United States Senate Committee on Finance

Hearing to Consider the Pending Nominations of Lily Lawrence Batchelder to be an Assistant Secretary of the Treasury, Benjamin Harris to be an Assistant Secretary of the Treasury, J. Nellie Liang to be an Under Secretary of the Treasury, and Jonathan Davidson to be Deputy Under Secretary of the Treasury

Tuesday, May 25, 2021

Questions for the Record

Minority

Senator Crapo (R-ID)

Questions for Lily Batchelder

1. There have been repeated references made by the administration to individual taxpayers and corporations paying "their fair share." For example, an April Treasury document describing the Made in America Tax Plan often refers to fair share. From Treasury's document, however, it appears that the Plan envisions enactment of proposals that would merely move the country "Toward a Fairer Tax System."

   As a prospective adviser to the administration on tax policy, please define what constitutes a "fair share" and the appropriate measure to use to determine whether or not an individual is paying their fair share.

Follow-up: Your response did not provide your definition of what constitutes a fair share or what you take to be an appropriate measure.

Answer: There are a number of different measures that I think can be helpful in assessing tax fairness. One measure is the concept of horizontal equity, which compares tax burdens borne by taxpayers in similar circumstances. Another is the concept of vertical equity, which considers whether taxpayers who are better off owe an appropriate level of tax compared to those who are less well off. Better or worse off can be assessed along multiple dimensions, including income, number of dependents, health status, etc. The concept of fair share can also depend on macroeconomic circumstances, because the appropriate measure of a tax code's fairness may depend on key economic indicators such as the labor and capital share, and the share of corporate profits that represent supranormal returns. In addition, the concept of "fair share" can relate to the gap between taxes owed and actually paid, with individuals who evade taxes defined as individuals who do not pay their fair share. In important ways, we currently have a tax system where some individuals do not pay their fair share.

Follow-up: You did not directly respond to a, b, or c.

See answers below.

a. Given your definition and measure, for tax year 2021, what is the fair share for a single filer on taxable income: up to $9.950; $9,951 to $40,525, $40,526 to $86,375, $86,376 to $164,925, $164,926 to $523,600, over $523,600?

Answer: This would depend on the context of the tax or taxes that apply to such individuals and the specific circumstances of single filers within these income ranges.

b. Please define what constitutes a "fair share" and the appropriate measure to use to determine whether or not a corporation is paying its fair share.

Answer: This would depend on the context of the tax or taxes that apply to the corporation and the corporation's specific circumstances.

c. Why do you believe that the Made in America Tax Plan proposes only to move "toward" a "fairer" tax system, thereby foregoing movement to a fully fair system and leaving fairness gains unfulfilled to remain on the table for future tax policy modifications?

Answer: I can only speculate because I am not currently in the Administration but there are many possibilities. For example, there are so many differences between individual taxpayers that it is probably not possible to adjust for every single dimension of difference, even if doing so might be ideal from a fairness perspective. More generally, there are often trade-offs between fairness, efficiency, and simplicity.

2. The Made in America Tax Plan, outlined by Treasury in an April 2021 document, identifies a proposal of "Replacing fossil fuel subsidies with incentives for clean energy production." The Plan proposes to "remove subsidies for fossil fuel companies."
   a. Please identify your understanding of what subsidies the Plan would remove, and how they differ from like "subsidies" in place for other companies performing similar activities but not involving "fossil fuels."
   b. If enacted, do you believe that the Plan would lead to higher gas prices at the pump in the near term, defined as the period 2022-2024?
   c. If so, would you have any concern that such an effect would have disproportionate adverse effects on low- to middle-income workers whose expenditures on "fossil fuel" related consumables such as gasoline and heating fuel tend to be higher shares of their incomes than for upper earners?

Follow-up: Your response identified that you "have not been privy to discussions within Treasury. Thus, my understanding of Treasury's Green Book proposals is identical to what was published in the Green Book." Some of your responses to questions asked by other Finance Committee Members concerning proposals in the Green Book seem, incongruently, to provide your interpretation or understanding of what was published in the Green Book, including your impression of the goal of certain provisions and whether they would be successful at accomplishing those goals. Nonetheless, and independent of whether you have been privy to discussions within Treasury, you did not respond to a.

Answer: While I have not been privy to discussions within Treasury about the Green Book proposals, I have followed media stories about them and am familiar in some cases with proposals by Members of Congress, prior Administrations, or outside experts that appear to be

similar. To the extent I did provide my interpretation or understanding of other Green Book proposals, I was doing so on this basis. In this case, I am not aware of media stories or press statements providing additional details.

According to the Treasury Green Book, "The proposal would repeal: (1) the enhanced oil recovery credit for eligible costs attributable to a qualified enhanced oil recovery project; (2) the credit for oil and gas produced from marginal wells; (3) the expensing of intangible drilling costs; (4) the deduction for costs paid or incurred for any tertiary injectant used as part of a tertiary recovery method; (5) the exception to passive loss limitations provided to working interests in oil and natural gas properties; (6) the use of percentage depletion with respect to oil and gas wells; (7) two-year amortization of independent producers' geological and geophysical expenditures, instead allowing amortization over the seven-year period used by integrated oil and gas producers; (8) expensing of exploration and development costs; (9) percentage depletion for hard mineral fossil fuels; (10) capital gains treatment for royalties; (11) the exemption from the corporate income tax for publicly traded partnerships with qualifying income and gains from activities relating to fossil fuels; (12) the Oil Spill Liability Trust Fund excise tax exemption for crude oil derived from bitumen and kerogen-rich rock; and (13) accelerated amortization for air pollution control facilities. Unless otherwise specified, the proposal provisions would be effective for taxable years beginning after December 31, 2021. In the case of royalties, the proposal provision would be effective for amounts realized in taxable years beginning after December 31, 2021. The repeal of the exemption from the corporate income tax for publicly traded partnerships with qualifying income and gains from activities relating to fossil fuels would be effective for taxable years beginning after December 31, 2026."

The ways in which these subsidies differ from like subsidies in place for other companies performing similar activities not involving fossil fuels vary, and depend on what one considers to be similar activities. Other companies may not be eligible for a like subsidy. Alternatively, other companies may be eligible for a like subsidy, but one with a shorter or longer duration, a different structure (e.g., credit, permanent deduction, or deferral), a different magnitude, or a different eligible activity (e.g., production vs. investment). Additionally, some tax benefits might be beneficial for activities that are more prominent in the fossil fuel industry (e.g., the costs of exploration) than in other energy industries.

3. You have been employed by New York University, which holds billions of dollars in endowment funds. Some of those funds have come from donations from people's wealth and estates. Your employer does not use all of its endowment funds to help students or researchers. Rather, it carries some of those funds forward, presumably to help ensure that resources can be made available for future students and researchers. That is, your employer builds dynastic wealth.

   Families in the United States wish to do the same, yet you seem to believe that bequest motives mainly show up as undue benefit to the "rich" or "ultra-rich." People wish to accumulate wealth over time, and they choose not to consume all the accumulation in their lifetimes so that future members of their family can benefit. While that seems like altruism to me, it apparently seems like some sort of undeserved dynasty building to you.

Since New York University is building and accumulating dynastic wealth, from which you derive benefits, should Congress increase taxation of university endowments and use the proceeds to spend on what you and others may view as more worthy social investments?

Follow-up: Your response boiled down to stating that your understanding is that President Biden has not proposed any changes to the taxation of endowments. The question above asks for your position.

Answer: My focus regarding dynastic wealth has been on inheritances that are so extraordinarily large that the heir and their spouse—and potentially multiple generations of the same family—can live of the inheritance for the rest of their lives without ever working and still be far better off than most American families. I have proposed taxing income in the form of such extraordinarily large inheritances at rates that are more on par with income from working. I do not recall characterizing modest or even large (but not extraordinarily large) inheritances as dynastic wealth and have proposed exempting them from wealth transfer taxes.

University endowments raise different issues from such extraordinarily large inheritances. Among other factors, universities tend to serve large numbers of people from different socioeconomic backgrounds, not a single family line, and (if they are nonprofits) are governed by an independent board with a duty to ensure that the university uses its resources in pursuit of its charitable mission. On the other hand, policies like admissions preferences for descendents of major donors and legacies may contribute to hereditary economic power. I do not have a fixed view on the appropriate tax treatment of university endowments. These are important issues, and I am keen to engage with multiple perspectives and experts on this topic.

4. Your writing on inheritances, estates, bequests, and the like is largely premised on your norms and beliefs that inequality has risen substantially, to the point of overall social concern, and that intergenerational mobility has shrunk. Are you aware of any research suggesting that your beliefs about inequality are overstated and, if so, please identify the relevant research and discuss why you do or do not find such research compelling?

Follow-up. Your response appears to say that your work has focused on disparities within the U.S. in, among other things, income and wealth, and not on time trends. An important part of the question above is in reference to inequality, as in a within-period distribution of income or wealth—both static, and not time-trend related. Your answer is confusing and it would be concerning if you are unaware of differing estimates of the extent of income and wealth within-period inequality. Indeed, you refer to "income and wealth inequality" in your research (e.g., "Taxing the Rich: Issues and Options"). To assist in attempting to learn of your knowledge, are you aware of large disparities across researchers in findings on measures of income and of wealth inequality, measured discretely and not as a time series? If so, what do those disparities suggest about our knowledge of income and wealth inequality in the U.S.?

Answer: I am aware of disparities across researchers in measures of income and wealth inequality on a static basis. For example, in a tax colloquium that I co-teach, we have invited Gerald Auten, Gabriel Zucman, and Eric Zwick to present their work on these subjects, and they

(together with their respective co-authors) arrive at different estimates of both the static level of income and wealth inequality, and how it has changed over time. Estimates of wealth inequality are particularly complicated because we do not have good data on the total magnitude of wealth in the United States, so that variable has to be imputed or derived from survey data. Additionally, there are complex methodological choices that have different impacts on researchers' the total amount of income or wealth, as well as its distribution. These are choices on which reasonable people may disagree, and the literature and our understanding of inequality is substantially enhanced by robust debate on these topics. In my view, each of the various methodological approaches have pros and cons. On pages 19-20 of "Taxing the Rich: Issues and Options," my co-author and I discuss some of these pros and cons as they relate to the aggregate amount and distribution of wealth. Overall, my view is that these disparities suggest uncertainty about the precise levels of income and wealth inequality in the U.S. But they do not fundamentally challenge the conclusion that, among high-income countries, the U.S. has among the highest levels of income and wealth inequality after taxes and transfers, and one of the lowest levels of intergenerational economic mobility.

5. Among other things, you wrote, in a New York Times opinion article titled "Tax the Rich and Their Heirs," about a hypothetical heir's inheritance, and corresponding effective tax rate. You identify that: "Some will argue that this example ignores any income and payroll tax the wealthy parents paid when they originally earned the $50 million. But if the couple paid their personal chef's wages out of after-tax income, we wouldn't think their personal chef should get credit for the taxes they paid." Given this rather confusing comparison, could you provide your understanding of the concept and measures of wealth, the concept and measures of income, and what are the distinguishing features that differentiate the two concepts?

Follow-up: It is not clear in your response what you describe as a "theory" is such an object, and do you believe that your response adequately appreciates fundamental distinctions between stock and flow variables?

Answer: There are many definitions of income and the tax code includes numerous deductions and exclusions that narrow its definition of income in practice. Conceptually, tax experts often define income as personal consumption plus changes in net worth (Haig-Simons income). Personal consumption does not include spending for the purposes of earning income (e.g., buying inventory if one owns a store), but does include other ways an individual or household chooses to spend their money. Income is a flow. Under the Haig-Simons definition, if an heir inherits $50 million, they have $50 million of income, just as they would if they earn $50 million in salary or win $50 million from the lottery. The tax code currently provides a statutory exclusion for income in the form of gifts or bequests received (Section 102) so that they are subtracted from gross income when arriving at adjusted gross income and taxable income.

6. During development of the Tax Cuts and Jobs Act, you appeared highly critical of the effort, including procedural aspects of legislating an outcome, up to and including criteria to allow provisions to be passed in a reconciliation setting. You participated in producing highly speculative quantitative analyses of tax proposals from Republicans, sometimes before they

were even produced in detailed enough form to perform quantitative analysis. What was your objective in providing premature, speculative quantitative analyses of proposals that did not yet even exist, but could be portrayed in partisan fashion?

7. Federal Reserve notes represent lawful money, and are liabilities of the U.S. federal government. Liabilities of the U.S. federal government are overseen and managed by Treasury. The Senate Finance Committee is the authorizing committee for Treasury and its operations, and has oversight responsibility over Treasury operations and activities.

   The Federal Reserve is experimenting with formulating a central bank digital currency, which has the potential of enabling, along a blockchain, fiscal policy actions and would involve issuance of liabilities backed by the U.S. federal government. Given that, if confirmed, you would be working at the Treasury, with responsibilities over federal liabilities that are authorized by Congress, and would likely be working on issues of financial "stability:"
    a. Do you believe that a central bank digital currency can pose a threat to financial stability, in that such federal liabilities, if held in accounts at the Federal Reserve or Treasury, would be viewed as safe havens in flights to safety, and away from riskier liabilities of firms provided in financial markets, during periods of market stress?
    b. Do you believe that a central bank digital currency, designed by the Federal Reserve, should be constructed in a way that could easily and rapidly allow for deployment of accounts that could have balances modulated in accord with business cycle developments, thereby providing automatic stabilizers or welfare transfers? Do you support such a design and construction, which will engineer a significant transfer of fiscal authority, upon one mere act of Congress, from Congress to the Federal Reserve?

8. As a tax expert, what definition can you provide that determines whether a country is a "tax haven." Have you ever publicly characterized Switzerland or Puerto Rico as tax havens, and do you believe that they are according to your working definition?

9. Are there any proposals or issues on which you intend to engage with members of this Committee to achieve bipartisan results? If so, please describe what those issues are.

Follow-up: You did not respond directly to what was asked. Are there any proposals or issues on which you intend to engage to achieve bipartisan results and, if so, what are they?

Answer: I hope to achieve bipartisan results to create a fairer, more efficient tax code and raise revenue to make urgent investments in American families and workers. Some examples of issues on which I would be eager to engage with members of the Committee include strengthening our nation's infrastructure, improving our international tax system including in partnership with other countries, reducing the tax gap, decreasing the disparities between our taxation of capital and labor, promoting clean energy in a technology-neutral way, improving our retirement savings system, and simplifying tax compliance.

10. Please describe any bipartisan accomplishments you participated in substantively during your service on President Obama's National Economic Council.

11. Some believe that, independent of revenue raised or lost because of implementation of a wealth or inheritance or estate tax, it is important to institute such taxes so "billionaires" and high-wealth individuals do not hoard such wealth, or because inequality harms democracy in speculative unmeasured and conjectural ways. You have devoted a substantial amount of your professional activities in advocacy of significant increases or implementations of wealth, inheritance, gift taxes and the like.
    a. Do you support implementation of such taxes with the primary or sole intention of ensuring that there are fewer people with high wealth levels?
    b. If so, what social problem do you intend to solve by implementing significantly high taxes on intergenerational transfers, what evidence suggests that your solutions would accomplish your objective, and is there overwhelming support for your normative objectives?
    c. If I, as a parent, wish to forgo consumption over my life cycle, accumulate wealth, and bequeath resources to children and grandchildren that I love, is there a social problem that I am generating by doing so? If so, please tell me what that is, or whether you believe that what I choose to do can be accepted by you, but only up to some limits that you deem appropriate?

12. You identified during the hearing on your nomination that you would like to participate in work, if confirmed, at Treasury aimed at increasing enforcement and tax collections at the IRS. Given your background in research, and what appear to be increased efforts at IRS to engage in normative research, you may also be interested in working with IRS researchers. In the May 2021 U.S. Department of the Treasury publication titled, "The American Families Tax Compliance Agenda," research that includes income attribution methodology utilized by researchers Emmanuel Saez and Gabriel Zucman is referred to, as well as, research in what appears to be the Critical Tax theory branch of research performed principally by tax law professors.
    a. Are you aware of any critiques of income and wealth valuation methods utilized by researchers Saez and Zucman and, if so, do you believe the critiques have merit?
    b. Economist Larry Summers has characterized some of the work by Saez and Zucman as being "substantially inaccurate and substantially misleading." Many economists have criticized some of their methodology and data manipulation as problematic, and some of their wealth valuation methods are enormously sensitive to perturbations in discount and interest rates. Do you believe that caution should be exercised in using income and wealth inequality measures put forward by those researchers in guiding fiscal policies?

Follow-up: You did not directly respond to the question posed in b.

Answer: As mentioned in my response to question 4, estimates of wealth inequality are particularly complicated because we do not have good data on the total magnitude of wealth in the U.S. so that variable has to be imputed or derived from survey data. But there are also

complicated methodological choices involved in estimating how this total amount of income or wealth is distributed across individuals and households, choices on which reasonable and thoughtful researchers may disagree. In my view, each of the various methodological approaches, including those taken by Sarin & Summers and by Saez & Zucman, have pros and cons, and the academic debate and our understanding of these complicated questions has been helpfully shaped by their work, and many others as well. Overall, my view is that these differences in estimates suggest uncertainty about the precise levels of income and wealth inequality in the U.S. But they do not fundamentally challenge the conclusion that, among high-income countries, the U.S. has among the highest levels of income and wealth inequality after taxes and transfers, and one of the lowest levels of intergenerational economic mobility.

c. Could you describe your understanding of Critical Tax theory?

d. The May 2021 Treasury publication cites the article titled "Should the IRS Know Your Race? The Challenge of Colorblind Tax Data." Do you believe that the IRS should require that racial identification should be part of filed tax returns? Please explain why or why not.

e. Do you support consideration at the IRS of urging legislation to provide increased disclosure of taxpayers' private information for research purposes?

f. Do you believe that research at the IRS should allow for partisan policy positions to play a role?

13. Professor Batchelder, during your hearing it was suggested that the TCJA changes to international taxation amounted to "[giving] away the store," the implication being that the TCJA changes in this area were a tax cut that amounted to an unfair "giveaway" to the international operations of taxpaying businesses. It seemed in your response that you agreed with the characterization. Can you clarify: were the TCJA changes to international taxation a "giveaway" tax cut and if so how? I ask because according to the revenue estimates prepared by the JCT the TCJA's international tax changes were not a tax cut at all, but a $324 billion tax increase.

    Follow-up:

    (i) For the record, my question did not state that you referred to the TCJA tax. Your response suggests that Section 965 was a tax cut relative to prior law, which would have taxed foreign earnings at the full U.S. rate. As your response suggests, however, the revenue estimate for Section 965 projected a revenue increase of $338.8 billion in the 10-year budget window, and that estimate would have taken into account any loss associated with profits that otherwise would have been subject to tax at 35 percent. Your conclusion appears to be taking the Section 965 provision out of the context of the rest of the TJCA provisions. Is your presumption about revenue loss based on any particular analysis or based on a specific time period?

Answer: My presumption that the repatriation provision lost revenue on net over time was assuming a longer time period. JCT estimated that the repatriation provision starts to lose revenue in 2027. In addition, they estimated that the international provisions as whole start losing revenue in 2027.1

(ii) Further, does this mean you supported maintaining the prior international tax system of deferral with the 35 percent rate applicable upon repatriation? My understanding is many companies permanently deferred foreign earnings to avoid taxation at the full U.S. rate, so it is very unclear that companies would have paid tax at 35 percent, if ever, on foreign earnings.

Answer: Overall, I believe President Biden's proposals would result in an international tax system that is a vast improvement over the pre-TCJA international tax system as well as the current system.

14. Do you consider it to be an unfair "loophole" for a taxpayer to pay a lower rate on their capital gains than on their ordinary income? If so, would it not be more appropriate to require **all** capital gains to be paid at the taxpayer's ordinary rates, rather than the President's current proposal, which would continue to allow a taxpayer earning $900,000 to benefit from what you consider to be an unfair loophole?

15. Professor Batchelder, in your testimony on the President's proposal to increase the minimum tax rate on active foreign-source income earned by U.S. companies operating abroad to an "all-in" 26 percent rate you allude to various non-minimum tax regimes of foreign countries that somehow make them "comparable" to both the current U.S. GILTI regime and the President's proposal. Can you provide specific detail as to how the current law of the U.S.'s major trading partners is comparable to the U.S.'s with respect to minimum taxes on active foreign-source income?

    Follow-up: Your response does not detail how certain countries' regimes are "comparable" to the U.S. GILTI regime and the President's proposal. Please explain whether any foreign countries impose a minimum tax on CFC foreign earnings.

(i) Your response also highlights CFC regimes generally as being comparable to the GILTI regime, as well as earnings stripping rules. However, this would include the U.S. Subpart F rules, which have been in place since the 1960's, and Section 163(j). Do you believe the Subpart F rules are "comparable" to the GILTI regime?

(ii) Notwithstanding the GILTI regime, if the U.S. has anti-base erosion and anti-earnings stripping measures like the Subpart F rules and Section 163(j) interest

[1] Joint Committee on Taxation, Estimated Budget Effects of the Conference Agreement for H.R. 1, the "Tax Cuts and Jobs Act", JCX-67-17 (Dec. 18, 2017).

limitation, does this mean the U.S. rules would be "comparable" to foreign countries' rules if the U.S. did not have a GILTI minimum tax regime at all?

(iii) Your response also references CFC regimes that tax active earnings. As an example, France's CFC rules can cover both passive and active income. However, their CFC rules do not apply to subsidiaries within the EU, and they also do not apply to non-EU CFCs if it can be shown the CFC is set up for genuine business reasons. Accordingly, that CFC regime cannot be described as imposing a GILTI-like minimum tax as it provides significant exceptions that fully exempt most CFCs. Please explain how these CFC rules are analogous to the GILTI regime.

Answer: I believe I referred to other countries as having anti-base-erosion regimes analogous to the U.S. anti-base erosion regime. I think of analogous as meaning similar in structural effects, and comparable as meaning similar in magnitude as well. I am not aware of studies identifying the myriad dimensions of anti-base-erosion regimes in place in the U.S. and our major trading partners and quantifying their effects, all while controlling for differences that may exist across the companies resident in each jurisdiction. As a result, I could not say to what extent the anti-base-erosion regimes of our major trading partners are stronger, weaker, or comparable to ours.

As I mentioned in my testimony, I agree that no other country has a minimum tax on the foreign earnings of its resident multinationals exactly like ours, but I do think many have provisions designed to limit the ability of their resident companies to shift passive income and certain active income to low-tax jurisdictions, including within the E.U. The U.S. Subpart F (CFC) rules apply to limited categories of passive income, and are subject to numerous exceptions. A major innovation of GILTI was to immediately apply a discounted tax rate to most of the active foreign income of U.S. resident multinationals. According to the Tax Foundation, about half of OECD countries apply their CFC rules to both active and passive income, so in that sense their CFC rules are more stringent than our Subpart F rules, and more analogous to our GILTI regime. Although, as you mentioned, the CFC regimes in other countries may apply only to certain active foreign income, when applicable, such regimes apply their full corporate statutory rate to that CFC income. In contrast, GILTI applies a discounted statutory rate and provides an additional exemption for a 10% return on foreign tangible assets.

16. Professor Batchelder, in your testimony you indicated that an appropriate "balance" must be struck between the tax code's "marriage bonus" and "marriage penalty." Can you elaborate specifically on how the President's proposal to increase taxes on a married couple with a combined income of $509,300 but not an unmarried couple with a combined income of $905,398 strikes this balance "in the best possible way?"

17. Professor Batchelder, as you know the child tax credit (CTC)—which was Republican-led proposal and which I voted for all those years ago—was intended to operate as a family support provision in order to somewhat ameliorate a working family's inability to pay taxes as their family size increased. Further, save for the changes enacted in the American Rescue Plan, all successful efforts to expand the CTC since then have continued to ground the

provision in supporting working families. In your testimony, you applaud the recent expansions of the CTC as being a powerful new anti-poverty tool. This is confusing to me, particularly given your subsequent acknowledgment of the various recent expansions of the earned income tax credit (EITC) and their powerful anti-poverty role (which was, as you know, the intent of the provision). Is the CTC, which was never intended to operate as an anti-poverty provision, and which clearly lacks the targeting of the EITC, the most appropriate mechanism to address child poverty—particularly when we still have (and have continued to expand) the EITC?

18. The Tax Cuts and Jobs Act introduced Section 199A of the Internal Revenue Code, which provides a 20-percent deduction for pass-through businesses, such as sole proprietorships, partnerships and S corporations, with qualifying business income. Section 199A was intended to provide parity for pass-through businesses that did not benefit from the reduction in the corporate tax rate. Most small businesses operate in pass-through form, and many of these small businesses have been hardest hit by the COVID-19 pandemic. How do you view raising taxes on small businesses through the repeal of Section 199A?

Additional Questions for Lily Batchelder:

19. A book advertised on Amazon.com by Edward Kleinbard titled "What's Luck Got to Do with It?: How Smarter Government Can Rescue the American Dream (example of advertisement is at https://www.amazon.com/dp/0190943572?ie=UTF8&n=133140011, provides editorial review by you and, among others, Emmanuel Saez and Gabriel Zucman, and Senator Wyden. Your review identifies you as "NYU School of Law, U.S. Treasury Department Assistant Secretary for Tax Policy." Please explain why your editorial review identifies you, prior to Senate confirmation, as Treasury's Assistant Secretary for Tax Policy, and how long such identification has been in place on Amazon.

Answer: I was not aware that Amazon had identified me in this way until reading this question and am dismayed that they did so. As you can see from the book jacket, I am not identified in this way on the book itself, which is the only mention of my title that I personally approved. I have reached out to the publisher who originally requested the blurb to ask them to immediately correct the webpage. They have apologized, are investigating how the error was introduced, and said they are correcting the web pages with urgency.

20. Following the hearing on your nomination, a publication (The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the Wealthiest Avoid Income Tax — ProPublica) by ProPublica disturbingly alleges that ProPublica has gained access to a "trove" of more than 15 years of confidential, legally-protected private taxpayer information originating from the IRS. The ProPublica publication used the data target particular taxpayers and use distorted and highly misleading characterizations of their "true" tax rates. You have written at least one article on "taxing the rich" and appear to be an advocate of massive increases in IRS funding directed, partly, at focusing on high-income individuals and gathering troves of data on financial flows of financial accounts of private individuals and business for use at the IRS.

a. Do you believe that ProPublica's calculation of "true" tax rates is methodologically reasonable and sound, and would you base any policy prescriptions while at Treasury, if confirmed, on such a construct?
b. Does the ProPublica article concern you and, if so, why?
c. Do you commit, if confirmed, to refrain from discussing or targeting individual taxpaying individuals or businesses on the basis of allegations from the popular press or social media about taxes that they have allegedly paid?

Answer: I am uncertain what portion of my article on "Taxing the Rich" you are referring to. The main reference to IRS funding and information reporting proposals is in an analytic section discussing the challenges associated with wealth tax proposals (p. 25). I am in strong support of President Biden's proposals to reduce the tax gap.

There are multiple ways to calculate tax rates, and I find that it is useful to consider different tax rates depending on the context. For example, marginal tax rates (the additional taxes due when $1 of additional income is earned) can be helpful for understanding the incentives created by the tax system. Implicit marginal tax rates (the additional taxes due or direct spending benefits lost when $1 of additional income is earned) can be helpful for understanding the incentives created by the fiscal system as a whole. Average tax rates (taxes due divided by total income) can be helpful for understanding the overall burden on taxpayers and how it is distributed. Effective maginal tax rates on corporations (the marginal tax rate on "normal" returns and not rents) and book tax rates (book tax liability dividend by book income) can be helpful for understanding incentives for businesses. Each of these different tax rates can be calculated in different ways. For example, the denominator used to calculate the average tax rate can be adjusted gross income as defined by the Internal Revenue Code, it can be something closer to gross income as defined in the Internal Revenue Code, or it can be something closer to Haig-Simons income. Outside groups use still other defintions. As I read the ProPublica article, it appears to be defining the "true tax rate" as the average tax rate using a denominator of something akin to Haig-Simons income. As with all of these tax rates discussed, I think that can provide helpful information in certain contexts.

I am deeply concerned about the release of confidential taxpayer information. Absent an explicit statutory exception, doing so is a felony under Sections 6103 and 7213 of the Internal Revenue Code. Based on press reports, it appears to be unclear who obtained and released the information in the ProPublica article and whether they were associated with the IRS in any way. I fully support the investigations of this matter that have been called for by the Treasury Secretary.

If confirmed, my understanding is that I would not have access to confidential taxpayer information for individuals and businesses. In addition, my default position would be not to discuss specific taxpaying individuals or businesses. However, I would need to know the specific context to decide whether doing so was ever appropriate. For example, publicly traded businesses report tax information on their public, audited financial statements and individuals sometimes voluntarily release their tax returns, especially when running for high office. My initial instinct would be to not discuss individual or business taxpayers even in these cases, but I would need to know more about the specific context. For example, former Assistant Secretary for

Tax Policy Mark Mazur was asked to testify at a Congressional hearing on Apple's taxes. It would be difficult not to use a taxpayer's name in such a context.

Questions for Nellie Liang

1. The Financial Stability Oversight Council (or, FSOC), which you would participate in if confirmed, has vast authority and unclear objectives. It has the potential of being an unaccountable roving regulator with enormous authority and power.

   Among FSOC authorities are: abilities to break up firms that pose a "grave threat: to financial stability; ability to designate 'systemic activities' and utilities and subject those designated to heightened oversight and standards; ability to designate any company for consolidated supervision; among other things." Many things in the FSOCs objectives involve undefined, nebulous, concepts such as "financial stability," and "systemic risk." It has been nearly impossible to obtain workable definitions and measures of those concepts from regulators and authors of Dodd-Frank. Sometimes, requests for definitions of nebulous concepts such as financial stability are answered with similarly nebulous concepts, as with saying that: we have financial stability if we have financial resilience. That, unfortunately, simply moves from one rung of the ladder of opacity to another.

   Similarly, as we have seen with the Volcker Rule, which urged action against "proprietary trading," it took many years and hundreds of pages of regulation to attempt to define what that even means. As yet, Congress has not received a working definition, in the opinion of some. Dr. Liang, given that, if confirmed, you could be involved in use of enormous power and authority over large sectors of financial markets and the economy, please respond to the following questions:

   a. How do you define financial stability, and how do you measure whether the financial system is stable and whether there is a threat to stability?

Follow-up: The question I posed includes identifies that "Sometimes, request for definitions of nebulous concepts such as financial stability are answered with similarly nebulous concepts, as with saying that: we have financial stability if we have financial resilience." Your response begins with: "A stable financial system can be defined as one that is resilient…" Defining nebulous things with reference to other nebulous things is not instructive. Your response then ends by saying that there are a number of ways to measure financial vulnerabilities. My question is: how *do you,* with your experience, define and measure financial stability?

Answer: I agree financial stability is difficult to measure precisely, in the same way it is difficult to measure economic stability. I believe a working framework for assessing financial stability is in terms of risks, which reflects the interaction of possible external shocks to the financial system and the resilience of the financial system, which measures the ability of the financial system to either absorb or significantly amplify negative shocks and damage real economic activity.

Large negative shocks increase risks to financial stability, but such shocks, by definition, are difficult to predict. The resilience of a financial system can be assessed by its vulnerabilities. Substantial research on historical financial crises spanning decades and across many countries point to some common financial vulnerabilities. Key financial vulnerabilities include high leverage of financial intermediaries; significant mismatches between the funding of their assets and the maturity, liquidity, or currency of their liabilities; and complex interlinkages across

financial intermediaries. Financial systems with such vulnerabilities are more likely to become dysfunctional when large negative shocks occur, severely disrupting the provision of credit and other financial services, which increases the risk of severe recession and failures of financial intermediaries that could require taxpayer support. Such instability is more likely when vulnerabilities are at large, complex financial institutions, as strains at such institutions have been shown to be accompanied by spillovers across the financial system through direct connections and contagion.

The additional information of the concept of resilience can be illustrated by an example. Financial institutions can suffer losses because of significant negative shocks to the value of their assets. Such losses would not indicate heightened risks to financial stability if the financial institutions had sufficient capital and stable funding and were able to bear the losses on their own, without transmission to other firms or the financial system. But if the initial losses were to raise significant concerns about solvency or liquidity risks at other firms owing to interlinkages, the losses would be transmitted and could be amplified further if the other firms were also highly levered and had significant funding mismatches. These potential follow-on effects – and risks to financial stability – are greater when these vulnerabilities are higher and resilience is lower.

While assessing vulnerabilities is not simple, financial stability monitoring frameworks have made progress in measuring financial vulnerabilities, including frameworks to which I have contributed in research papers. These frameworks emphasize that there are numerous ways to measure financial vulnerabilities and that such assessments must look beyond simple single indicators. As an example, there are many ways to measure leverage in the financial system, each of which informs assessments of financial vulnerabilities at the many different types of financial intermediaries in the United States. For banks, various financial stability reports for the United States, including from FSOC, OFR, and the Federal Reserve, cite several regulatory risk-weighted capital ratios and supplementary leverage ratios, as well as market-based measures of the probability of default of the largest banking firms and capital buffers under the Federal Reserve's CCAR assessments. For leverage in other parts of the financial sector, these reports may include equity-to-asset ratios for broker-dealers, insurers, and private funds; margins at CCPs; and surveys of terms and standards of credit provided to financial firms.

All of these reports recognize that any individual measure is not sufficient to measure leverage for all types of financial firms and over time. In addition, measurement itself may change behavior, and it is important for monitoring frameworks to update measures to reflect any changes.

If confirmed, I would be happy to discuss with you and your staff these issues related to measuring resilience and risks to financial stability.

b. How do you define systemic risk and what measure do you use to monitor it?

Follow-up: Your response seems to say that: systemic risks can arise from financial vulnerabilities, and vulnerabilities can be measured in many ways. Given that you, if confirmed, may impose guidance, rules, or regulations governing significant amount of resources under the guise of protecting the financial system from risks and vulnerabilities, it is instructive to know how *you* would propose risks or vulnerabilities be measured.

Multiple measures provide insights, but also degrees of freedom to impose arbitrary and capricious rules and regulations. So, can you provide a definition and measure(s) of systemic risk or vulnerabilities that are limiting?

Answer: Systemic risk is the likelihood that liquidity pressures, losses, or failures of individual financial intermediaries spill over to the broader financial system and economy, increasing the risk of a severe recession and need for taxpayer support to prevent the disorderly failure of a financial institution.

There is ongoing research to develop measures of systemic risk. This research demonstrates the value of considering a wide range of metrics. Some examples include measures of financial contagion based on market prices, which indicate when an individual firm failure would be more likely to spread to other financial institutions. Other approaches look at financial vulnerabilities and gauge the degree of systemic risk by quantifying the degree to which such measures are useful predictors of severe economic recessions and financial crises. For example, some research points to excess growth in nonfinancial credit-to-GDP ratios as a reliable predictor of financial crises, where excess is defined as growth rates higher than rates in the previous business cycle expansion. Other work, including by me, has explored whether indicators of higher financial sector leverage or looser-than-average financial conditions are able to predict the probability that a recession will be more severe. This type of research provides some guidance, but not rules, for how authorities could assess if systemic risk was elevated relative to historical experience.

Given the limited experience with specific measures of systemic risk, I would not support focusing on a narrow set of measures. At the same time, I believe it is important to monitor vulnerabilities and consider how they could propagate and amplify possible negative shocks to the broader financial system and economy when such vulnerabilities are meaningfully higher than historical averages or in ranges that have increased the probability of severe recessions or financial crises in the past.

If confirmed, I would be happy to discuss with you and your staff issues related to measuring systemic risk and risks to financial stability.

c. How do you define "excessive risk" and what is the measure used to identify it?

2. Do you believe that a breach of the U.S. statutory debt limit represents a grave threat to financial stability? If so, is an approaching lapse in the suspension of the debt limit something that the FSOC should be identifying as an impending risk to financial stability and responding to?

Follow-up:

(i) Your response puts forward your belief that Congress should suspend or raise the limit. Do you agree that suspending or raising the limit cannot be done by Congress alone?

Answer: It is my understanding that suspending or raising the debt limit must be accomplished in legislation passed by Congress and signed into law by the President.

(ii) Do you believe that a breach of the limit represents a grave threat to financial stability?

Answer: I believe that not paying the obligations of the U.S. government would undermine the confidence in U.S. Treasury securities. That would be a grave threat to financial stability if investors were to reassess the value of Treasury securities, given that Treasury securities are viewed widely as a risk-free, highly liquid asset and are used as a benchmark to price nearly all other global financial assets.

(iii) Your response identifies that the FSOC has addressed risks associated with debt limits. They have, though typically inside broad reports that are not contemporaneous with buildup of the relevant risks. If such a risk is *impending,* do you believe the FSOC should be contemporaneously identifying the risk and responding to the risk?

Answer: FSOC could identify impending risks associated with the debt limit, but in past impasses, Treasury has made public statements regarding the need to suspend or raise the debt limit. When Treasury makes a public statement, I do not believe that FSOC needs to contemporaneously identify the risk.

3. Large financial institutions are required to submit "living wills" to regulators, and "stress tests" are performed on those institutions. Part of the reason offered for those examinations of the institutions is that it is instructive to assess roadmaps of how institutions are arranged, and how they might respond to stressed conditions.

   President Biden, in December of 2020, criticized the federal government as having been caught off guard and unprepared for cyberattacks, in association with breaches of the SolarWinds/Orion platform.

   Members of the Senate Finance Committee and House Financial Services Committee during the Obama administration requested, numerous times and through many mechanisms, detailed information from the U.S. Treasury and Federal Reserve about contingency plans at Treasury and the Federal Reserve for any inability of the federal government to make timely payments on federal debt obligations. Such an inability could arise because of cyber-attacks, a super storm such as Sandy, breach of the debt limit, or other factors that temporarily knocks out federal processing systems in financial networks or legal authorities to pay. Inquiries made of the Federal Reserve Board and Treasury did not receive adequate or substantive responses. It took subpoenas from Congress to identify that, in fact, Treasury and the Fed do have contingency plans, as we would hope is the case, for confronting emergencies.

   If you are confirmed, and if requested, do you commit to providing Finance Committee members, who have oversight responsibility over federal debt, with details of Treasury's contingency plans for what to do in the event that, for whatever reason (e.g., superstorm,

cyberattack, etc.), the federal government is temporarily unable to make timely payments on debt obligations?

4. Do you believe that money market funds remain runnable and do you think they represent threats to financial stability?

5. Do you believe that tri-party repo trades are, in effect, runnable, do you think they represent threats to financial stability, and do you think they are stable, independent of federal intervention into repo markets?

6. Do you believe that underfunded pensions and other post-employment benefit (OPEB) promises of state, local, and territorial governments are threats to financial stability or potential risks to stability of the financial system?

Follow-up: Your response indicates that underfunded public pensions are fiscal pressures on states, territories, and municipalities that warrant attention. Do you believe those pressures represent threats or potential threats to stability of the financial system?

Answer: These fiscal pressures represent substantial economic risks and financial risks, though they may not pose threats to financial stability. Threats to financial stability would be more likely if the realization of fiscal pressures led to municipal bond defaults and losses were transmitted and amplified through financial vulnerabilities to the broader financial system. These risks could be of concern to policymakers if the amplifications to the financial system and economy were substantial, leading to economic recessions or losses in the financial system that would require taxpayer support.

7. Do you believe that climate change is a threat to financial stability and, if so, what are measures of climate change and the associated connection to financial stability that Congress should use to monitor developments?

Follow-up: Your answer suggests that more frequent natural disasters, presumably caused by climate change, and the associated damage: could be a threat to financial stability; unidentified "new identified risks" must be monitored, measured, and reported; and some in the federal government are at work figuring out what new risks may be present, how to measure them, and how to tell investors about those things that are not yet fully know, measured, or reported.
Is that a correct representation of your response?

Answer: I believe climate change is creating risks that are larger for investors and institutions when evaluating new credit extensions and business operations than in the past owing to the increasing impact of climate change on the global economy. Many in the private sector and researchers, among others, view larger potential risks, as well as potential opportunities, as requiring new approaches and data. As a result, I see a role for the government, working with the private sector, to improve disclosures about the effects of climate change on companies by facilitating efforts to improve comparability and consistency across companies so that investors

can make better-informed decisions. The government can further provide a useful forum for discussions among investors, companies, and regulators on developing consistent disclosures and data to help to assess potential risks. I do not believe that the federal government is telling investors what the new risks are and how to measure them.

If I were to be confirmed, I would be happy to work with you and your staff on this important issue.

8. Do you believe that so-called "stakeholder capitalism" and mandated allowance for environmental, social, and governance (ESG) factors in investments by fiduciaries (including investments covered under ERISA) could pose threats to financial stability when populist sentiment shifts investor resources rapidly and violently across firms or entire sectors of the economy?

Follow-up: Do you believe that federal financial regulators should mandate incorporation of ESG factors in required financial disclosures of private companies, and are there any possible systemic risks as suggested in my question?

Answer: The question of whether ESG factors should be mandatory in financial disclosures of private firms would be an issue for the SEC. I have not studied this issue, but would be happy to work with you on it if I were to be confirmed.

In terms of whether rapid and unexpected shifts in sentiment could pose systemic risks, it would depend on whether substantial vulnerabilities were present to amplify such changes in sentiment, as I described in my response to Question 1. A high degree of common asset holdings and common business models could be a vulnerability because all investors or firms could react in the same way to a negative event, but unless holdings are substantial and accompanied by high leverage, a shift may not create a significant risk to financial stability. Absent vulnerabilities, a shift in sentiment would mainly represent a change in investors' valuations of a type of asset.

9. Secretary Yellen has identified that she plans to listen to and incorporate input from "many stakeholders in developing the Administration's climate policy." Since that policy may involve activities you would be involved in, if confirmed, will you commit to including Republicans in Congress as stakeholders from which you will be willing to receive input in developing policy, and will you identify how you intend to gather the input?

10. Do you believe that climate change poses a systemic risk to the American economy, or a potential systemic risk? If you believe there is a risk or potential risk, please explicitly define exactly what that is, including what sectors of the economy are at risk and shares of GDP represented by those sectors.

11. If the Federal Reserve in the future adopts yield curve control measures, how, if confirmed, would you advise the Treasury Secretary regarding coordination (or not) with the Federal Reserve with respect to implications for any target by Treasury of the weighted-average maturity of outstanding debt?

Follow-up: Your response indicates that monetary policy implementation and debt management are distinct and should not be coordinated by Treasury and the Federal Reserve (Fed). Give that, and given that the Treasury Burrowing Advisory Council regularly briefs Treasury officials about the interplay between Treasury security purchases by the Fed and Treasury's debt management policies, do you believe that Fed balance-sheet activities involving Treasury security purchases should be taken as a given by Treasury, to which Treasury's debt-management policies should adapt; or, should the Fed take Treasury's policies and adapt its balance-sheet activities in response?

Answer: I believe the mandates for Federal Reserve monetary policy and Treasury's debt management are distinct. Treasury's objective is to fund the federal government at the lowest cost over time. Relevant factors include the demand for Treasury securities across different maturities, which are purchased by a wide range of investors with various preferences, and many types of investors are discussed by the Treasury Borrowing Advisory Council. If I were to be confirmed, I would expect to learn more about Treasury's issuance practices and how it meets its objective of lowest cost over time.

12. The Charles Koch Foundation provide substantial funding to the Brookings Institution when you worked there, as did many "wealthy corporations" and billionaires. Given the sensitivity of some to institutional funding, especially when funding is provided to institutions that include conservative scholars, do you believe there should be concern that you, in your position, if confirmed, at Treasury would, as alleged against a conservative scholar in the past "serve the wishes of wealthy corporations and their billionaire owners?" Do you believe that concerns about think-tank funders should be limited to organizations that allow scholars to pursue conservative thoughts?

13. Do you believe that underfunded pensions and other post-employment benefit promises of state, local, and territorial government should be subjected to stress tests?

Follow-up: Your response indicates that underfunded state, local, and territorial benefit promises are a significant source of fiscal pressure on those jurisdiction, but you will study the issue further before being able to answer whether you believe those underfunded promises should be subject to stress tests. Is that an accurate assessment?

Answer: Before determining whether underfunded pensions and similar obligations should be subject to stress tests, I would want to study this issue further. The question of whether stress tests would be beneficial in this context would depend on whether stress tests would be helpful to reduce underfunding.

14. If confirmed, you would likely provide advice to the Treasury Secretary on FSOC work, if confirmed. Would you advise that the Treasury Secretary take or urge any actions to, in effect, resurrect and expand on the "operation chokepoint" efforts of the Obama administration through regulatory actions to have financial firms channel or restrict credit according to partisan and normative views, perhaps under the guise of "reputation risk?"

15. If confirmed, your work will touch on payment system issues. Recently, the Federal Reserve has been engaged with "stakeholders" and other central banks to work on developing a Central Bank Digital Currency (CBDC). As part of that work, some political advocates would like the Fed to consider construction of a distributed ledger scheme to enable accounts for all Americans (or, perhaps all residents of America) which, once an initial signoff from Congress is somehow obtained, allow the Fed to engage in fiscal policy. Those policies could involve automatic stabilization, such as injections of funds into accounts in downturns or absorption of funds from accounts in expansions, universal basic income, perhaps with smart contracting allowing the Fed to be able to determine what fund-holders could or could not purchase in transactions. Do you commit to informing members of this Committee, if confirmed, about any work within the federal government, or joint work of Treasury and the Federal Reserve, on development of a government-provided digital currency or payment system ledger, and inform members of the Committee at the immediate onset of any such work?

Follow-up:

(i) **Do you believe that there are important privacy and legal-authority issues associated with the Federal Reserve designing a CBDC, in addition to the consumer protection and financial stability issues that you identify?**
Answer: Yes, I believe there are important privacy issues associated with a possible CBDC and that such issues would depend on its structure. I would defer to legal counsel on the legal-authority issues.

(ii) **Your response identifies that Federal Reserve and others' research and explorations with respect to CBDC should help us "understand the need for" any potential CBDC. Do you believe there is a need for a CBDC and, if so, what is the need?**
Answer: I do not presume a need for a CBDC. My earlier response was meant to convey that research on how changes in consumer demand for financial services because of new technologies and the provision of those services by the private sector could be helpful to assess whether there is any need for a CBDC.

16. Climate change, we are told by some, involves risks that the Federal Reserve says we do not yet understand. The Fed also says they are examining implications of climate change for the economy, financial institutions, and financial stability. A Fed official identifies that "financial markets face challenges in analyzing and pricing climate risks." The President, on May 20, issued an executive order on climate-related financial risk, calling, among other things, for the Treasury Secretary, as Chair of the FSOC, to essentially go find those as-yet unknown and not understood risks.
    a. Do you agree with the Fed that financial markets are challenged in analyzing and pricing climate risks?
    b. If so, can you identify what those mispriced risks are, and why you know what they are while others who participate in markets do not?

Follow-up: Your response did not address b.

Answer: I do not presume to know all the potential financial risks from climate change. Members of the private sector have emphasized how risks from climate change may be difficult to gauge in light of limited data and experience. I believe that working with the private sector to produce consistent and comparable information will be helpful to better understand these issues.

c. If you do not know what those risks are, and, if confirmed, wish to assist Treasury in finding them, please describe the process you will use to discover as-yet undiscovered risks. Please, also, describe steps you would take to ensure that Treasury relays the findings immediately upon discovery, and make the discoveries immediately available to the public, if confirmed?

Follow-up: Your response did not address c.
Answer: If confirmed, I would work to develop information that is helpful to the private sector and regulators to identify potential financial risks and rewards from climate change. Any process would start with developing better data to enable risk identification and assessment. Treasury can play an important role to convene businesses, investors, and regulators to identify the information that would be useful.

If confirmed, I will ensure that Treasury relays information on any actions taken and findings from work on assessing climate-related financial risks. The Executive Order on Climate-Related Financial Risk requires the Secretary of the Treasury to engage with members of the FSOC to identify actions the regulatory agencies are taking to assess climate risks and to issue a report within 180 days.

d. If confirmed, do you commit to identifying to members of this Committee actions that Treasury may recommend or rules Treasury may propose to alter relevant laws (e.g., P.L. 93-406, "ERISA"; P.L 99-335, "FERS," and the like) and rules (e.g. 85 Fed. Reg. 72846; 85 Fed. Reg. 81658) governing the life savings and pensions of U.S. workers and families as well as things like fiduciary duties prior to taking such actions or promulgating such rules?

17. While the position to which you have been nominated does not engage much with federal tax policy, there are interplays between activities you would be engaged in, if confirmed, and taxation, and it is presumed that you understand the Administration's general policies toward taxation. Given that, how would you define the concept of a taxpaying individual business or company paying its "fair share," and how would you advise Treasury?

18. Do you believe that tax credit bonds are efficient means of subsidizing state and local borrowing, and can you explain whether there are disadvantages to such bonds and, if so, what are the disadvantages?

19. Tax analysts sometimes use, often in ad hoc ways, a concept of a "normal return" and sometimes things like "supernormal" returns. As an economist, what to you is meant by a "normal return" to an economic activity (e.g., to teaching, or a tech entrepreneur, or an industry sector)? How would you advise, if confirmed, Treasury to measure normal returns in a particular sector of the economy? As a researcher while you worked at the Brookings Institution, were you earning normal returns to your human capital, or supernormal returns?

20. The so-called Heroes Act (H.R. 6800), which passed in the House of Representatives in May, 2020, directs the Federal Reserve, in Sec. 110801, in unusual and exigent circumstances, to purchase obligations issued by any State, county, district, political subdivision, municipality, or entity that is a combination of any of the several States, the District of Columbia, or any of the territories and possessions of the U.S. Such purchases would occur within proposed modifications to the Municipal Liquidity Facility that was established under section 13(3) of the Federal Reserve Act, and the modifications would have to be made to, among other things, "ensure that any purchases made are at an interest rate equal to the discount window primary credit interest rate…commonly referred to as…the 'Federal funds rate'"; and, to "ensure that an eligible issuer does not need to attest to an inability to secure credit elsewhere." Given that the Federal funds rate is near-zero, Sec. 110801 in effect requires that the Federal Reserve make near-zero-interest rate loans to states, municipalities, and the like, independent of whether those jurisdictions are able to secure credit elsewhere—something that turns the Federal Reserve into an agency providing assistance that is close to grant making.
    a. Do you support the policies called for in Sec. 110801?
    b. More generally, do you support requiring that the Federal Reserve make loans to potentially non-creditworthy borrowers at the Federal funds rate?
    c. More generally, do you support allowing the Federal Reserve to make grants to private or governmental entities, whether under exigent and unusual circumstances or otherwise?

21. If confirmed you will participate in oversight of multi-trillion dollar markets for Treasury issuances, with obvious implications for exchange rates of actions taken in managing and regulating activities surrounding Treasury markets. Do you support a "weak dollar" or "strong dollar" position for Treasury and, whichever, please explain what a weak or strong dollar policy means to you.

22. The GSEs – Fannie Mae and Freddie Mac – have been in government conservatorship for close to 13 years. While some important administrative reforms have been undertaken in this period, such as the creation of the Uniform MBS and the credit risk transfer programs, can you discuss the additional reforms you believe are necessary for the GSEs to operate in a safe and sound manner? How should Treasury balance protecting the taxpayers' interest in the GSEs with the need to advance their housing mission – how do you see this balance playing out?

23. The Federal Financing Bank is an agency under the purview of the Department of the Treasury. We have seen it be used in some relatively interesting ways during its tenure, especially during the financial crisis, as liquidity dried up in the marketplace, including purchasing certificates or securities evidencing undivided beneficial ownership interests in agency-insured loans. As we work to wind down some of the extraordinary measures put into place to see us through the pandemic, can we get your assurance that you will work with Congress prior to enacting any new, extraordinary measures, such as expansion of the FFB?