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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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August 26, 2021

The Honorable Gene Dodaro  
Comptroller General  
U.S. Government Accountability Office (GAO)  
441 G Street, NW  
Washington, DC 20548

Dear Comptroller Dodaro:

The Social Security Act requires that trustees reports for the Social Security and Medicare trust funds be issued annually, and no later than April 1<sup>st</sup> of each calendar year.<sup>1</sup> The 2021 report has not yet been issued. It is now 147 days overdue, the longest delay in the history of the reports since 1995.

On August 5, Ways and Means Ranking Member Kevin Brady and I wrote to Treasury Secretary Yellen, addressing her role as Managing Trustee. Our letter, a copy of which is attached, identifies a claim by a nominee for a position at the Treasury Department that: “A policy has already been established to inform Congressional committees of jurisdiction by electronic communication when it is determined that the reports are expected to miss the issuance deadline pursuant to the recommendation of the Government Accountability Office.”<sup>2</sup>

Unfortunately, a “policy” of having a Treasury employee send an email to the committees of jurisdiction at a random point in time, without any indication of either the reports’ expected issuance dates or a full explanation of factors that contributed to delays, falls far short of Recommendation 2 outlined in the July 2019 GAO report to Congress which says:

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<sup>1</sup> The relevant trust funds are the federal: old-age and survivors insurance (OASI) trust fund; disability insurance (DI) trust fund; hospital insurance (HI) trust fund; and supplementary medical insurance (SMI) trust fund. The three boards of trustees are required by law [42 U.S.C. §§ 401(c), 1395i(b), and 1395t(b)] to provide trustees reports to Congress each year by April 1. According to GAO’s 2019 report on the trustees reports and the boards of trustees: “They (the boards) operate using bylaws adopted in 1995.”

<sup>2</sup> Response by Dr. Benjamin Harris, a nominee for the position of Assistant Secretary for Economic Policy at the Department of the Treasury, to questions for the record pursuant to Dr. Harris’s nomination hearing in the Senate Finance Committee. (Page 38 of

<https://www.finance.senate.gov/imo/media/doc/05.25.2021%20Senate%20Finance%20Committee%20-%20Treasury%20Nominee%20QFR%20Responses.pdf>).

The Secretary of the Treasury, as Chairperson of the Boards of Trustees, should work with the other trustees to establish a policy to inform Congressional committees of jurisdiction when the trustees determine that the reports are expected to miss the issuance deadline. This outreach should include 1) the factors that are contributing to the delays, and 2) the reports' expected issuance dates. (Recommendation 2)<sup>3</sup>

To date, we have only been provided with vague identification of when this year's trustees reports will be issued, through random telephone calls and via an August 18 email from the Chief Actuary of the Social Security Administration stating: "Please hold close but it looks like the 2021 Trustees Reports should be signed on August 31 in the early afternoon."

Unfortunately, the report development process and notification of late reports from the Managing Trustee remain opaque and unstructured. GAO's website accurately identifies that the current status of the Department of the Treasury's actions on Recommendations 1 and 2 are open. That is, sufficient action has not been taken by the Managing Trustee – the Secretary of the Treasury – to keep Congress adequately informed of the status of trustees report delivery dates.

This is especially troublesome given the massive amount of legislation contemplated by one side in Congress, in willfully partisan reconciliation exercises, that may impact important Medicare programs; given that there have not been public trustees participating in trustees reports development since mid-2015; and, given the unlawful firing by President Biden of the Senate-confirmed Commissioner of the Social Security Administration (SSA), which unnecessarily politicizes SSA and destroys the letter and spirit of the Social Security Independence and Program Improvements Act of 1994 [P.L. 103-296].<sup>4</sup>

I urge GAO to continue monitoring the trustees report development process and lack of adequate notification to Congress specifically identifying when trustees reports are expected to be delivered to Congress by the Managing Trustee. To date, the notification process is at best woefully inadequate and at worst almost casually indifferent to the important information contained in the trustees reports regarding the financial status of the funds, which are currently facing eventual exhaustion.

Please, also, by September 30:

1. Provide a copy of the 1995 bylaws under which the three boards of trustees (of the OASI and DI trust funds; of the HI trust fund; and of the SMI trust fund) operate, as identified in footnotes 4 and 8 of the 2019 GAO report.

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<sup>3</sup> Recommendation 1 is that: "The Secretary of the Treasury, as Chairperson of the Boards of Trustees, should work with the other trustees to take steps—in consultation with the chief actuaries of SSA and CMS—to improve the management of the report development schedule in order to provide the Trustees reports to Congress by the statutory deadline. These steps could include regularly updating the schedule using actual progress and archiving the final iteration of the schedules. (Recommendation 1)."

<sup>4</sup> As SSA's website (see <https://www.ssa.gov/history/ssa/ssa2000chapter2.html>) identifies, "Senator Daniel Patrick Moynihan (D, NY), Senate Committee on Finance Chairman, 103rd Congress (1993-1994), was a strong proponent of SSA as an Independent Agency. He argued that such a move would help insulate the program from partisan politics." The law that made Social Security insulated as such was the 1994 Social Security Independence and Program Improvement Act of 1994.

2. Identify whether GAO recommends any bylaw modifications to ensure that the statutory deadline of April 1 is met to deliver the trustees reports to Congress and the American public or, at least, that a structure is put in place by the Managing Trustee to produce regular updates on the reports' timing and explain the reasons for any delays.
3. Identify whether GAO recommends a legislative solution for the structural flaws in the existing structure of notifying Congress and the public on trustees' reports, including the timing of delivery.

Sincerely,

A handwritten signature in blue ink that reads "Mike Crapo". The signature is written in a cursive, flowing style.

Mike Crapo  
Ranking Member