *Recent terrorist attacks and attempted attacks have become smaller and less expensive, focusing on softer targets and relying on fewer actors. For example, Faisal Shahzad's attempted Times Square bombing was estimated to cost approximately \$12,000 to plan and execute; compared to the catastrophic attacks of September 11, 2001 which included multiple actors and hundreds of thousands of dollars. As terrorists continue to focus on smaller, sometimes individualistic operations, how is the Treasury Department adapting to curtailing the flow of illicit funds for these less expensive attacks that do not require large sums of money?*

Although the cost of materials for an individual attack may be relatively small, the cost of maintaining a terrorist organization can be quite substantial. Terrorist organizations have a constant need of funds for recruitment, training, materiel, travel, as well as for bribes, false documents, and support for the families of suicide bombers. Based on the U.S.

experience investigating terrorism, financial support is more often delivered through large rather than small transactions. Between 30% and 50% of all terrorism subjects under investigation are cited in at least one of the various transaction or activity reports mandated of financial institutions and individuals under the Bank Secrecy Act. It is not in a suspicious activity report (SAR) that law enforcement most often finds a reference to terrorism subjects under investigation, but in a currency transaction report, which is filed by U.S. financial institutions when taking in, paying out, or processing transactions involving more than \$10,000 in cash.

3) *Please describe the nexus between terrorist financing and criminal activity as a method of fundraising, and the connection you see regarding these two activities in the future.*

One measure of our success in closing off traditional sources and conduits of terrorist financing is the clear need among terrorist cells to support themselves with criminal activity. For example, the Madrid bombers sold drugs and pirated CDs. A group in North Carolina smuggled cigarettes and used the profits to fund Hezbollah in Lebanon. And in Torrance, California, members of a terrorist cell robbed gas stations so they could buy weapons and plan attacks against Jewish targets and U.S. military installations in Los Angeles. It is well known that the FARC, a designated Foreign Terrorist Organization, relies on drug trafficking, kidnapping for ransom and extortion schemes to raise money to fund its insurgency against the Colombian government. The nexus between terrorism and financial crime is, in fact, a developing trend as ideologically-driven groups are forced to fund themselves through criminal activity, and some criminal organizations employ the violent tactics of terrorism.

4) *Please describe the use of New Payment Methods, such as e-money, digital cash, mobile payments, and internet payment systems, and how the Treasury Department is addressing these methods.*

The Department of the Treasury in 2004 identified the potential money laundering and terrorist financing vulnerabilities associated with certain new payment methods. The Treasury works closely with the payment card associations to ensure that their licensing rules for issuing banks include explicit anti-money laundering policies and procedures. Similarly, Treasury worked with the federal banking agencies to develop guidance to the banking industry and examination procedures to ensure compliance. The Federal Financial Institutions Examination Council Anti-Money Laundering/Bank Secrecy Act Examination Manual now has a section devoted to describing the risks associated with "e-money," risk mitigation strategies for banks, and guidance to examiners to ensure appropriate safeguards are in place.

In May 2008 FinCEN formally established a subcommittee within the Bank Secrecy Act Advisory Group (BSAAG) to focus on stored value issues. The BSAAG is a Congressionally-chartered forum that brings together representatives from the financial industry, law enforcement, and the regulatory community to advise FinCEN in its regulatory functions. The stored value subcommittee provides a comprehensive panel of

experts available to consult on these issues and from whom a body of empirical information is regularly gathered and exchanged.

Section 503 of the Credit Card Accountability, Responsibility, and Disclosure (CARD) Act of 2009 directed FinCEN, as administrator of the Bank Secrecy Act, to issue regulations regarding the sale, issuance, redemption, or international transport of stored value, including prepaid devices such as plastic cards, mobile phones, electronic serial numbers, key fobs and/or other mechanisms that provide access to funds that have been paid for in advance and are retrievable and transferable. After extensive study, FinCEN issued its notice of proposed rulemaking (NPRM) in 2010 which proposed new rules that would establish a comprehensive BSA/AML regulatory framework for non-bank stored value providers, which our proposal now refers to as “prepaid access.”

Under FinCEN’s proposal, non-bank providers of prepaid access would be subject to comprehensive BSA regulations similar to depository institutions. To make BSA reports and records valuable and meaningful, the proposed changes would impose obligations on a party responsible for predominant oversight and control, as well as others who might be in a position to provide meaningful information to regulators and law enforcement. Depository institutions would retain their existing AML obligations for most bank-issued prepaid cards. A final rule regulating prepaid access has been submitted to the Office of Management and Budget (OMB) for regulatory review.

5) *Has the Treasury Department focused attention on the method of storing terrorist funds in the housing market through the purchase of real estate? How does the department plan to address this method of laundering and storing terrorist funds?*

Sources of terrorist financing are wide ranging. It is possible that real estate could be used by terrorists to disguise funds or for investment; however, the increasing use of financial crime to fund terrorism suggests that terrorists spend rather than invest the funds available to them. Vulnerabilities in the housing market are known to have been exploited by organized crime, and there is ample evidence that professional intermediaries, including attorneys, accountants, notaries, and trust and company service providers, help criminals launder illicit proceeds using shell companies and complex transactions, including real estate transactions. The Financial Crimes Enforcement Network (FinCEN) has been working closely with the law enforcement community investigating mortgage fraud and has issued more than a dozen public reports. Also, in December 2010 FinCEN published a Notice of Proposed Rulemaking that would require non-bank residential mortgage lenders and originators, like other types of financial institutions, to establish anti-money laundering programs and file suspicious activity reports with FinCEN, which may be helpful in determining whether terrorist organizations are attempting to use real estate transactions to hold or move funds.

6) *Do you support efforts to close the loophole that allows U.S. Corporations to do business in Iran via foreign subsidiaries?*

Under current law, U.S. corporations are prohibited from “do[ing] business in Iran via foreign subsidiaries.” Our sanctions generally prohibit U.S. persons from doing business with sanctioned parties directly or indirectly, and that prohibition would include using a foreign subsidiary to circumvent sanctions. Sanctions on Iran separately prohibit foreign persons, including such foreign subsidiaries, from exporting U.S.-origin controlled goods, technology, or services from a third country with knowledge or reason to know that they are intended for Iran absent prior authorization. Furthermore, absent prior authorization, foreign persons are prohibited from exporting goods, technology, or services from the United States to Iran. For example, foreign subsidiaries cannot source goods from their parent in the United States for export to Iran. However, foreign-incorporated companies are not subject to U.S. sanctions on Iran contained in the Iranian Transactions Regulations solely on the basis of their status as subsidiaries of a U.S. company.

The Administration has approached private sector businesses -- including U.S. corporations that have foreign subsidiaries doing business in Iran -- to highlight the dangers of Iran’s illicit and deceptive practices. As a result of this outreach, many foreign subsidiaries have completely cut off or dramatically reduced their trade with Iran. The growing list of companies that have elected such a path includes firms in the banking, insurance, consulting, manufacturing, construction, and energy sectors, thereby increasing Iran’s economic isolation across nearly all major industries. We will continue to monitor this area closely.

7) *Is there evidence that the Iranian Central Bank is aiding the Iranian regime in facilitating proliferation and terrorism?*

Treasury has noted previously that the Central Bank of Iran and Iranian commercial banks have requested that their names be removed from international payment messages to make it more difficult for intermediary financial institutions to determine the true parties to the transaction, and we remain concerned that the Central Bank of Iran may be facilitating transactions for sanctioned Iranian banks.

8) *As the overseer of the Office of Foreign Asset Control, the entity licensing approved transactions with sanctioned countries, do you believe the current exceptions for food and medical exports to sanctioned countries, in the form of humanitarian aid, requires review? Section 105 of the Comprehensive Iran Sanction Accountability and Divestment Act provides sanctions for human rights abusers. How many individuals have been sanctioned? How many individuals does your office believe are eligible for sanctions?*

Reasonable people can debate whether certain items like chewing gum or salad dressing should be within the scope of the exemptions mandated by Congress to be approved for export pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000, but I do not believe that the export of a modest amount of food, medicine, and other humanitarian items undermines our ability to pressure the Iranian regime.

Indeed, our strategy of targeting Iran's government and not its people has generated broad international buy-in and is yielding remarkable results. Iran is facing dramatic financial isolation as governments and the private sector around the world shun business with its governmentally-affiliated companies and banks as a result of ever-tightening international sanctions. Where the Treasury Department has licensing discretion, it has exercised it carefully and strategically to exert the maximum pressure on sanctioned targets while preserving the efficacy of the overall sanctions program.

Ten individuals have been sanctioned under Executive Order 13553, which implements Section 105 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 ("CISADA"). Eight were named in the Annex to Executive Order 13553, and two were designated on February 23, 2011. While I cannot comment on possible future designations, pursuant to the obligations set forth in CISADA, and the ongoing political repression in Iran, Treasury is actively investigating targets who may be responsible for or complicit in serious human rights abuses in Iran for possible designation and will provide an updated report to Congress as required.

9) *Please provide an unclassified description of your understanding of the Islamic Republic of Iran's economic activity with the People's Republic of China.*

China has a robust trade relationship with Iran in legitimate goods and is likely now Iran's largest trading partner once indirect trade through third countries is taken into account. There is extensive bilateral trade and investment in the areas of mining, transportation, and consumer goods, but energy is central to the Iran-China economic relationship. Iran is the third-largest supplier of crude oil to China (though oil imports from Iran reportedly dropped 35 percent during the first half of 2010), and Chinese energy firms have signed several investment deals for developing Iran's oil and gas reserves during the last decade. The United States has emphasized to Chinese officials at the highest levels the importance of not backfilling firms cutting ties with Iran and of exercising restraint in China's dealings in the Iranian energy sectors. We have seen open source reports of a slowdown in China's activity in this area over the last year.

10) *Should publicly traded companies in the U.S. be required to self-disclose their business dealings with Iran to the SEC, including energy-related activities that violate ISA, banking correspondent relationships that violate CISADA, and relationships with both designated entities and entities on the ITR list? Should this disclosure requirement be extended to private companies in their IRS filings?*

Under existing legal and regulatory requirements, publicly traded companies in the United States are generally required to disclose certain material information, including probable material liabilities related to regulatory enforcement and other legal proceedings. I have not formed a view whether those disclosure obligations should be extended, either in SEC filings or in tax filings, but am interested in considering this issue further with Congress and my colleagues in the Administration, including the SEC and the IRS.

Senator John Cornyn

1) Mr. Cohen, Transnational Criminal Organizations operating in Mexico and Central America seek to deny government control and exert influence over large areas of Mexico, including communities close to the United States-Mexico border. These criminal organizations should be a top priority for the Office of Terrorism and Financial Intelligence.

• In January, General Michael Hayden, a former Central Intelligence Agency Director, described the crisis next door in Mexico as one of six national security challenges that would “keep him awake at night” if he were still in government. Do you believe that Transnational Criminal Organizations represent a major threat to the United States?

• Could you provide an assessment of the trends and methods used by these criminal organizations?

• What resources is your office currently devoting to these efforts?

• What resources and legislative authorities are needed to intensify and expand financial enforcement actions against Transnational Criminal Organizations?

Treasury assesses that Transnational Criminal Organizations (“TCO”) use a broad variety of means to move and launder illicit proceeds. Smuggling large quantities of cash in bulk is probably the most common method used to move illicit drug proceeds from the U.S. to Mexico. Some amount of cash is likely used to pay some TCO expenses even without being laundered, such as payments to fighters or the purchase of smuggled firearms. TCOs abuse the widespread use of the dollar to move illicit proceeds into the formal financial system for laundering via cash-intensive business or high-value cash purchases, such as real estate, automobiles, or jewelry; they also make use of more complicated trade-based money laundering schemes to both launder funds and return them to the drug suppliers elsewhere in the region.

TFI employs a multi-pronged approach to addressing the destabilizing influence of the Mexican drug cartels. This strategy emphasizes close collaboration with Mexico and is focused on targeted actions aimed at protecting the financial system from abuses by the cartels, information sharing and support for law enforcement, and capacity building by lending our expertise in combating illicit financial activities to counterparts in Mexico. Since 2000, the President has identified 38 Mexican Tier I Kingpins (29 individuals, 9 drug trafficking organizations) as Significant Foreign Narcotics Traffickers. From January 2002 to February 2011, OFAC has designated as Specially Designated Narcotics Traffickers more than 400 individuals (273) and entities (135) associated with Mexican drug cartels. Most recently, on February 23, OFAC designated more than 70 individuals and entities in the Cifuentes Villa drug trafficking and money laundering organization, a major Colombian-based supplier of cocaine to Mexico’s Sinaloa Cartel. Thanks to close collaboration between Treasury and its counterparts in Mexico and Colombia, many major banks in Mexico and Colombia terminated the accounts of these individuals and entities, thereby limiting their access to the financial system.

In addition, Treasury collaborates closely with other departments and agencies in the U.S. and Mexico to analyze cross-border cash flows to try to distinguish legitimate activity from drug money laundering and other illicit transactions, as well as to support financial aspects of

investigations by U.S. and Mexican law enforcement. Treasury also provides the Mexican government with training and technical assistance on how to conduct financial analysis and financial investigations, examination of financial institutions and certain Merida-supported IT investments.

2) Mr. Cohen, the National Money Laundering Strategy and Money Laundering Threat Assessment is the U.S. Government's major strategic planning effort aimed at disrupting and degrading the money laundering capabilities and financial networks of transnational criminal organizations and other illicit actors. The current strategy is almost four years old.

- **Do the goal and objectives outlined in the 2007 National Money Laundering Strategy align with the Administration's current goals and objectives?**
- **Does the Administration plan to update this strategy?**

The 2007 National Money Laundering Strategy outlines a framework for combating money laundering that emphasizes (i) financial transparency and strong AML regulations both domestically and globally, (ii) a focus not limited to the formal financial sector, but also encompassing all mechanisms of informal value transfer, including bulk cash and trade, and (iii) rigorous enforcement actions. Although we constantly adjust to evolving global circumstances and emerging money laundering methodologies, this framework remains at the center of our efforts.

3) Mr. Cohen, in June 2010, the Mexican government announced restrictions on cash deposits and withdrawals made in U.S. dollars. The restrictions may cause money launderers to divert drug proceeds elsewhere in the region or through other means. Dollarized countries such as Panama and Ecuador appear especially at risk.

- **What challenges do you foresee due to new restrictions in Mexico and how is Treasury adjusting its strategy?**
- **Could you discuss Treasury's capacity building efforts to assist the Government of Mexico in combating money laundering?**

Following the announcement of the new Mexican restrictions on U.S. dollar deposits on June 16, 2010, FinCEN issued an advisory to all U.S. financial institutions alerting of them of the restrictions and has worked closely with its Mexican counterparts to assess the restrictions' impact. Since the Mexican dollar restrictions were put in place, we have seen a statistically significant decrease in the volume of U.S. dollars being repatriated from Mexico. As reported in CTRs, currency repatriation from Mexican banks and licensed casas de cambio declined 64% in Q4 of 2010 compared to the same period in 2009 (representing an annual decline of 37% comparing year-end 2010 to 2009). At the same time, looking at CMIR reporting, we have observed a relative increase in the amount of cash imported from Mexico from non-bank filers. Treasury remains concerned about U.S. dollar deposits at U.S. financial institutions that are then returned to Mexico via wire transfer – an activity that occurred before the Mexican regulation – although the extent to which this activity has increased since the regulation took effect is unclear. Treasury and the Mexican Finance Ministry (Hacienda) – through the joint analytic efforts of our

respective financial intelligence units (FinCEN and the UIF) – and in collaboration with our respective financial regulatory authorities, continue to monitor U.S. dollar repatriations from Mexico and Central America in order to identify potential illicit patterns associated with this repatriation.

4) Mr. Cohen, FinCEN is developing regulations, as required by the Credit CARD Act of 2009, to address gaps in regulations related to the use of stored value for criminal purposes. FinCEN is considering several options to address the international transport of stored value. Regulatory gaps of cross-border reporting and other anti-money laundering requirements exist with the use of stored value cards, such as pre-paid cards.

• **Could you provide an update on this rulemaking, including a timeline of when FinCEN plans to complete these proposed regulations?**

The Department of the Treasury in 2004 identified the potential money laundering and terrorist financing vulnerabilities associated with certain new payment methods. The Treasury works closely with the payment card associations to ensure that their licensing rules for issuing banks includes explicit anti-money laundering policies and procedures. Similarly, Treasury worked with the federal banking agencies to develop guidance to the banking industry and examination procedures to ensure compliance. The Federal Financial Institutions Examination Council Anti-Money Laundering/Bank Secrecy Act Examination Manual now has a section devoted to describing the risks associated with “e-money,” risk mitigation strategies for banks, and guidance to examiners to ensure appropriate safeguards are in place.

In May 2008 FinCEN formally established a subcommittee within the Bank Secrecy Act Advisory Group (BSAAG) to focus on stored value issues. The BSAAG is a Congressionally-chartered forum that brings together representatives from the financial industry, law enforcement, and the regulatory community to advise FinCEN in its regulatory functions. The stored value subcommittee provides a comprehensive panel of experts available to consult on these issues and from whom a body of empirical information is regularly gathered and exchanged.

Section 503 of the Credit Card Accountability, Responsibility, and Disclosure (CARD) Act of 2009 directed FinCEN, as administrator of the Bank Secrecy Act, to issue regulations regarding the sale, issuance, redemption, or international transport of stored value, including prepaid devices such as plastic cards, mobile phones, electronic serial numbers, key fobs and/or other mechanisms that provide access to funds that have been paid for in advance and are retrievable and transferable. After extensive study, FinCEN issued its notice of proposed rulemaking (NPRM) in 2010 which proposed new rules that would establish a comprehensive BSA/AML regulatory framework for non-bank stored value providers, which our proposal now refers to as “prepaid access.”

Under FinCEN’s proposal, non-bank providers of prepaid access would be subject to comprehensive BSA regulations similar to depository institutions. To make BSA reports and records valuable and meaningful, the proposed changes would impose obligations on

a party responsible for predominant oversight and control, as well as others who might be in a position to provide meaningful information to regulators and law enforcement. Depository institutions would retain their existing AML obligations for most bank-issued prepaid cards. A final rule regulating prepaid access has been submitted to the Office of Management and Budget (OMB) for regulatory review.

5) I understand that FinCEN is concurrently developing a rule that would regulate the international transport of stored value.

• **What are the primary challenges with respect to cross-border reporting of prepaid access cards?**

The primary challenges associated with cross-border reporting of prepaid access cards as monetary instruments include: (i) distinguishing prepaid access cards from regular credit cards given that both share very similar attributes; (ii) overcoming technological and other obstacles to law enforcement identifying prepaid access devices and verifying the accessible value; and (iii) determining the extent to which a border declaration obligation should be restricted to the value immediately available to a prepaid access device at the time the device enters or leaves the country, or whether the declaration obligation should apply to the potential maximum value available via the prepaid access device.

• **Could you provide a timeline for when this rule will be issued?**

Treasury understands and appreciates the importance of establishing a border reporting regime for the international transport of prepaid access. While Treasury is expediting the process of preparing an NPRM, and is consulting with our law enforcement colleagues on a draft, it would be premature to project a specific date for issuing a final rule until the NPRM has been cleared by OMB. However, our intention is to issue an NPRM on a cross-border transport reporting requirement as contemporaneously as possible with the issuance of the final prepaid access rule.

Questions of Senator John Thune**CHINA AND TRANSFER OF PROLIFERATION-SENSITIVE MATERIAL TO IRAN:**

In remarks at the Carnegie Endowment for International Peace on March 9, 2011, Bob Einhorn of the State Department said, "we continue to have concerns about the transfer of proliferation-sensitive equipment and materials to Iran by Chinese companies, there is substantial evidence that Beijing has taken a cautious, go-slow approach toward its energy cooperation with Iran."

- (1) Iran continues to be a serious threat to the U.S. and the stability of the Middle East. Can you elaborate on how Treasury is responding to Mr. Einhorn's recent statements that China continues to facilitate the transfer of proliferation-sensitive equipment to Iran?*

I share Mr. Einhorn's concern about China. Treasury has been and will continue to engage the Chinese government about China's vulnerability to Iranian proliferation-sensitive activities. China voted in support of the adoption of UNSCR 1929, and we expect that China will live up to its obligations to implement fully the United Nations-mandated sanctions on Iran.

- (2) What other countries are of greatest concern that are supporting Iran's nuclear program?*

While I am unable to identify in a public document particular countries of concern, Treasury will continue to target Iran's proliferation-sensitive activities through the robust application of the full range of tools at Treasury's disposal.

- (3) If confirmed, what policy guidance or advice would you provide in order to prevent a nuclear capable Iran?*

Learning from the successes we have had to date in applying targeted financial measures, I would advocate for continued use of financial pressure to hold Iran accountable for its failure to meet its international obligations. This includes the appropriate, robust and enhanced use of Treasury authorities to counter Iran's nuclear proliferation activities.

ENFORCEMENT OF SANCTIONS AGAINST IRAN: PETROLEUM EXPORTS TO IRAN:

The Government Accountability Office (GAO) released a report (GAO-10-967R – Exporters of Refined Petroleum Products to Iran) that identified 16 companies that sold petroleum products to Iran between Jan. 1, 2009 and June 30, 2010. Of those 16, GAO reported that five have shown no signs of curtailing business with Iran. Under the Iran Sanctions Act, the President is required to impose sanctions against persons who knowingly

sell or provide refined petroleum products to Iran. These sanctions include barring foreign firms from U.S. government procurement.

(1) What actions is Treasury taking to prevent countries, companies, or banks from supporting or investing in Iran's petroleum industry?

The Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) gives the State Department the primary responsibility to implement its energy-related provisions; Treasury plays a consultative role in the process. With regard to those authorities over which Treasury has primary implementation authority, since the adoption of UNSCR 1929, Treasury has identified, pursuant to the Iranian Transactions Regulations (ITR), 44 entities in the banking, investment, mining, engineering, insurance, energy, petroleum, and petrochemical industries determined to be owned or controlled by the Government of Iran.

IRAN'S EXPANDING INFLUENCE IN LATIN AMERICA:

In recent statements before the Senate Armed Services Committee, General Douglas Fraser, the Commander of U.S. Southern Command, noted that Iran is increasing its ties in Latin America beyond Venezuela. He said that "Iran continues expanding regional ties to support its own diplomatic goal of reducing the impact of international sanctions connected with its nuclear program." Moreover, General Fraser noted, "There are flights between Iran and Venezuela on a weekly basis, and visas are not required for entrance into Venezuela or Bolivia or Nicaragua.

(1) Is Treasury monitoring or deterring Iran's influence within Latin America and is this information being shared with U.S. Southern Command?

Treasury continues to monitor Iran's attempts to evade sanctions throughout the world, including in Latin America, and we are working closely with other agencies of the U.S. government in this effort, including U.S. Southern Command.

(2) In your opinion, what are the long-term implications of Iran's influence and funding operations in Latin America?

We will continue to work both unilaterally and with our partners to ensure a vigorous international sanctions framework that prevents Iran from evading sanctions, including by seeking new places to gain access to the international financial system.

TREASURY'S EFFORTS TO NEUTRALIZE AL QAIDA IN THE ARABIAN PENINSULA:

Treasury has been a critical and often times quiet partner in the fight against al Qaida and other violent extremist organizations, especially in the Afghanistan and Pakistan region.

(1) To what extent has Treasury worked with the Yemen government or other international partners to neutralize al Qaida in the Arabian Peninsula?

Treasury has worked with foreign counterparts to support targeted financial measures against AQAP facilitators. We also share information with our international partners regarding AQAP where appropriate.

(2) With the current unrest in Yemen, how has this affected our counterterrorism efforts in Yemen?

I would defer to other agencies, including the National Security Staff, regarding the impact of unrest in Yemen on the USG's broad counterterrorism efforts. Despite recent unrest, Treasury will continue to consider financial sanctions targeting AQAP financial nodes where appropriate.

(3) Does Treasury have a plan if the Yemen government falls and can you elaborate on this plan?

Should the Yemeni government fall, Treasury will work with other agencies and departments, as well as with the National Security Staff, to evaluate the situation and determine what actions are appropriate.

April 2011 Nomination of David S. Cohen
Supplemental Questions for the Record
From Senator Charles Grassley
To David S. Cohen

Prepaid access card regulations

Criminals have exploited the fact that prepaid access cards are unregulated; moreover, they have used these cards to facilitate money laundering and bulk cash smuggling across the United States border. As previously stated, prepaid access cards are not currently defined as a financial instrument and thus they are not reportable under current reports of International Transportation of Currency and Monetary Instrument Reports (CMIRs). The United States Treasury, and more specifically the Financial Crimes Enforcement Network (FinCEN), has failed to establish the anti-money laundering rules that were mandated by the Credit Card Accountability Responsibility and Disclosure Act of 2009.

1. I previously asked that if you were “unable to disclose the date of enactment for prepaid access card regulations, can you describe why it has taken so long to enact these regulations” I also asked you “why did the U.S. Treasury disregard the deadline as mandated by law?”

Your response to these questions was “N/A.” You responded to another, related question that the final rule regulating prepaid access cards has been submitted to the Office of Management and Budget (OMB). Neither of these answers addresses the specific questions.

Therefore, I ask that you specifically answer the questions which are:

- a) Describe why it has taken so long to enact these regulations, and
- b) Why did the U.S. Treasury disregard the deadline as mandated by law?

ANSWER:

Regulating the use of non-bank-issued prepaid access requires the careful balancing of law enforcement imperatives against the important goal of ensuring that the marketplace in new payment methods is not unduly burdened or distorted by regulation. Notwithstanding the complexity involved in crafting a workable rule in this rapidly developing field, I was disappointed that FinCEN’s Notice of Proposed Rulemaking (NPRM) proposing a new regulatory framework for non-bank-issued prepaid access devices was not published until June 2010, several months after the deadline set by the Credit Card Accountability Responsibility and Disclosure Act of 2009 for a final rule had passed. Accordingly, just a few days after I became the Acting Under Secretary (and acquired supervisory responsibility for FinCEN), I called a

meeting with the team responsible for drafting the prepaid access rule and FinCEN's senior managers to inquire about their progress. Although the team had been working diligently and in good-faith on finalizing the rule, I made clear to the FinCEN team that the rule needed to be completed urgently. A final rule regulating prepaid access has now been submitted to the Office of Management and Budget (OMB) for regulatory review, and I am hopeful that it will be published soon in the Federal Register.

2. I previously asked how the U. S. Treasury defines prepaid access cards and whether you view them as an access device or as a monetary instrument.

You responded by stating that the “definition of monetary instrument under Title 18 is not applicable to the term as it is used in the Bank Secrecy Act (BSA)” and that “there is sufficient statutory authority under the BSA to include them within the regulatory definition of monetary instruments as appropriate.”

Prepaid access cards are currently unregulated because the U.S. Treasury failed to issue regulations for prepaid access cards within the parameters of the Bank Secrecy Act (BSA) and the Credit Card Accountability Responsibility and Disclosure Act of 2009. Because they are still unregulated, criminals often use them to facilitate money laundering and bulk cash smuggling. There are currently two places in the law that defines “monetary instrument”: Title 31 U.S.C. § 5312(a) (3) and Title 18 U.S.C. § 1956.

- a) Do you think it is important to have a consistent definition in the law of what defines a prepaid access card?**
- b) Do you think it is important to have a consistent definition of a monetary instrument in both Title 31 U.S.C. § 5312(a) (3) and Title 18 U.S.C. § 1956?**

ANSWER:

To clarify, bank-issued prepaid access cards – which account for a significant portion of the prepaid card market – are currently covered by regulations issued under the BSA. These regulations impose customer identification, recordkeeping and transaction reporting obligations on the issuing bank in certain circumstances. The final rule governing prepaid access cards that is currently under review by OMB creates generally comparable obligations for key market participants in addition to banks.

With respect to the definition of “prepaid access,” that term will be defined in the final rule on prepaid access that is currently under review by OMB. To my knowledge, that is the only place in U.S. law (statutes or regulations) where the term is defined.

With respect to the definition of “monetary instrument,” the definitions under Title 18 and Title 31, while similar, serve different purposes. Section 1956 of Title 18 defines the crime of money laundering, and its definitions are geared to prosecutions for that criminal offense. By contrast, Title 31 provides the Department of the Treasury the authority to implement the Bank Secrecy Act and gives the Secretary broad discretion to protect the United States financial system from risks, irrespective of criminal liability; the broad definition of “monetary instrument” in Section 5312(a)(3) helps the Secretary fulfill this responsibility. Because Titles 18 and 31 are designed to accomplish different goals, I do not believe it is necessary for the definition of the term “monetary instrument” to be identical in each Title.

- 3. You further state in your response that “there is sufficient statutory authority under the BSA to include them [prepaid access cards] within the regulatory definition of monetary instruments as appropriate.” While prepaid access cards are a beneficial tool for American consumers, they are also being used to facilitate crime.**
- a) Does the U.S. Treasury deem it appropriate to include “prepaid access cards” within the regulatory framework of FinCen regulations now?**
 - b) If not now, why not?**
 - c) If not now, when is the appropriate time for inclusion of prepaid access cards into FinCEN regulations?**
 - d) Please provide a specific date for the inclusion.**

ANSWER:

I do believe that it is appropriate to include prepaid access cards within FinCEN regulations now, and the final rule that is currently with OMB for interagency clearance would bring non-bank-issued prepaid access cards within FinCEN’s regulatory framework.

With respect to whether prepaid access cards should be brought within FinCEN’s regulations of monetary instruments, i.e., the declaration requirement at the border, I also believe that it would be appropriate to include prepaid access cards within the regulatory framework. To that end, at my direction FinCEN has been expediting the rulemaking process with respect to reporting the international transport of prepaid access. We have been consulting closely on a draft NPRM with the Department of Homeland Security, and intend to issue the NPRM on a cross-border transport reporting requirement as soon as possible.

Follow up questions for Assistant Secretary Cohen from Senator Kyl

General

1) Given the importance of the work of TFI, specifically the pressing threat posed by the Islamic Republic of Iran (IRI), the Democratic People's Republic of Korea (DPRK), and terrorist groups, it is important that you hit the ground running on day one, if you are confirmed. Are you ready for that? What is your plan of attack on the IRI? The DPRK? What was it that made Under Secretary Levey so successful both in terms of internal U.S. government activity and external relations with foreign governments and banks?

As Assistant Secretary for Terrorist Financing and Stuart Levey's former deputy, I have spent the last two years at Treasury leading policy development and implementation for TFI, including our Iran and North Korea strategies, which ensures a seamless transition following former Under Secretary Levey's departure on February 25. We believe that this is what national security transitions should look like.

2) In the event of a dispute between the Treasury Department and the Department of State – or the CIA or NSC for that matter – concerning the timing of a designation of entities found to be in violation of U.S. sanctions laws and regulations, is it clear under current guidance which department would prevail, and if so, which one would prevail?

The National Security Council oversees interagency discussions on national security matters, including action to combat illicit activity, and Treasury maintains close working relationships with its interagency partners in these efforts. Multiple considerations influence decisions over what tools the United States chooses to apply and how and when those tools – such as designations – are employed. Operational and diplomatic factors, as well as potential law enforcement or intelligence community equities, play a role and are weighed depending on the specific circumstances of the issue at hand. The deliberative interagency process is effective in identifying the views and equities among various departments and agencies, assessing the relevant considerations at play, and determining the appropriate path forward. That said, we at the Treasury Department take very seriously our responsibilities to protect the U.S. financial system from abuse by illicit actors and our responsibility as regulators, and we are very much aware of the importance of our tools in disrupting illicit activity and advancing our national security and foreign policy objectives. Our tools are unique and often critically effective.

3) How will you handle situations when the Treasury Department believes an entity should be sanctioned because it has carried out illicit activities and the State Department believes those sanctions will undermine its normal diplomacy?

As stated in the response to question #2, several considerations influence the designation process and are weighed depending on the specific circumstances of the case in question. The interagency process overseen by the National Security Council is effective in reconciling views among various departments and agencies and determining the appropriate path forward.

4) Please describe your understanding of the differences in sanctions regimes enforced by Treasury on the Islamic Republic of Iran (IRI) and the Democratic People's Republic of North Korea (DPRK).

Each sanctions program administered by the Treasury Department is separate from, and independent of, other sanctions programs. Foreign policy and national security considerations often vary between sanctions programs, demanding the application of different sanctions measures or resulting in a differing interpretation or application of similar measures.

With respect to Iran and North Korea, Treasury's sanctions programs differ in part due to the particular circumstances of the two nations in question. Until recently, Iran was highly integrated into the global economy, and it still controls significant oil and gas resources. In contrast, North Korea is largely isolated from the global economy and engages in only very limited trade transactions.

One significant point of similarity in Treasury's approach to the challenges posed by Iran and North Korea is our use of authorities under Executive Order (E.O) 13382, which is aimed at freezing the assets of proliferators of weapons of mass destruction (WMD) and delivery systems, and their supporters, thereby isolating them from the U.S. financial and commercial system. Specifically, we have used E.O. 13382 to designate Iranian, North Korean, and third-country individuals and entities that play key roles in these countries' proliferation networks, including individuals and entities that have provided financial, material, technological, or other support for, or goods or services in support of, proliferation activities or persons designated in connection with WMD-proliferation activities, or that are owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, designated persons.

With respect to North Korea, on August 30, 2010, President Obama signed Executive Order 13551 expanding sanctions against North Korea to target that government's continued involvement in a wide range of illicit activities in defiance of UN Security Council Resolutions (UNSCRs) 1718 and 1874 and other international norms. E.O. 13551 provides the authority for the Secretary of the Treasury, in consultation with the Secretary of State, to designate for blocking persons (*i.e.*, individuals and entities) engaging in or facilitating North Korean trafficking in and manufacturing of arms and related materiel; procurement of luxury goods; and illicit economic activities, such as money laundering, the counterfeiting of goods and currency, bulk cash smuggling, and narcotics trafficking.

With respect to Iran, on July 1, 2010, the President signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA). Specifically, subsection 104(c) of CISADA required Treasury to issue regulations to prohibit or impose strict conditions on the opening or maintaining in the United States of correspondent accounts or payable-through accounts for foreign financial institutions found to knowingly engage in certain sanctionable activities related to Iran. Subsection 104(d) of CISADA required Treasury to issue regulations to prohibit any person owned or controlled by a U.S. financial institution from knowingly engaging in transactions with or benefitting from Iran's Islamic Revolutionary Guards Corps (IRGC) or any of its agents or affiliates whose property and interests in property are blocked under the International Emergency Economic Powers Act (IEEPA). On August 16, 2010, Treasury issued

the Iranian Financial Sanctions Regulations to implement subsections 104(c) and 104(d) of CISADA.

5) In CISADA, the Congress added significant new work to TFI's existing portfolio, but not new resources. Would additional resources aid TFI in executing its mission?

TFI supports the President's budget and appreciates the support that it continues to receive from Congress. Since CISADA was signed into law on July 1, 2010, the Treasury Department's Office of Foreign Assets Control (OFAC) has devoted resources to ensure that the provisions of CISADA administered by OFAC are fully implemented. Due to the dynamic nature of its mission and limited resources, OFAC must be flexible when it comes to resource planning and allocation. In response to changes in foreign policy, OFAC is regularly able to rededicate staff from one set of priorities to another as circumstances dictate.

6) TFI has to struggle to keep up with an environment where entities and persons designated for violation of U.S. sanctions laws are constantly creating new front companies and names to evade designations. How can Congress aid TFI in keeping up with this problem?

Sanctions programs are by their nature dynamic. TFI is very experienced at deploying its assets as needed to reflect both changing national security priorities and constantly maneuvering targets. As sufficient and credible information is developed, OFAC continues to designate individuals and entities. Once individuals and entities are designated, TFI does not stop monitoring our targets. At this time, TFI has not identified a specific legislative need, but we appreciate the offer and will ask for help when needed.

7) Does the Department have information concerning the affiliations of the Turkish NGO IHH that would support a designation of the organization under Executive Order 13224?

As a matter of long-standing policy, Treasury does not comment on possible or pending investigations or enforcement actions.

8) Given the addition of new responsibilities for TFI, specifically in CISADA, I am concerned that the bureau is being forced to "rob Peter to pay Paul." Are there metrics that show resources have not been taken away from TFI's mission to also deal with terrorist finance, specifically al Qaeda in the Arabian Peninsula (AQAP) and the Taliban? As you know, the intelligence community believes AQAP is the leading threat for an attack on the United States.

CISADA has not been in place long enough for Treasury to effectively compare the resources devoted to implementing other programs in relation to resources devoted to implementing the Treasury-administered provisions of CISADA. We view CISADA as a natural outgrowth of our vigilant activity with respect to Iran. In particular, it builds upon pre-existing efforts to disrupt Iranian weapons of mass destruction and terrorism related activities. Similarly in the compliance realm, CISADA implementation efforts merge with pre-existing efforts and with those of other programs. Treasury's ongoing outreach programs now include discussions of CISADA-related

matters. During the case development process, Treasury enforcement and compliance officers now review suspect financial transactions with CISADA in mind, in addition to Treasury's other programs. Treasury is very experienced at quickly realigning resources when new programs require short-term resource "surges," and we have not retreated at all in our efforts to combat terrorist financing.

9) Will you pledge to make yourself, and those who work for you, available on a regular basis, as requested by Senators and staff, for updates on the activity of TFI?

Yes, my staff and I are fully committed to continuing to work collaboratively with Senators and their staff, including being available for updates on TFI's activities.

10) What is the mission of the Office of Terrorist Finance and Financial Crimes (TFFC)? In an era of tough budget decisions and austerity, does it make sense to reduce lower priority expenditures in favor of higher priority missions such as TFI's designation function and the Office of Intelligence and Analysis?

TFFC performs an essential function within TFI. It is the national security policy office within the Department, and fulfills an indispensable role in developing and coordinating policies that protect the U.S. and international financial systems from abuse related to money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction. The effectiveness of designations is dependent on the application of a range of systemic anti-money laundering and counter-terrorist financing safeguards, including financial institution customer identification procedures, transaction monitoring, and reporting obligations. TFFC staff also are subject matter experts who develop strategies — both for the U.S. and the international community — to combat threats and vulnerabilities related to terrorist financing, WMD proliferation, money laundering, and other financial crimes. For example, TFFC leads the U.S. delegation to the Financial Action Task Force, the premier international body dedicated to setting anti-money laundering and counter-terrorist financing standards and working toward their global adoption and implementation. TFFC also holds the lead responsibility within TFI for bilateral and multilateral outreach, through which the Office encourages robust implementation of international sanctions, engages foreign governments and the private sector on U.S. measures, highlights the risks posed by illicit financial activity, and pushes aggressively for the necessary steps to be taken to control those risks. Such outreach has been a particularly critical component of our Iran policy and efforts to combat the financing of terrorism in recent years.

Iran

11) Do you support efforts to close the loophole that allows U.S. corporations to do business in Iran via foreign subsidiaries?

Under current law, U.S. corporations are prohibited from "do[ing] business with Iran via foreign subsidiaries." Our sanctions generally prohibit U.S. persons from doing business with sanctioned parties directly or indirectly, and that prohibition would include using a foreign subsidiary to circumvent sanctions. Sanctions on Iran separately prohibit foreign persons, including such foreign subsidiaries, from exporting U.S.-origin controlled goods,

technology, or services from a third country with knowledge or reason to know that they are intended for Iran absent prior authorization. Furthermore, absent prior authorization, foreign persons are prohibited from exporting goods, technology, or services from the United States to Iran. For example, foreign subsidiaries cannot source goods from their parent in the United States for export to Iran. However, foreign-incorporated companies are not subject to U.S. sanctions on Iran contained in the Iranian Transactions Regulations solely on the basis of their status as subsidiaries of a U.S. company.

The Administration has approached private sector businesses -- including U.S. corporations that have foreign subsidiaries doing business in Iran -- to highlight the dangers of Iran's illicit and deceptive practices. As a result of this outreach, many foreign subsidiaries have completely cut off or dramatically reduced their trade with Iran. The growing list of companies that have elected such a path includes firms in the banking, insurance, consulting, manufacturing, construction, and energy sectors, thereby increasing Iran's economic isolation across nearly all major industries. We will continue to monitor this area closely.

12) Section 104 of the Comprehensive Iran Sanctions Accountability and Divestment Act (CISADA) requires the Secretary of the Treasury to prohibit or impose strict conditions on the opening or maintaining of accounts for foreign financial institutions that he finds knowingly engage in certain activities related to Iran. Will you strictly enforce this provision? What factors will you use to determine whether to prohibit such accounts or merely impose strict conditions on the accounts?

Consistent with our authorities under CISADA, Treasury will strictly apply subsection 104(c) to those foreign financial institutions found to knowingly engage in the specified activities related to Iran. As described in the regulations implementing Section 104(c) and (d), the factors used to determine whether to prohibit or impose strict conditions on the opening or maintaining of correspondent accounts or payable-through accounts in the United States for foreign financial institutions will vary on a case-by-case basis.

13) The Treasury Department's 2010 annual report states that under the Iranian Financial Sanctions Regulations, "the Secretary of the Treasury may prohibit or impose strict conditions on opening or maintaining accounts with foreign financial institutions that he finds knowingly engage in certain activities related to Iran." The law, however, clearly states the Secretary "shall prescribe regulations to prohibit" such activity. If confirmed, how will you interpret this statute? Do you believe it is merely advisory in nature, or does it impose a requirement on the Treasury Department?

Subsection 104(c) of CISADA required the Secretary, within 90 days of the enactment of CISADA, to issue regulations to prohibit or impose strict conditions on the opening or maintenance of correspondent or payable-through accounts for foreign financial institutions found to knowingly engage in certain activities related to Iran. Treasury issued the required implementing regulations in half the time required by the statute. Since the enactment of CISADA, we have been engaged in extensive and coordinated outreach both to foreign governments and to specific foreign financial institutions to ascertain whether they are providing

financial services to Iran that are governed by subsection 104(c). Ensuring that foreign financial institutions do not provide such financial services has been a goal of the Department, and the risk of sanctions under subsection 104(c) has proved to be a powerful incentive for foreign financial institutions to alter their behavior.

In stating that the Secretary “may” prohibit or impose strict conditions on the U.S. correspondent or payable-through accounts of foreign financial institutions that are found to knowingly engage in the sanctionable activities, the 2010 annual report acknowledges that subsection 104(f) of CISADA allows for a waiver of the application of a prohibition or condition if the Secretary determines that a waiver is necessary to the national interest and submits a report to the appropriate Congressional committees.

14) Last October, the Federal Reserve Bank of Chicago and the Office of the Comptroller of the Currency ordered HSBC North America to dramatically increase its oversight of its correspondent banking unit due to inadequate risk management procedures. Under CISADA, the Secretary of the Treasury is required to prescribe regulations that require U.S. banks that maintain foreign correspondent accounts to have an audit or certification requirement that neither they, nor their correspondents abroad, are servicing designated Iranian banks. These regulations have not been issued. Why have these regulations not been issued? If confirmed, will you make it a priority to issue these regulations and ensure bank compliance?

A notice of proposed rulemaking implementing section 104(e) is currently in interagency clearance with the Office of Management and Budget. While I cannot predict precisely when it will be published, I expect to issue the NPRM shortly.

15) In terms of the human rights sanctions authorized and required by the McCain amendment to CISADA (specifically, section 105), the Administration has thus far designated only 8 persons for sanction. Are there only eight persons in the Iranian regime involved in human rights abuses?

With the signing of Executive Order 13553, the President identified eight Iranian government officials who we believe were responsible for or complicit in serious human rights abuses against people in Iran. Two additional officials (Tehran’s Prosecutor General and the commander of the IRGC’s Basij forces) were designated on February 23. While Treasury cannot comment on possible future designations in this context, the U.S. will continue to take action under the Executive Order to address serious human rights abuses by Iranian officials or persons acting on behalf of the Government of Iran.

16) Is there evidence that the Iranian Central Bank is aiding the Iranian regime in facilitating proliferation and terrorism?

Treasury has noted previously that the Central Bank of Iran and Iranian commercial banks have requested that their names be removed from international payment messages to make it more difficult for intermediary financial institutions to determine the true

parties to the transaction, and we remain concerned that the Central Bank of Iran may be facilitating transactions for sanctioned Iranian banks.

17) What are your views on sanctioning Iran's export of petroleum, similar to Congress' sanction of refined petroleum imports to the IRI?

Treasury, along with our interagency colleagues, is examining steps to increase pressure on Iran, but cannot comment on any potential future actions in this context.

18) Is there evidence of IRGC involvement in the IRI's export of petroleum resources?

The IRGC is a key target of U.S. and international sanctions. The United States, European Union, Japan, and South Korea have designated the IRGC in its entirety, and the UN Security Council has designated most of the major companies controlled by the IRGC and several of its senior officers. Because of consistent pressure from sanctions and Iran's growing inability to attract and retain foreign investment, the Iranian government has increasingly turned to the IRGC and its affiliates (such as its engineering company, Khatam al-Anbiya) for key economic projects, including the development of petroleum resources. Treasury continues to explore the IRGC's involvement in the Iranian economy and will consider all available tools to address identified Iranian illicit activity.

19) Is there evidence of IRGC ownership and personnel being active in the National Iranian Tanker Company, reportedly the third-largest oil tanker company in the IRI?

As noted in the response to question #18, Treasury continues to explore IRGC involvement in all parts of the Iranian economy and will aggressively pursue identified entities engaged in sanctionable activities.

20) What are the risks to the Indian central bank and other Indian banks of conducting financial transactions with the Hamburg-based EIH bank?

Like any foreign financial institution, if the Indian central bank or a private Indian bank engages in significant transactions with EIH, a designated bank under CISADA, they would be subject to sanction under subsection 104(c) of CISADA.

21) Please describe your understanding of the IRI's economic activity with the People's Republic of China. Please provide an unclassified response.

China has a robust trade relationship with Iran in legitimate goods and is likely now Iran's largest trading partner once indirect trade through third countries is taken into account. There is extensive bilateral trade and investment in the areas of mining, transportation, and consumer goods, but energy is central to the Iran-China economic relationship. Iran is the third-largest supplier of crude oil to China (though oil imports from Iran reportedly dropped 35 percent during the first half of 2010), and Chinese energy firms have signed several investment deals for developing Iran's oil and gas reserves during the last decade. The United States has emphasized to Chinese officials at

the highest levels the importance of not backfilling firms cutting ties with Iran and of exercising restraint in China's dealings in the Iranian energy sectors. We have seen open source reports of a slowdown in China's activity in this area over the last year.

22) Please describe your understanding of the IRI's economic relationship with Venezuela.

We are aware of the growing relationship between Venezuela and Iran, including limited but increased business and trade ties, and we are monitoring this relationship closely. In 2008, Treasury designated the Export Development Bank of Iran (EDBI) for providing or attempting to provide financial services to Iran's Ministry of Defense for Armed Forces Logistics (MODAFL), an entity designated by the United States in 2007, and also designated Banco Internacional de Desarrollo, an EDBI subsidiary located in Venezuela. We have also seen press reports that Iran and Venezuela have launched a joint development bank. Treasury is actively looking into this matter and remains vigilant to any transactions which might violate existing U.S. or international sanctions against Iran, or that might be sanctionable under CISADA. We expect Venezuela to comply with its international obligations under UNSCR 1929, and we will not hesitate to hold accountable those found to be engaged in sanctionable activities.

23) Are there Malaysian banks under investigation for their financial activity with the IRI?

24) Are there Turkish banks under investigation for their financial activity with the IRI?

25) Are there Swiss banks under investigation for their financial activity with the IRI?

26) Are there Chinese banks under investigation for their financial activity with the IRI?

As a matter of long-standing policy, Treasury does not comment on possible or pending investigations or enforcement actions, but we remain vigilant to any transactions that might violate existing U.S. or international sanctions against Iran, including sanctions under CISADA. We will not hesitate to hold accountable those found to be engaged in sanctionable activities.

27) Should publicly traded companies in the U.S. be required to self-disclose their business dealings with Iran to the SEC, including energy-related activities that violate ISA, banking correspondent relationships that violate CISADA, and relationships with both designated entities and entities on the ITR list? Should this disclosure requirement be extended to private companies in their IRS filings?

Under existing legal and regulatory requirements, publicly traded companies in the United States are generally required to disclose certain material information, including probable material liabilities related to regulatory enforcement and other legal proceedings. I have not formed a view whether those disclosure obligations should be extended, either in SEC filings or in tax filings, but am interested in considering this issue further with Congress and my colleagues in the Administration, including the SEC and the IRS.

North Korea**28) What are the main sources of revenue for the DPRK? How does the DPRK move this revenue through the global financial system?**

In addition to legitimate trade in raw materials, goods, and services, North Korea engages in a range of illicit activities aimed at generating revenue, such as the counterfeiting of goods and currency, bulk cash smuggling, and narcotics trafficking. Treasury targets entities and individuals who facilitate these activities, as is evidenced by the August 30, 2010 designation of Office 39 of the Korean Workers' Party¹ under E.O. 13551, and the November 18, 2010 designation of Korea Daesong Bank and Korea Daesong General Trading Corporation for being owned or controlled by Office 39. While North Korea uses mechanisms such as front companies, cash couriers, and non-transparent banking activities to attempt to avoid sanctions and move money through the global financial system, Treasury will continue to use its authorities to target and disrupt the financial networks of entities and individuals involved in North Korean proliferation and other illicit activities, including those whose mandate is to secure revenue to support North Korea's ballistic missile, nuclear, and other WMD proliferation-related activities.

29) According to the U.S. Geological Survey, mined minerals and mineral products are a primary support for the DPRK's military expenses. Are there tools at the disposal of the Treasury Department to make it more difficult for North Korea to export mined minerals and mineral products to raise revenue for the regime's military expenses?

Under E.O. 13551, Treasury has the authority, in consultation with the Department of State, to designate for blocking individuals and entities engaging in or facilitating North Korean trafficking in and manufacturing of arms and related materiel; procurement of luxury goods; and illicit economic activities, such as money laundering, the counterfeiting of goods and currency, bulk cash smuggling, and narcotics trafficking. E.O. 13551 supplements sanctions that target North Korea's WMD programs under E.O. 13382. U.S. persons are generally prohibited from conducting financial or commercial transactions with individuals and entities designated pursuant to these authorities and any assets the designees may have under U.S. jurisdiction are frozen. To the extent that Treasury is able to designate North Korean entities in the mined minerals and mineral products sectors under these authorities, the ability of such entities to make use of the international financial system in connection with export transactions, particularly dollar-denominated transactions, would be hindered.

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- ¹ Office 39 is a secretive branch of the government of North Korea that provides critical support to North Korean leadership in part through engaging in illicit economic activities, managing slush funds and generating revenues for the leadership. Office 39 controls a number of entities inside North Korea and abroad through which it conducts numerous illicit activities including the production, smuggling and distribution of narcotics, and has also been involved in the attempted procurement and transfer to North Korea of luxury goods.

30) Is there evidence that the DPRK meets the statutory requirements to be designated as a “jurisdiction of concern” under Section 311 of the USA-PATRIOT Act?

As a matter of long-standing policy, Treasury does not comment on possible or pending investigations or enforcement actions.

31) According to the Department of State’s “Report on Trafficking in Persons” for 2010, North Korea exports slave labor to countries in Africa, Central and Eastern Europe (including Russia), East and Southeast Asia and the Middle East. The salaries earned by these slave laborers are deposited into accounts controlled by the DPRK government, which keeps most of the money. Is it reasonable to expect these funds are used by the DPRK regime to finance its illegal nuclear weapons activities or its ballistic missile programs? Are these accounts held in banks that do business in the United States? Does TFI have statutory or rulemaking authority to seize these accounts? Has TFI moved to seize these accounts?

The North Korean government uses deceptive financial practices to obscure the true nature of its financial dealings in order to make it difficult for responsible banks and governments to distinguish legitimate from illegitimate North Korean transactions. Treasury has warned U.S. banks that there is an increased likelihood that correspondent accounts held for North Korean financial institutions, as well as their foreign branches and subsidiaries, may be used to hide illicit conduct and related financial proceeds in an attempt to circumvent existing sanctions. Treasury has also issued guidance to U.S. banks through FinCEN, advising them to apply enhanced scrutiny to correspondent accounts they maintain, including with respect to transaction monitoring, to ensure that they are not providing financial services for North Korean illicit conduct. Treasury will continue to aggressively target and disrupt the financial networks of entities and individuals involved in North Korean proliferation of ballistic missile, WMD, and nuclear materials using E.O. 13882 and E.O. 13551.

As a matter of long-standing policy, Treasury does not comment on possible or pending investigations or enforcement actions.

32) Please describe your understanding of the DPRK’s economic activity with the People’s Republic of China. Please provide an unclassified response.

China is North Korea’s most important trade partner, and Chinese assistance and trade are critical to North Korea’s stability. China accounts for nearly half of North Korea’s imports and about a third of its exports, and trade statistics indicate that North Korean economic dependence on China continues to grow, as trade between North Korea and China increased 32 percent on-year to \$3.46 billion in 2010. Furthermore, in 2009, North Korea had an overall trade deficit of \$1.3 billion, \$1.1 billion of which was with China. These numbers, along with Chinese investment in the development of North Korea’s ports and other industries, are indicative of China’s importance as a trade partner to North Korea.

33) The United States has sanctions on the Korean Mining and Development Corporation (KOMID), a significant exporter of the DPRK’s mined minerals. Is there any evidence that

other North Korean mined minerals exporters are involved in the country's proliferation activities or are providing revenues of their exports to the North Korean military?

Treasury has no information about KOMID's role in exporting mined minerals. KOMID was listed in the Annex to E.O. 13382 for its role as North Korea's main arms dealer and exporter of goods and equipment related to ballistic missiles and conventional weapons, and its property and interests in property are therefore blocked. As a matter of long-standing policy, Treasury does not comment on possible or pending investigations or enforcement actions.

34) Has TFI designated all known front companies and entities of the DPRK's Office 39?

As a matter of long-standing policy, Treasury does not comment on possible or pending investigations or enforcement actions, but it is reasonable to expect that we are always looking for as yet unidentified targets. Thus far we have listed 2 entities related to Office 39. (On November 18, 2010, OFAC designated Korea Daesong Bank and Korea Daesong General Trading for being owned or controlled by Office 39.) As with any sanctions program, the work is ongoing as our adversaries try to adjust to our designations with new front companies, etc. We will list other entities related to Office 39's activities as we develop sufficient, credible information.

**STATEMENT OF HON. ORRIN G. HATCH, RANKING MEMBER
U.S. SENATE COMMITTEE ON FINANCE HEARING OF APRIL 7, 2011
NOMINATIONS OF DAVID S. COHEN AND JENNI RANE LeCOMPTÉ**

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 David S. Cohen for the position of Under Secretary for Terrorism and Financial Crimes and Jenni LeCompte for the position of Assistant Secretary for Public Affairs at the Treasury Department:

David Cohen appears before us as President Obama's nominee for the position of Under Secretary for Terrorism and Financial Crimes. He currently occupies this position in an acting capacity, where he has significant responsibility for enforcing our country's national security policies. This position is a critical one for maintaining the integrity of our nation's fiscal system, and the issues that come before him are ones that this Committee takes with the utmost seriousness.

Mr. Cohen's educational background is an impressive one. After graduating from Cornell University, he went on to receive his J.D. from Yale Law School.

He has experience at the Treasury Department working in different roles, and previously developed the Department's anti-money laundering policies. Given the importance of the position for which he has been nominated, I look forward to hearing his testimony today and evaluating his responses to inquiries from the Committee.

We will also hear from Jenni LeCompte, nominated to be Assistant Secretary for Public Affairs at the Treasury Department. Ms. LeCompte comes to us with legislative branch experience, some of which was for a member of this committee. She also has campaign experience — also partially for a member of this committee — and previous experience working within the executive branch.

In her testimony Ms. LeCompte notes that, if confirmed, she would not develop or set policy, but that at Treasury "[t]he Public Affairs team is responsible for developing and implementing communications strategy for the Department." This is a very important job, and will play a significant part in how policies are perceived and understood by citizens, taxpayers, businesses, and foreign nations. The Assistant Secretary for Public Affairs has an important decision to make. Is her role to inform and educate the American people, or to promote a political agenda and score political points? I think all of us agree that the best way for Americans to understand policy alternatives and make informed choices is for accurate and reliable information to be presented to them.

This is the first nomination hearing held by the Finance Committee in the 112th Congress, and the first nomination hearing where I have served as Ranking Member on this committee. This committee has a tradition of thoroughly vetting nominees, and I intend to

continue that practice. I believe that the President, no matter who that person is and no matter the political party, has the right to nominate whoever he wants. He is free to nominate individuals who share his mindset.

I take very seriously, however, the Senate's independent constitutional role in this process. The constitutional power of advice and consent is a responsibility that I take with the utmost seriousness. It is not effectively exercised with either a rubber stamp, or with an axe to grind. What I promise is to make certain that the individuals selected by the President to serve our nation have a level of competence and integrity necessary to carry out their duties and responsibilities.

As Senators, the only power that we have is derived from the Constitution and our constituents, and I promise to exercise this authority with a commitment to both.

I also expect that the President will treat the Senate's role in this process with the respect that it deserves. As a coordinate branch of government, the Senate's constitutional role in the confirmation process is not to be taken lightly, and I will not tolerate its circumvention for political expediency.

The citizens of Utah, like citizens everywhere, expect that those in government will abide by the same rules and laws that they do. The vetting done by this Committee helps to deliver on this expectation. As the Senate committee of jurisdiction over the Internal Revenue Code, we examine the last three individual income tax returns, as filed, for each nominee. Though this does not constitute an audit, it does verify a basic level of compliance with rules that every single family and individual that pays income taxes must comply with.

Our constituents need assurance that their country is governed by fellow citizens who work for the people, and is not ruled by elites who live by their own set of rules.

I'm looking forward to working with the Chairman in continuing to exercise our role of advice and consent in a fair and consistent manner.

I welcome the nominees today. I look forward to their testimony and to the opportunity to ask them some questions.

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Opening Statement of Jenni R. LeCompte
Nominee for Assistant Secretary of the Treasury for Public Affairs
United States Senate Committee on Finance
April 7, 2011

Chairman Baucus, Ranking Member Hatch and members of the Senate Finance Committee, it is a privilege to have my nomination come before you today. As a former Senate staffer, I have tremendous respect for this institution and for the relationship between the Legislative and Executive branches.

I am honored to be President Obama's nominee for this position and deeply grateful to Secretary Geithner for his trust in presenting me, if confirmed, with this opportunity to grow my role within the Department.

I would like to introduce my husband, Theodore LeCompte. Always patient, always full of support, I am incredibly fortunate to have him at my side today and every day.

I grew up in Wisconsin, the daughter of public school teachers. My mother, Kathleen, served nearly 20 years teaching art education before she retired. My father, Arne, taught mathematics for 29 years. He passed away in 1998, but I know he would be extremely proud to see me sitting here today.

I was a college journalism major who came to Washington, DC for a summer internship at the White House and found that I shared a passion for public service with my parents. After starting on overnight news clips duty and then serving as a press assistant in the White House, I came here to the Senate, working in the press offices of Senators Schumer and Durbin. Since leaving the Hill, I have held communications positions on campaigns for public office and at two nominating conventions, most recently serving as the Deputy CEO for Public Affairs at the 2008 Democratic National Convention in Denver. I now find myself back in the Executive branch of the Federal government.

Without question, the past two years at Treasury have been the most challenging of my career. I was welcomed on day one of this Administration by a career staff that never skipped a beat, and I am awed on a daily basis by my colleagues at Treasury, who have carried tremendous responsibility in pulling our country back from the worst global economic crisis since the Great Depression. The institutional knowledge of the Department and the issues that I have come to know during this time, as well as my strong skills in strategic planning, operational management and project execution, make me well suited to serve as Assistant Secretary for Public Affairs.

At Treasury, the Public Affairs team is responsible for developing and implementing communications strategy for the Department and advises officials within the Department and its bureaus on how best to communicate with the American people on issues and priorities of public

interest. While Public Affairs does not develop or set policy, it carries a front-line responsibility for communication with the media, the business community and the public at large.

It is a privilege to be considered for this position – and even more so at this particular time. Economic news continues to dominate home pages and front pages with great frequency. It permeates conversation during broadcast roundtables and at kitchen tables across the country.

The Treasury Department and the Treasury Secretary are central to that dialogue. And today, there are unprecedented expectations and obligations on the ways in which we communicate and the clarity with which we do it. I look forward to continuing and expanding my contribution to this effort should the Senate choose to confirm me.

Thank you Chairman Baucus and Ranking Member Hatch for this opportunity, and I look forward to taking your questions.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
Jenni Rane LeCompte
Maiden name: Jenni Rane Engebretsen
2. Position to which nominated:
Assistant Secretary for Public Affairs, Department of the Treasury
3. Date of nomination: January 5, 2011
4. Address: (List current residence, office, and mailing addresses.)
Residence/Mailing:

Office:
5. Date and place of birth:
December 16, 1976
Milwaukee, WI
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.)
- Northwestern University – Evanston, IL
 Attended: Sep. 1995 – Dec. 1998
 Bachelor of Science from Medill School of Journalism, *summa cum laude*
 Degree granted Dec. 1998
- Greendale High School – Greendale, WI
 Attended Sep. 1991 – Jun. 1995
 High School Diploma granted Jun. 1995
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.)
- Jun. 2009 – Present: Deputy Assistant Secretary, Public Affairs Operations, U.S. Dept of the Treasury, Washington, DC
 Jan. 2009 – Jun. 2009: Director of Public Affairs, U.S. Dept of the Treasury, Washington, DC
 May 2007 – Dec. 2008: Deputy CEO for Public Affairs, 2008 Democratic National Convention Committee, Washington, DC / Denver, CO
 Feb. 2005 – May 2007: Director, Communications, Recording Industry Association of America, Washington, DC
 Aug. 2004 – Nov. 2004: Regional Communications Director, Kerry-Edwards for President, Washington, DC
 Apr. 2004 – Jul. 2004: Deputy Communications Director, 2004 Democratic National Convention Committee, Boston, MA
 Aug. 2003 – Mar. 2004: Press Secretary, Edwards for President, Inc., Raleigh, NC
 Sep. 2002 – Aug. 2003: Washington Press Secretary, Office of U.S. Senator Dick Durbin, Washington, DC
 Jun. 2001 – Aug. 2002: Deputy Director of Communications, Office of U.S. Senator Chuck Schumer, Washington, DC
 Jan. 2001 – May 2001: Public Relations Specialist, Oracle Corporation, Washington, DC & San Francisco, CA
 Jun. 2000 – Jan. 2001: Special Assistant to the Press Secretary, The White House, Washington, DC
 Oct. 1999 – Jun. 2000: Assistant to the Press Secretary, The White House, Washington, DC
 Apr. 1999 – Oct. 1999: Director of News Analysis, The White House, Washington, DC
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.)

May 2007 – Dec. 2008: Deputy CEO for Public Affairs, Democratic National Convention Committee, Denver, CO & Washington, DC

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

Jan. 1996 – Dec. 1998: Member, Alpha Phi International Fraternity, Northwestern University, Evanston, IL

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.

May 2007 – Dec. 2008: Deputy CEO for Public Affairs, 2008 Democratic National Convention Committee, Washington, DC / Denver, CO

Aug. 2004 – Nov. 2004: Regional Communications Director, Kerry-Edwards for President, Washington, DC

Apr. 2004 – Jul. 2004: Deputy Communications Director, 2004 Democratic National Convention Committee, Boston, MA

Aug. 2003 – Mar. 2004: Press Secretary, Edwards for President, Inc., Raleigh, NC

- 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.

Jun. 5, 2006: \$100 to Biden for Attorney General

Jul. 11, 2006: \$50 to Leahy for U.S. Senator Committee

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.)

Jun. 1995 – Several scholarships awarded for freshman year attendance at Northwestern University
 Dean's List, Northwestern University
 Order of Omega, Northwestern University

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

Summer/Fall 1996: Various articles in Milwaukee Magazine during summer internship including summer camp guide for kids. Specific titles and dates unknown.

Various articles for Northwestern Daily News Magazine supplement. Specific dates and titles unknown.

Apr. 1, 1998: *Auto Leases Become A Little Clearer*, Money Magazine
http://money.cnn.com/magazines/moneymag/moneymag_archive/1998/04/01/240332/index.htm

May 1, 1998: *Find a Cheap Phone Plan on the Web*, Money Magazine
http://money.cnn.com/magazines/moneymag/moneymag_archive/1998/05/01/241546/index.htm

Sep. 1, 1998: *Salary Roundup New Yorkers earn top dollar, while workers in Tucson collect the slimmest paychecks*, Money Magazine
http://money.cnn.com/magazines/moneymag/moneymag_archive/1998/09/01/247739/index.htm

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 am a seasoned media professional trained in journalism with more than ten years career experience spanning the executive branch of the federal government, the United States Senate, campaigns for public office, trade association work and corporate communications. I have spent the past two

years working in Public Affairs at the Treasury Department – first as a Director and then as a Deputy Assistant Secretary – and have carried much of the responsibility for managing the department in the absence of an Assistant Secretary throughout that time. This institutional knowledge of the Department and the issue portfolio at hand as well as my strong skills in strategic planning, operational management and project execution make me well suited to serve as Assistant Secretary for Public Affairs.

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 - I am currently employed by the U.S. Treasury Department and do not have any business connections outside of my current employer.

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 Department of the Treasury'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

of the Treasury'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 Department of the Treasury'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 of the Treasury'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.

Early 2007: During my tenure at RIAA, I worked on the early stages of development of a communications strategy to urge Congress to pass performance rights legislation to require that FM and AM broadcasters compensate musicians and labels when music is played on the radio.

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.)

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 of the Treasury's designated agency ethics official and that has been provided to this Committee.

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.

Will be provided.

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:

N/A

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.

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.

N/A

E. TESTIFYING BEFORE CONGRESS

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

Yes.

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

Yes.

Questions for the Record
Jenni R. LeCompte
Nominee to be Assistant Secretary for Public Affairs
US Senate Finance Committee
April 7, 2011

Ranking Member Hatch

1. *Based on your employment history, you have worked in both the Executive and Legislative branches of government, as well as for campaigns for President. How would serving as Assistant Secretary for Public Affairs be different than working on a campaign? How are your priorities different, and how does that impact your work?*

If confirmed, will you interact at all with the President's re-election campaign?

The variety of positions I have held over the course of my career has given me the benefit of multiple vantage points on the work done in the federal government and beyond. Any good communications professional adapts his or her recommended communications strategy to match the objectives of the organization. And since the objectives of a campaign for public office are very different from those of the Treasury Department, the communications approaches are very different as well. By nature, a campaign is run in a highly charged political environment, while the Treasury Department has a long-standing reputation for thoughtful, serious, non-partisan policy analysis.

At Treasury, the role of Public Affairs is to develop and implement a communications strategy that fosters public understanding of the Department's policies and to advise senior officials on how best to communicate with the American people on issues and priorities of public interest. The American people both want and need to know what the Department is doing and how Treasury programs impact their daily lives. Accordingly, much of our time is dedicated to getting basic, factual information about the work of the Treasury Department out to the American people. In today's fast-paced media environment, considerable time is spent just ensuring that the massive amount of interest in Treasury programs from the public and the media is met with the information needed to fully understand their structure and purpose.

If confirmed for this position, I do not intend or expect to interact with the Presidential campaign.

2. *In 2009, The Recovery Accountability and Transparency Board, which was created to track stimulus spending, credited the stimulus program with saving or creating jobs in the 15th congressional district of Arizona, which does not exist. Clearly the accuracy of information was not adequately checked before it was released, and some might think that Administration officials were in such a hurry to justify a major program that the integrity of the data suffered as a result. I have no reason to believe that you were involved in this specific occurrence, but I want to ask you a few questions in your capacity as a public affairs professional.*

How do you think a situation could arise where false information is reported as fact by a government agency?

What steps or procedures will you follow or put in place, if you are confirmed, to ensure that data your office releases is accurate?

As noted, this was not a Treasury issue so I cannot account for how the discrepancy occurred. However, my understanding is that this was an early data display issue with Recovery.gov that was promptly corrected by the independent Recovery Accountability and Transparency Board (RATB), which runs the website.

The President issued an Open Government Directive on his second day in office and has reinforced that commitment through a number of policies that make this Administration the most transparent, participatory, and collaborative in history. Across the Administration, including here at Treasury, we have taken the President's guidance very seriously, and as a result, have released scores of data and information, including, for example, on the financial stability programs overseen by the Treasury Department.

The Treasury Department has a longstanding tradition of delivering rigorous, timely, and accurate analysis and information on a range of issues of importance to the American public. In Public Affairs, we run a diligent and careful process of clearances on all information that is communicated publicly, working in close coordination with a very capable and professional career staff who form the intellectual anchor of the institution of the Treasury. We take pride in working to ensure that the information we are communicating is accurate and also helpful for people to understand how their Treasury Department is serving them and how their tax dollars are being put to work.

Errors in anything communicated to the public are, of course, unacceptable, but should they occur, it is obviously important to correct them promptly. If confirmed, I will bring that commitment to my work in the Office of Public Affairs.

3. *You have worked at the Treasury Department, either as Director of Public Affairs or as Deputy Assistant Secretary for Public Affairs Operations, since January of 2009. If you are confirmed as Assistant Secretary for Public Affairs, do you plan to make any changes to how the office functions? What lessons have you learned over the past two years that you would implement if confirmed?*

Entering the Treasury Department in the midst of the worst recession since the Great Depression was both a humbling and educational experience for me. Having served in the White House in a previous Administration, I was fortunate to have a sense of how the Executive Branch worked in more ordinary times. But given the extraordinary actions that the Department took to pull the economy back from the brink of a second Great Depression, little could have prepared me for these first two years.

The basic structure of the Public Affairs office is sound, and I don't anticipate any major changes. If confirmed, I will continue to work to provide factual and accurate information to the American people across all Treasury programs. My experiences have reinforced my belief that effective communication requires leveraging the full spectrum of media sources to reach as many of the American people as possible and to give them the information they need to fully understand the resources at their disposal and the policies that are being put in place to serve them. The more important the issue and the more difficult the times, the more important it is to leverage all resources at the Department's disposal to convey clear, accurate and fulsome information about the work being done in response.

4. *If you are confirmed, as Assistant Secretary you will need to make staffing decisions pertaining to the individual you would supervise. When considering a candidate to work within the Office of Public Affairs, how much weight do you give to journalistic experience versus technical proficiency with the policy issues the Treasury Department works with?*

At Treasury, the role of Public Affairs is to develop and implement a communications strategy that fosters public understanding of the Department's policies and to advise senior officials on how best to communicate with the American people on issues and priorities of public interest. If confirmed, I will oversee a variety of positions that work collectively to fulfill this mission – including spokespeople, the Office of Business and Public Liaison, speechwriters, new media, and administrative support staff. Each of these positions requires specific competencies, and the team as a whole benefits from individuals who have a variety of backgrounds. Public Affairs staff must effectively combine strong written and oral communications skills with an ability to engage with the policy teams to understand and communicate the implications of departmental initiatives to the American people, members of the media, the business community, and other stakeholders.

**Statement of Senator John D. Rockefeller IV
On the Nomination of David Cohen**

**Nominee for Undersecretary of the Treasury for
Terrorism and Financial Crimes**

April 7, 2011

In less than a decade, Treasury's Office of Terrorism and Financial Intelligence (TFI) has created and developed financial intelligence and related sanctions-enforcement measures that have become critical new tools in our national security toolbox. One prominent recent report referred to these 21st century national security tools as "precision-guided financial measures." Indeed, their precision and power are increasing in every situation in which they are employed.

These tools of financial tracking, pressure and isolation have helped slow Iran's pursuit of nuclear weapons. In Afghanistan and Pakistan, they have exposed the links between narco-traffickers, insurgents and terrorists, and, in some cases, corrupt government officials. In the fight against terrorism, follow-the-money efforts have played a major role in putting Al Qa'ida under the greatest strain that it has faced since 9/11.

Most recently, TFI's mission and capabilities have been on prominent display in Libya, as U.S. and allied financial pressure – informed by good intelligence and amplified by the cooperation of banks and businesses worldwide – has played a central role in our efforts to isolate and weaken Muammar Qadhafi's murderous regime. In a matter of days, TFI froze over \$34 billion in the regime's assets held in U.S. banks, and billions more elsewhere in the world. This is an unprecedented sum that is orders of magnitude larger than any other previous asset freeze.

As we meet at this hearing, TFI continues to lead a global hunt to find and freeze Qadhafi's assets; if successful, this effort will leave the regime more financially isolated than any rogue government in history. Qadhafi's financial situation – which for the past decade had been his primary strategic strength, as he doled out subsidies and gifts to Libyan tribes and to other countries – is now perhaps his primary strategic weakness. This is thanks to the work of TFI. We are learning more about Qadhafi's finances every day, and we have the capability to cut off almost all of it; soon there will be nowhere for him to turn, and eventually the money will run out.

Make no mistake: If Qadhafi's regime fractures or falls, it will be due in large part to Treasury's powerful tools of financial tracking, pressure and isolation.

These new tools harness the power of market incentives, based on banks' and companies' own bottom-line business considerations; in short, profit-making businesses know that it is in their interests to stay on the good side of U.S. and allied financial sanctions. Therefore these tools are among the most cost-effective instruments of

national security that we possess; TFI's total annual budget is well under \$1 billion – about 1 percent of the Intelligence Community's total budget and 0.1 percent of the Department of Defense's budget. We should all keep this in mind in this extremely difficult budget environment.

There is great potential for these precise, powerful and cost-effective financial tools to address the threats of the 21st century, because each one of these threats depend on, or are motivated by, one thing: money.

David Cohen's record makes him exceptionally well-qualified to lead TFI's effort to hone these financial tools and to perfect the strategic, operational and tactical doctrines for their use in addressing various national security challenges. During his first stint at Treasury over ten years ago, he was involved in crafting legislation that led to the creation of the very tools that TFI uses today to combat money laundering and terrorist financing. After a successful private law practice that focused on providing financial institutions advice on anti-money laundering efforts and sanctions compliance, Mr. Cohen returned to Treasury two years ago to serve with Undersecretary Stuart Levey as Assistant Secretary for Terrorist Financing. In this capacity he has been a key leader in a successful expansion of Treasury's work on national security issues, and I am pleased that this has included working closely with me and other members of the Senate Intelligence Committee on a number of our initiatives related to illicit finances in Afghanistan and Pakistan.

I believe Mr. Cohen is ready to fill Stuart Levey's big shoes at TFI, and I urge the Finance Committee and the Senate to consider and vote on his nomination expeditiously. Particularly in Libya, Iran, Afghanistan-Pakistan, and the Persian Gulf, TFI is engaged in time-sensitive financial pressure operations that Mr. Cohen has the responsibility to oversee. We need him to be confirmed as soon as possible. As he and TFI add new plays to the sanctions playbook and continue developing our 21st century tools of financial tracking, pressure and isolation, he and TFI as a whole should have our active support.

