

**NOMINATIONS OF ERIC D. HARGAN,  
DAVID MALPASS, ANDREW K. MALONEY,  
AND BRENT JAMES McINTOSH**

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**HEARING**

BEFORE THE

**COMMITTEE ON FINANCE  
UNITED STATES SENATE**

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF

ERIC D. HARGAN, TO BE DEPUTY SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES; DAVID MALPASS, TO BE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF THE TREASURY; ANDREW K. MALONEY, TO BE DEPUTY UNDER SECRETARY FOR LEGISLATIVE AFFAIRS, DEPARTMENT OF THE TREASURY; AND BRENT JAMES McINTOSH, TO BE GENERAL COUNSEL, DEPARTMENT OF THE TREASURY

—————  
JUNE 7, 2017  
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TO BE GENERAL COUNSEL,  
DEPARTMENT OF THE TREASURY**

WEDNESDAY, JUNE 7, 2017

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

The hearing was convened, pursuant to notice, at 10:15 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Orrin G. Hatch (chairman of the committee) presiding.

Present: Senators Grassley, Crapo, Portman, Toomey, Heller, Cassidy, Wyden, Stabenow, Cantwell, Menendez, Bennet, Casey, and McCaskill.

Also present: Republican Staff: Chris Campbell, Staff Director; Mark Prater, Deputy Staff Director and Chief Tax Counsel; Kimberly Brandt, Chief Health-care Investigative Counsel; and Nicholas Wyatt, Tax and Nominations Professional Staff Member. Democratic Staff: Joshua Sheinkman, Staff Director; Michael Evans, General Counsel; Peter Gartrell, Investigator; and Ian Nicholson, Investigator.

**OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S.  
SENATOR FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The committee will come to order.

I would like to welcome everyone to this morning's hearing.

Today we will consider the nominations of Eric Hargan to serve as Deputy Secretary of Health and Human Services; David Malpass to serve as Under Secretary for International Affairs of the Treasury; Andrew Maloney to serve in a position to be designated as Assistant Secretary for Legislative Affairs of the Treasury; and Brent McIntosh to serve as General Counsel for the Treasury.

We welcome all of you to the Finance Committee. We appreciate your willingness to serve in these important positions.

Now before I get too far along, I want to thank all of my fellow Senators for their support and presence today. As we all know, the government is like a giant clock with many important pieces, gears, and cogs. Today we are taking an important step toward adding several more important pieces to keep that clock functioning as it should.

It is also good to see that despite some frustrations over the past few months, we have been able to return to normal working order for processing nominees. As we all know, that process includes bipartisan input, comity, good faith, and a fair and robust vetting process. I would like to thank my colleagues, particularly Senator Wyden, for working to move this process along.

Each of these nominees will have important roles in the administration, and we will talk more about the individual posts and our nominees' excellent credentials and experience as the hearing goes on.

Before we get to that, I want to be very clear about my expectations regarding responsiveness to congressional inquiries. Regardless of party affiliation, it is essential that the administration make it a top priority to respond to inquiries from members of Congress.

Let me say this a bit differently to make sure I am clear. It does not matter who the President is, nor does it matter which member of Congress is making the request. When an inquiry is submitted to any administrative agency, we rightly expect to receive a timely and responsive answer in return.

In the years that I have been the lead Republican on this committee, I have asked virtually all of our nominees to commit to being cooperative and responsive to congressional inquiries. I have full confidence in each of the nominees who are before us today. I do not have any reason to believe that they intend to stonewall members of Congress, but I will ask all of them to make a similar pledge to provide timely and responsive answers to questions coming from members of this committee.

With that, I look forward to hearing from each of our nominees as they share their visions and views here today. I also look forward to what I hope will continue to be a full and fair committee process that allows us to process these nominations and report them to the full Senate in short order.

I will now recognize Senator Wyden for his opening statement.

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

**OPENING STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON**

Senator WYDEN. Mr. Chairman, thank you. I want to begin by thanking you for your courtesy this morning, and on a regular basis. As you know, I am going back and forth between Intelligence and this committee. I very much appreciate this.

The CHAIRMAN. Well, we are happy to work with you, Senator. You are a good partner.

Senator WYDEN. We have four nominees. After I make my opening statement, the chairman has some questions for the nominees, and he and I will have a brief colloquy, and we will be on our way.

With the four nominees, I want to begin with Mr. Hargan's nomination to be Health and Human Services Deputy Secretary. It is the second highest ranking position at the Department, effectively the chief operating officer, a huge job that encompasses a lot more than making sure the trains run on time.

As an example, Mr. Hargan held this job on an acting basis during the Bush administration. If *The Wall Street Journal* is to be believed, Mr. Hargan used his position to block efforts by the Food and Drug Administration to increase food safety inspections.

Today, with the Department pushing a radical agenda that would send the number of Americans without health coverage through the roof, endanger seniors who count on Medicaid for nursing home care, and slash programs that lay out basic living standards for working families, Mr. Hargan and each department nominee at Health and Human Services face serious questions about how they would approach their roles.

Next, Mr. Malpass would lead the Office of International Affairs at Treasury. This is the job where you advance our leadership in the global economy. It is a tough one.

Senior Trump officials regularly contradict each other on major economic policy questions. Then the President contradicts them.

Is the administration for a strong dollar or a weak dollar? Nobody knows. Statements and actions on climate, on trade, and on NATO have alienated long-time allies and close economic partners, handing China greater power and influence. We need policies that give all Americans the chance to get ahead.

Mr. McIntosh is nominated to be Treasury General Counsel. A key part of his portfolio would be, if confirmed, to guarantee that sanctions and rules on foreign investment are enforced and adhered to.

In an administration rife with conflicts, with scandals—reportedly including undisclosed meetings with a Russian bank under sanction—the Treasury General Counsel has to be unflinching in their commitment to protect the public interest.

Finally, I want to take a moment to address the issue of congressional oversight. It is closely relevant to the jobs Mr. McIntosh, as General Counsel, and Mr. Maloney, as Deputy Under Secretary for Legislative Affairs, are nominated to fill at the Treasury Department.

Word has come from the Trump administration that the executive branch, essentially, has free reign to ignore the questions that come from Democrats conducting oversight. The White House Counsel's Office is quoted as saying that the administration will only respond to the chairmen of congressional committees, and of course, the chairs are Republicans. So this is a stated policy of stonewalling Democratic lawmakers.

I want to be clear on this. I believe this is a disgrace. I believe it is deeply undemocratic. Congressional members do not conduct oversight of the executive branch for sport.

Our obligation to perform vigorous oversight is derived from the powers laid out in article 1 of the Constitution. We ask questions directly on behalf of the people we represent, and it is those people—not just us in Congress—the administration owes answers to.

Bottom line, this is not the behavior of a government that sees itself as answerable to the American people.

Our committee, fortunately, has a bipartisan tradition of supporting the right of the minority to get responses from the administration regardless of party. One of the questions this committee poses to every executive branch nominee that comes before us is, "Do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of this committee?" I will repeat the last part: it is "any Senator of the committee," not any Senator of the committee with an "R" next to their name. When nominees answer "yes," we take them at their word.

This is an issue near and dear to the Finance Committee. Senator Grassley has a track record of fighting as hard as anybody for transparency and responsiveness from the executive branch. And I would wager that every member on my side of the dais could rattle off examples of letters they have sent to the administration only to get nothing substantive in return.

It is true that in the Trump administration, Treasury has not been the worst culprit in terms of stonewalling oversight. If confirmed, Mr. McIntosh and Mr. Maloney will have a direct hand in working with Congress on these issues. Very shortly they will get that same question asked of every nominee who sits before this dais.

So it is my expectation that Mr. McIntosh and Mr. Maloney will help guarantee that the Department responds to the inquiries of all of the committee's members, not just those of the President's party.

Mr. Chairman, I know we have a colloquy after you have some obligatory matters that you have to take care of.

The CHAIRMAN. Well, thank you, Senator.

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

The CHAIRMAN. I have some obligatory questions I am going to ask all the nominees. First, is there anything you are aware of in your background that might represent a conflict of interest with the duties of the office to which you have been nominated?

Mr. HARGAN. No, sir.

Mr. MALPASS. No, sir.

Mr. MALONEY. No, sir.

Mr. MCINTOSH. No, Mr. Chairman.

The CHAIRMAN. Okay.

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. HARGAN. No, Mr. Chairman.

Mr. MALPASS. No, sir.

Mr. MALONEY. No, sir.

Mr. MCINTOSH. No, Mr. Chairman.

The CHAIRMAN. Thank you.

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. HARGAN. I agree, Mr. Chairman.

Mr. MALPASS. I do.

Mr. MALONEY. I agree.



Mr. MCINTOSH. I agree.

The CHAIRMAN. Finally, do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of this committee?

Mr. HARGAN. I do, Mr. Chairman.

Mr. MALPASS. I agree.

Mr. MALONEY. Yes, Mr. Chairman.

Mr. MCINTOSH. I agree.

The CHAIRMAN. Yes.

Senator WYDEN. Did all four get to answer?

The CHAIRMAN. They have all answered in the affirmative of our questions.

Senator WYDEN. Mr. Chairman, if I might just have a brief colloquy—and it follows up on what I touched on in my opening statement.

I want to thank you, Mr. Chairman, for asking those questions, as we both feel it has been a bipartisan tradition in the Finance Committee for the chairman to ask those four questions to every nominee, regardless of which party holds the Senate majority, and regardless who is President.

In particular, I want to emphasize the fourth question. We ask each nominee to assure us that he or she will provide a prompt response in writing to any questions addressed to them by any Senator of the committee. I emphasize the word “any” to remind our nominees the chairman and I expect nominees confirmed by this committee to provide prompt responses to questions from any member of the committee, Republican or Democrat.

The CHAIRMAN. Well, thank you, Senator. I want to thank the ranking member. I agree with him on this. When I was the ranking member of this committee, the chairman, whether it was Senator Baucus or Senator Wyden, insisted that nominees agree to respond to questions asked by any member of this committee. I have taken the same position, and I will continue to do so.

Senator GRASSLEY. Mr. Chairman, can I give my comment on that?

The CHAIRMAN. Yes, sir.

Senator WYDEN. And, Senator Grassley, if I could just respond very quickly to Chairman Hatch—and I know that you have been tenacious in working with both sides of the aisle on this, and I appreciate it. I am just running off to Intelligence.

I want everybody to understand that what both Chairman Hatch and I have said this morning is that we are insisting that nominees agree to respond to questions asked by any member of this committee. As Chairman Hatch noted, this has been a really strong tradition of our committee.

It goes back to Max Baucus and Chairman Grassley, and I just appreciate the chairman saying that he shares my view, that we are going to insist that nominees agree to respond to questions asked by—and underline it—*any* member of this committee.

Senator Grassley, excuse my bad manners for having to run out. I am in the Intelligence Committee right now, but I appreciate both Chairman Hatch and you, because both of you have made a strong commitment to this over the years.

The CHAIRMAN. I thank you, Senator.

Senator Grassley?

Senator GRASSLEY. Well, as Senator Wyden was bringing up, I think part of this has been emphasized by something that the new administration made a decision to do. I just testified before the House Oversight Committee, where the issue was brought up by both Republicans and Democrats, and the Republican chairman responded very positively to the Democratic ranking member of the Oversight Committee about the necessity of any member of Congress, whether it is Republican or Democrat, having their oversight questions be answered as a constitutional responsibility of anybody in the executive branch of government as we do our constitutional responsibility.

I am going to be sending a letter to the White House expressing my view as former chairman of this committee, as chairman of the Judiciary Committee, that whether you are Republican or Democrat, there is a 1979 court decision that makes it very clear that any member of Congress, not just the chairman, should have their requests answered, their questions answered, whatever the case might be.

The CHAIRMAN. Well, thank you, Senator.

Senator, I will turn to you for questions first. I will hold my questions until later.

Let me just say, as I noted briefly in my opening remarks, today we have these four nominations under consideration by the committee. We are going to hear from each of the nominees today, in the order they are introduced.

First, let me welcome Governor Tommy Thompson, one of the people I really most respect, whom I have had a lot of experience with over the years. He was just a terrific Governor—the longest-serving Governor in Wisconsin’s history. Governor Thompson will be introducing Eric D. Hargan.

Governor Thompson, the floor will be yours. We will go to you first.

**STATEMENT OF HON. TOMMY THOMPSON,  
FORMER GOVERNOR OF WISCONSIN, MADISON, WI**

Governor THOMPSON. Thank you very much, Chairman Hatch, Senator Wyden. Members of this very distinguished committee, thank you very much.

It is an honor and privilege for me to return to this distinguished committee to introduce a friend and outstanding individual, Eric Hargan, someone whom I was privileged to have worked with when I was Secretary of Health and Human Services.

Eric has been nominated to serve as a Deputy Secretary of Health and Human Services. I am confident that there is no one more qualified, and he will serve with honor and great ability.

Eric has outstanding academic credentials, including a degree from Harvard University—almost as good as the University of Wisconsin—and has had an incredible career. It is not well-known, but Eric can speak Mandarin Chinese. It gives you a sense of his impressive intellectual capabilities.

But what most impresses me about Eric is where he came from. In many ways Eric’s story parallels my own story.

Eric grew up in Mounds, IL. I grew up in Elroy, WI. Both are small towns of under 1,500 individuals in rural America. They are towns under stress. Both had more people living there 10 years ago than they do today, but they are places of wonderful communities. They are the kind of places where you can dial the wrong number and still end up talking for an hour.

Eric's dad was a union steward, Commissioner on the county as my father was, and lived and owned land in the community. Eric grew up on a gravel road. He did chores early in the morning, and much of the food that his family ate came from their own land.

Eric was taught early about the value of hard work and dedication. Like me, Eric still owns the family homestead. He remembers his values, where he came from.

Eric has led a distinguished career, both in public service and in private practice. I had the privilege and pleasure of working with Eric at the Department during my time as Secretary. Eric served first as my Deputy General Counsel, managing a team of over 400 attorneys on a wide range of important matters. He went on to serve as Principal Associate, Deputy Secretary, and later on became the Acting Deputy Secretary, successfully overseeing all operations within the Department.

I like to think of the Deputy Secretary, as Senator Wyden said, as the Department's chief operating officer. It is a position that keeps the trains running on time and makes sure the important public health programs of that great department are being run effectively and efficiently.

It is a challenging job, but Eric did not start in life on a paved road, and I know he has the hard work, the dedication, and the intellectual capabilities to do the job well and in the best interest of the American people.

In short, I strongly recommend the confirmation of Eric Hargan to serve as Deputy Secretary of Health and Human Services without any hesitation, and with a high degree of confidence. I want to thank this committee for giving me the opportunity to appear in front of you and to absolutely encourage you to support Eric Hargan.

The CHAIRMAN. Thank you, Governor.

Eric, that is a pretty strong statement there. I think it is a real tribute to you.

I want to thank the Governor for showing up here.

Next on our list is David Malpass. Mr. Malpass is an American economist who works for Encima Global, an economic research firm he founded in 2008.

Recently, Mr. Malpass also served as an economic advisor to President Trump, during the 2016 presidential election. He has previously served as Deputy Assistant Treasury Secretary under President Ronald Reagan, Deputy Assistant Secretary of State under George H.W. Bush, and also worked as a chief economist for Bear Stearns. Prior to all of that, Mr. Malpass worked in Portland, OR as a CPA with Arthur Andersen System Consulting Group.

Mr. Malpass holds a BA in physics from Colorado College and an MBA from the University of Denver. He also studied International Economics at Georgetown University School of Foreign Service.

Third, we will hear from Andrew K. Maloney. Mr. Maloney has over 25 years of various government experience, including most recently as the vice president of global and external affairs for the Hess Corporation. Mr. Maloney also has served as CEO of Olgiv Government Relations, a prominent bipartisan government affairs firm. He has also served as a senior advisor to several presidential campaigns and counseled on presidential legislative transition efforts.

Mr. Maloney's experience on the Hill includes senior positions in the House, including working for members of the House leadership.

Mr. Maloney received his BA from Randolph-Macon College and his JD from the Catholic University's Columbia School of Law.

Last but not least, we will hear from Brent McIntosh, who will be introduced by Senator Portman.

Senator Portman, please take it away. We will turn to you to introduce Brent McIntosh.

**OPENING STATEMENT OF HON. ROB PORTMAN,  
A U.S. SENATOR FROM OHIO**

Senator PORTMAN. Mr. Chairman, thank you very much.

I am honored to have the opportunity to introduce Brent McIntosh, who is a good friend and a former colleague who has been nominated to serve as General Counsel at the Treasury Department. As was indicated by the ranking member earlier, this is an incredibly important job.

I also want to mention briefly, if I could, that I am delighted that David Malpass is willing to step up and serve again. He has provided good economic advice to me and many colleagues over the years, and I appreciate his service going back to the Reagan administration.

With regard to Mr. McIntosh, however, let me just say briefly, I have known him for a long time. He served as Deputy Assistant Attorney General when I was U.S. Trade Representative in the George W. Bush administration. When I moved to OMB, the Office of Management and Budget, he served as the Associate Counsel to the President, as Deputy Assistant to the President, and as Deputy Staff Secretary.

Mr. Chairman, as you know, I am a former Associate White House Counsel myself, and I served with a very distinguished lawyer by the name of Brent Hatch, your son. And as Brent will tell you, the jobs that this Brent has had are very tough jobs. He not only performed them well—and it is easy in those jobs to get people upset with you from time to time because of the advice you have to give—but he gained the respect of people across the board.

In his time at the White House and at the Justice Department, I saw him rise through the ranks because people believed in his honesty, his intelligence, and his integrity. He was a professional, and I am really delighted that he is willing to step up and serve again.

After his service in the Bush administration, he returned to private practice at the prestigious firm Sullivan and Cromwell, now head of their cybersecurity practice—a specialty, actually, which will be really important for the Treasury Department at this time as we deal with the growing threat of cyber-attacks.

So I think that Brent McIntosh's diverse experience as a law clerk for two Federal Appeals Court judges, as an attorney in three different roles in the Bush administration, and as an attorney in private practice—a successful one—make him exactly the kind of candidate we ought to be promoting. I am very delighted to be here today to support his nomination, and I urge my colleagues to do the same.

I thank you, Mr. Chairman, for giving me the opportunity to say a few words about Mr. McIntosh.

The CHAIRMAN. Well, thank you, Senator. Those words are very, very influential with all of us, I am sure.

That concludes the introductions for the four nominees as far as I can see. Because there are four nominees, I would ask that each of you limit your opening statements to no longer than 5 minutes each.

We will start with you, Mr. Hargan. Please proceed if you will.

**STATEMENT OF ERIC D. HARGAN, NOMINATED TO BE DEPUTY SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC**

Mr. HARGAN. Well, thank you, Mr. Chairman.

I would like to start by acknowledging some of the members of my family who have joined me here today: my wife Emily, my sons Thomas and Joe, and my sister Jody, who has come in from Paducah, KY. So thank you all for being here with me today.

I would also like to thank Governor Thompson for that warm introduction, and also thank all of the many dedicated public servants who have loaned their talents to such great effect at HHS over the years, such as Secretary Leavitt and Deputy Secretary Azar during my previous time at HHS. I learned a lot from Governor Thompson, Secretary Leavitt, and Deputy Secretary Azar.

Thank you also, Chairman Hatch, and all of the members of the committee, many of whom I have already visited during this process. It has been a tremendous honor to meet with all of you, and I look forward, if I have the privilege to receive the approval of the Senate, to meet with and work with all of you on the future challenges and opportunities at HHS.

Now I think it would be informative for me to give you some of my personal background over and above what Governor Thompson gave you. I am currently an attorney, most recently with a law firm in its Chicago office, specializing in health-care law. Before returning to the private practice of law, I served at HHS under the George W. Bush administration as Deputy General Counsel, then as Chief of Staff to the Deputy Secretary, and finally as Acting Deputy Secretary.

My time at HHS serving in the position of Deputy Secretary has provided me with valuable experience that would help inform my work in the same role in this administration. I believe that my years at HHS will help me with understanding the Department and helping it fulfill the unique role the Department plays in ensuring that the many programs that you in Congress have committed to it are carried out well and faithfully, for the benefit of the millions of Americans who rely on them.

And I understand this role, coming from my own personal background. Although I live in Chicagoland now, I am originally from deep southern Illinois, from a farm near a small town called Mounds, population 810 or so, now I believe. My father worked at a local DOE plant as a technician, and my mother was an X-ray tech. My father was also a Korean War veteran, having served as a sergeant in the Air Force as a mechanic. He was also, on and off—as Governor Thompson noted—a local politician, county commissioner, Pulaski County, VFW commander in Mounds, and he also served as a union shop steward at the local plant.

My mother, originally from a small Finnish community near Duluth, MN, worked at our local health-care facility for 58 years prior to passing away a few years ago. I say “health-care facility” advisedly because she started at what was then St. Mary’s Hospital in Cairo, IL. But this hospital underwent the same evolution that has happened to so many small-town hospitals throughout the country, as rural areas and their health-care systems have suffered so much in the past decades. St. Mary’s, as is the unfortunate case with so many rural hospitals, is no longer around, although the good local people still continue to provide care to our community.

After leaving high school, I attended Harvard College, then Columbia Law School, followed by years of private practice. And all along, I have tried to carry on the family tradition of public service, not only by joining President Bush’s HHS, but serving as Governor Rauner’s co-chair for his health care and human services transition in Illinois in 2014 and 2015, then working with the State of Illinois in its State Health Improvement Planning Council and the State Innovation Model Workgroup.

So, between my father’s example of public service and my mother’s longtime work at our local hospital, in some ways combining public service and health care seems like fate to me. I am proud President Trump has shown confidence in me to nominate me to return to my former position at HHS.

And in Secretary Price, I see a leader with an ideal background, a physician with experience as a provider in HHS’s programs, as well as having been a leading legislator on Capitol Hill. I am hopeful that my experience as an attorney and administrator will serve as a good complement to him and enable us and the Department to achieve our mission on behalf of the American people.

People have asked me, why go back in? But I cannot imagine, if given the opportunity by you, that I could turn away. The challenges are so great, whether in public health, in health-care finance, in fostering innovation in health care, and in the administration of human services, that I cannot imagine not wanting to participate and to lend to the government both my past experience at HHS as well as the fruit of my years of work in the health-care sector since then to help as much as I can.

At HHS, I found in my previous tenure a congenial group of public servants—who are dedicated to fulfilling their given tasks. There is a level of patriotism and good attitude that I think many outside would find surprising, given the level of rhetoric we often see. Certainly, in a reversal of many people’s experiences, I walked out of a place of employment, HHS, less cynical than I went in. I believe that there is a lot we can do. We cannot solve everything

at once, but we can, I believe, make a real and lasting difference in Americans' lives and health. That, in itself, will be a worthy goal.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

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

The CHAIRMAN. Mr. Malpass, we will turn to you.

**STATEMENT OF DAVID MALPASS, NOMINATED TO BE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Mr. MALPASS. Chairman Hatch, Ranking Member Wyden, and distinguished members of the Finance Committee, thank you for the opportunity to appear before you today and for your consideration of my nomination to be Under Secretary of Treasury for International Affairs. I am deeply honored by the President's decision to nominate me, and I have very much appreciated meeting with many members of the committee and your staff this spring.

Before discussing my own background, I would like to introduce my family and thank my wonderful wife, Adele, and our four children, Robert, Emily, Julia, and Peter. Robert and Julia are here beside me; my wife Adele is behind. They have shown wonderful support. My wife, Adele, is a former Budget Committee staffer and someone who cares deeply about pursuing policies that promote prosperity for all Americans. I am particularly grateful for her hard work and support over the last year and her unwavering commitment to our Nation. Thank you.

Adele and I especially miss our parents on this occasion. They were keenly interested in public policy and would have been very proud to be here. Both our fathers died last year. They were intensely patriotic. They served in the army in World War II and chose to be buried with military honors. Adele's mother died earlier, and my mother was not able to travel from Colorado today, but I can feel their encouragement today as the Nation faces major challenges.

While the position to which I have been nominated primarily relates to international issues, my meetings with many of you focused on the local impact on your constituents. I listened to the variety and depth of your interests and concerns, and it was a particular pleasure to meet with Senators from States where I have strong personal ties, namely Oregon, Colorado, Georgia, and Louisiana. If confirmed, I look forward to working with you on a wide range of international issues, knowing they will have significant impacts on citizens of every State.

The Under Secretary for International Affairs is responsible for directing U.S. financial and economic relations with foreign countries and managing our roles in multilateral financial institutions such as the IMF and World Bank. The position also involves supervising those charged with running the CFIUS process, coordinating global financial regulatory standards, negotiating agreements affecting the U.S. financial sector, providing technical assistance to foreign financial systems, and protecting the trustworthiness of the U.S. dollar.

I am ready and eager to take on these important responsibilities and believe my upbringing, education, and 40-year career spanning government, finance, and economics have provided me with a solid foundation.

I was raised in East Jordan, MI, a small town in northern Michigan. My great grandfather started an iron foundry there in 1883 that was expanded by my grandfather, my father, and the cousins I grew up with. The East Jordan Iron Works, now called EJ Co., is a fifth-generation foundry which still prides itself on productivity, hard work, good-paying jobs, and strong communities.

After earning a degree in physics, I then worked as a contract administrator at Esco Corporation, a steel foundry in Portland, OR. We made high-alloy steel used in digging equipment, nuclear castings, and pulp mills. Both companies are emblematic of the challenges and opportunities that will continue to face our economy in the coming decades: they battle foreign competition yet have prospered through innovation, flexibility, talented leadership, and strong, skilled workers.

During the Reagan and first Bush presidencies, I worked on economic and international affairs at the Treasury and State Departments and served on the staff of the Senate Budget Committee and the Joint Economic Committee. I had the privilege of working for Secretary James Baker and for Senators Pete Domenici and Bill Roth on many of the economic issues of the 1980s and early 1990s.

After completing my government service, I moved to New York to work for Bear Stearns on macroeconomic analysis, later becoming chief economist. I subsequently started my own firm, Encima Global, which produced research on monetary and fiscal policy, markets, and currencies. I have written extensively for *Forbes*, *The Wall Street Journal*, and other national publications on growth, ways to improve spending and tax policies, the Federal Reserve, and currency stability as a core path to higher living standards.

Thus, the theme of my upbringing, career, and publications is that policies have a big impact on growth, jobs, and wages, and that a key goal of fiscal and monetary policy development is to create higher living standards for working and middle-income citizens in the United States and around the world.

If confirmed, I will endeavor to fulfill my duties by working closely with this committee and others in the Senate and House.

Thank you again for the opportunity to appear before you today. I would be happy to answer any questions.

The CHAIRMAN. Thank you.

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

The CHAIRMAN. Mr. Maloney?

**STATEMENT OF ANDREW K. MALONEY, NOMINATED TO BE DEPUTY UNDER SECRETARY FOR LEGISLATIVE AFFAIRS, DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Mr. MALONEY. Chairman Hatch, Ranking Member Wyden, and distinguished members of the Senate Finance Committee, it is an honor to appear before you today. I am humbled to have been recommended by the Treasury Secretary, Steven Mnuchin, and nominated by the President of the United States to serve as Assistant



Secretary for Legislative Affairs at the Treasury Department. I have a deep respect for the history of the Department and fully appreciate the footsteps that I must follow in to uphold the traditions and mission of this position.

I would like to take a moment to thank my family who are here today: first, my wife, Dr. Sabra Klein, who is an accomplished professor at Johns Hopkins University; our two children, Madeline and Stella; my father, a former Marine, Kerry Maloney, and my mother, Geri Maloney, whose first job was as a staffer to Congressman Sonny Montgomery on the Hill, here; my father-in-law, Colonel Peter Klein; and also my sister, Elise Kowalski, her husband, Ben, and their two children, Sam and Oliver.

I would also like to thank all of the members and staff whom I have been able to visit with over the past couple of weeks. I enjoyed meeting with you and hearing your perspective. If confirmed, I look forward to continuing the dialogue that we have started, and my door will always be open.

I grew up on a small farm in Rockingham County, VA. We raised poultry, sheep, and some beef cows. I was active in 4-H and the Future Farmers of America. Since my mother worked on Capitol Hill and my uncle was convention coordinator to Hubert Humphrey's presidential campaign, politics was always a discussion at our dinner table. I caught the bug early in life and wanted to work in government.

My first opportunity to work on Capitol Hill was a college internship, working in the press office of Virginia Senator John Warner. My job was to look through hard copies of local newspapers for articles where he was mentioned, cut each article out, tape it on another piece of paper, photocopy and distribute it as part of the press clippings. I might add that the Internet has replaced that role.

Upon completing college, I worked as a legislative aide in the Virginia General Assembly, gaining a firsthand view of how States must address budget and economic concerns. Upon completion of the General Assembly, I returned to Washington, DC to pursue law school and work on Capitol Hill. I was able to spend a summer working for Hon. Laurence J. Whalen at the U.S. Tax Court. Following law school, I was very fortunate to spend 5 years working in the House of Representatives. I oversaw and managed legislative and State staff, reinforcing the importance of responding to the needs of constituents. I worked on a range of issues that included energy, financial services, tax, trade, appropriations, and transportation. I also served in House leadership and keenly understand the legislative dynamic between leadership and the committees and the need to work with colleagues in a bipartisan manner.

I left Capitol Hill in 2002 to join a government affairs firm. During my tenure at the firm, I was asked to become the chief executive officer. In addition to providing strategic counsel to the firm clients, I was responsible for managing the day-to-day business of the company, coordinating with our parent company, and handling marketing and staffing decisions.

I was very proud to have helped build one of the most successful bipartisan firms. After leaving the firm, I joined an American energy company, where I created an integrated global external affairs

function, focusing on the intersection of public policy, public affairs, and economic conditions.

As you know, the Treasury Department helps preserve and promote financial stability and security here in the U.S. and around the world. The Department has one of the most important functions in our government and is the premier financial institution in the world. I fully understand the enormity of the role of the Office of Legislative Affairs and the importance of the relationship this office has with Congress.

If confirmed, I commit to being responsive to you and your staff. I will strive to ensure your views are communicated within the Department and pledge to maintain an open line of communication between the Department and Congress.

Again, I would like to thank Chairman Hatch, the ranking member, the Senators, and the staff for your consideration. I look forward to responding to any questions that you may have.

The CHAIRMAN. Well, thank you so much.

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

The CHAIRMAN. Mr. McIntosh, we will turn to you.

**STATEMENT OF BRENT JAMES MCINTOSH, NOMINATED TO BE  
GENERAL COUNSEL, DEPARTMENT OF THE TREASURY,  
WASHINGTON, DC**

Mr. MCINTOSH. Chairman Hatch, Ranking Member Wyden, members of the committee, thank you for the opportunity to appear before you today. I also thank Senator Portman for that generous introduction.

I am honored to be the President's nominee to be General Counsel for the Department of the Treasury, and I am grateful to the Secretary for his confidence in recommending me for the position.

I would like to take a moment to introduce the members of my family who are here today, starting with my wonderful wife Laura, without whom there is no chance I would be here; my three terrific kids: Mia, age 13; Rhys, age 10; and Ethan, age 7—whom I would note had essentially memorized the musical "Hamilton" before becoming aware that I was in consideration for a position at the Treasury—my parents, Carl and Shirley McIntosh, who have driven in from Williamston, MI for this hearing, and who have been represented ably by Senator Stabenow since she was an Ingham County commissioner in the 1970s. And I would acknowledge the absence of my sister, Beth Eiler, who wanted to be here today but is administering 8th grade science exams at Sexton High School in Lansing, MI.

Since being nominated, I have had the opportunity to meet with several of you and your staffs, and I appreciate the courtesies you afforded me in hosting those meetings. From my prior Federal service, I am acutely aware of the need for a close working relationship with the Congress, and I look forward to working with you and your staffs to foster such a relationship, should I be confirmed.

The challenges that the Treasury confronts, and the responsibilities of its chief legal officer in helping to navigate them, are daunting in both breadth and complexity. In the past 2 decades, I have twice watched the Treasury—including in particular the Gen-

eral Counsel's office—grapple with pressing, emergent issues of grave global consequence. Having been in Manhattan's financial district on September 11, 2001, I saw with my own eyes the horrors that terrorism wreaked that day.

In the years following, I watched with deep gratitude the heroic work of Treasury personnel to bring to bear powerful financial tools to thwart those who would do us harm. And while serving on the White House staff from 2006 to 2009, I watched the tireless work of Treasury personnel to address urgent issues in the American economy.

In both cases, the Treasury's dedicated, experienced, and immensely talented legal staff was central to the Department's efforts. It has long been apparent to me that it would be the honor of a lifetime to work among and lead that staff.

One prior Treasury General Counsel said at his confirmation hearing that "the legal issues facing the Treasury today are among the most critical in government." That statement has often been true, and I believe it is true today. Treasury has a crucial role to play in safeguarding the dynamism of the U.S. economy, in ensuring a fair and efficient tax system, in advancing this Nation's interests in the international arena in the world, and in bolstering our national security.

I pledge that if confirmed, I will bring to my share of these tasks a commitment to rigorous legal analysis, zeal in the pursuit of the interests of the American people, and steadfast dedication to upholding the rule of law. I would strive to bring an unstinting devotion to duty inspired by the work ethic of my parents, both raised on farms in the thumb of Michigan. I would be guided at all times by the obligation of fidelity to the Constitution. And I would keep ever in mind the fundamental truth, articulated by a mentor of mine, that the demands of honor have special application to government service.

Thank you for the opportunity to appear today. I look forward to your questions.

The CHAIRMAN. Well, thank you so much.

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

The CHAIRMAN. All four of you are just excellent, as far as I am concerned.

I am going to defer my questioning to Senator Grassley, let him go first, and then we will go to our Senator from Pennsylvania.

Senator Grassley?

Senator GRASSLEY. Mr. Chairman, I thank you for doing that.

Congratulations to all of you for your important positions. I hope I can get one question to each of you. If I cannot, I will submit what I do not ask for answer in writing.

I am going to start with Mr. McIntosh. As you may be aware, I have long been an advocate for whistleblowers. In 2006, I was successful in enacting legislation to enhance the IRS whistleblower program.

That program has been one of the most effective programs in addressing tax evasion, leading to the recovery of more than \$3.4 billion in taxes that otherwise the IRS would have never known about, except for whistleblowers reporting it.

However, there have been concerns that some within Treasury and also some within IRS have resisted the whistleblower program and may be undermining its effectiveness. One concern is that Treasury and IRS have narrowly interpreted the whistleblower law to the detriment of whistleblowers in several instances.

Example: the IRS has interpreted the term “collective proceeds,” which is the base for determining the amount of an award, to exclude criminal penalties and certain other proceeds, such as penalties assessed for undisclosed foreign bank accounts.

My question is, should you be confirmed as General Counsel for the Treasury, could I count on you to be supportive of the whistleblower program and work to ensure its success? Would you be willing to review Treasury and IRS interpretation of the whistleblower law, including the present interpretation of “collective proceeds”?

My question comes from just the common-sense approach that this \$3.4 billion would not have been collected if somebody had not come forth and told about it.

Mr. MCINTOSH. Senator Grassley, thank you for that question. I have long admired your leadership on whistleblower issues. I will commit to do the things that you have asked me to do.

Senator GRASSLEY. Thank you. That is all I can ask at this point, and I will try to keep in touch with you.

I now go to Mr. Hargan. In your testimony, you mentioned your mother’s work at St. Mary’s Hospital in Cairo, IL. You said that the hospital is no longer around.

You have hit upon an issue that is very important to me: the survival of rural hospitals. Along with Senators Klobuchar and Gardner, so it is a bipartisan bill—we call it the Rural Emergency Acute Care Hospital, and that is REACH, R-E-A-C-H, for short. The bill was introduced because of the alarming rate of closures of rural hospitals in the past several years. And of course, when a rural hospital closes, the community loses all health-care providers in the area.

So put simply, my bill would allow critical access hospitals that no longer have the necessary inpatient volume to keep the doors open, to establish an emergency room, along with other services—just as an example: dialysis, home health, telemedicine, and outpatient. We do not dictate what they have to do, but we give those as examples.

The center would not have inpatient, because it is about 4.5 percent inpatient use of those beds. So you see, it is a high overhead.

With a REACH designation, these centers would need to provide 24/7 transport of critical patients to tertiary care centers. That would be one of the main reasons for this legislation.

So I hope you think it is a common-sense solution. I do not expect you to give me an answer on the bill now, but I would hope that you would be willing to work with my office to assure people living in rural areas, like most of Iowa, will have access to this just-in-time medical care.

Mr. HARGAN. Senator, I would be delighted to work with you and your staff on that. Rural health is very important to me.

Senator GRASSLEY. Okay. Thank you.

I will have to quickly ask this question to Mr. Malpass. Over the last several years, we have seen an increase in the amount of foreign direct investment in the United States, specifically by China.

In general, I do not oppose direct foreign investment, when people outside of the United States invest here and create jobs. I generally think that is a very good thing.

However, the rise of state-owned enterprises, which operate in many cases on behalf of their governments, has changed the traditional foreign direct investment model. Today we read about Chinese state-owned enterprises buying American companies specifically to acquire technology and intellectual property.

I know others in Congress have the same concerns. So just how do you view the rise of these state-owned enterprises in the global economy over the last decade? And by the way, this is in regard to beefing up the Committee on Foreign Investment, which is in your department.

Mr. MALPASS. Yes, thank you very much, Senator. That is an important question. These are complicated issues.

So, as we think about the changing world, it is moving quickly, and as you said, China is gathering a role. The CFIUS process is an important one in evaluating national security interests, and I commit to making sure that it is supervised and staffed in a way that makes it possible to evaluate national security concerns as they relate to foreign investment in the United States.

Senator GRASSLEY. Thank you.

Mr. MALPASS. Thank you.

Senator GRASSLEY. I will submit Mr. Maloney my last question for answer in writing.

Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you, Senator.

Senator Stabenow has one question.

Senator STABENOW. Thank you, Mr. Chairman. I appreciate you allowing me to take a moment.

I first want to thank my friend and colleague, Senator Grassley. He and I are working together on CFIUS and issues around food safety and food security. I want to associate myself with your comments.

Mr. Chairman, I just had to take a moment, as we all do, in juggling a number of things today. I appreciate you letting me take just a moment to welcome the nominees.

When I looked at the four nominees and two of them are from Michigan, I think that says a lot about how great our State is. So I just wanted to have the opportunity to welcome both of you. Public service is very important, and I am so pleased that you are putting yourselves forward.

Brent McIntosh, I know your mom and dad are here, and your family. It is good to see you. Williamston is not far from where I live. So it is wonderful to have you. I know you are very proud of your son, a highly respected attorney, most recently at Sullivan and Cromwell. I am here today saying good words—even though I am a Michigan State grad and you went to the University of Michigan.

Mr. MCINTOSH. Thank you so much, Senator.

Senator STABENOW. I also want to welcome Mr. David Malpass, another Michigan native. I think your family is here as well. We thank you for your service in previous administrations, the Reagan administration, as well as in the George H.W. Bush administration. I appreciate your coming forward and being willing to serve.

Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you, Senator.

We will now go to Senator Casey.

Senator CASEY. Mr. Chairman, thank you very much.

Let me start by saying how much I appreciate the statements by Chairman Hatch, Ranking Member Wyden, and Senator Grassley regarding the responsiveness—the duty to respond that Federal agencies have. I am grateful for that.

I am also grateful for the nominees' willingness to serve, in some cases to serve yet again, and your families' dedication to that service as well, because I know when you serve, they serve along with you and sacrifice on your behalf.

I will start my questions with Mr. McIntosh, with regard to the duties you would have as General Counsel at the Treasury Department. I will focus specifically on requests for information that a Senator would submit, and the question of responding to those requests regardless of party affiliation.

Here is my question, Mr. McIntosh. As General Counsel, would you advise Secretary Mnuchin that it is improper—improper—to only respond to requests from Republican offices and not requests from Democratic offices?

Mr. MCINTOSH. Senator, thank you for that question. It is my view that a good working relationship with both houses of Congress and with both sides in both Houses is an essential aspect of service in the executive branch, and I would bring that message and that ethic to my role as general counsel.

Senator CASEY. And I appreciate that sentiment, but I need a “yes” or “no” answer to that question.

Mr. MCINTOSH. Senator, I would want to look at the law underlying the request, but I would expect that it is not proper to simply take an off-the-table response to one side while responding to the other.

Senator CASEY. That is not a direct “yes” or “no” answer.

Mr. MCINTOSH. Senator, I hesitate to weigh in on a hypothetical situation, but in a situation where I believe the law was in favor of a response, I would tell the Secretary that it was improper not to respond.

Senator CASEY. If another situation arose where a Republican office has received a response for information from the Secretary but a Democratic office has not received a response for similar information, what advice and recommendation would you provide?

Mr. MCINTOSH. Senator, again, on a hypothetical situation like that, it sounds like the sort of thing where I would want to advise the Secretary that he ought to be responding without regard to the partisan alignment of the Senator in question.

Senator CASEY. Also, would you advise the Secretary to discuss information in sworn testimony to the committee if he is unable to provide the source of that information to the committee?

Mr. MCINTOSH. I would be hesitant to do so. I do not know if there are hypothetical situations in which, for sources and methods reasons, one would want to do that with regard to national security information, but beyond the poverty of my imagination, I am not imagining a situation where that would be appropriate.

Senator CASEY. Let me give you the circumstance just for context.

In January, I asked Secretary Mnuchin to provide a copy of a number of foreclosures that OneWest Bank engaged in in my home State of Pennsylvania—in this circumstance, while he owned the bank. I asked for that as well as State-by-State foreclosure data. That is part one. That was my request.

Secretary Mnuchin provided similar information to the State of Nevada, pursuant to request by Senator Heller—in this case, the foreclosure numbers prior to his confirmation in January. He has yet to provide the same information to Democratic requesters—in this case to my office and to Senator Brown of Ohio.

So we asked for the same information. He responded to the request of Senator Heller before confirmation and has yet to respond to ours. I hope you would remind him, and remind his team, that they have yet to respond.

Mr. Maloney, I also have a question for you in your capacity as Under Secretary for Legislative Affairs. Republican members of our committee were provided with OneWest Bank foreclosure data 4 months ago. I followed up my verbal request with a question for the record, where the Secretary responded, “I have requested the additional foreclosure information.”

The question I have for you is, when could I expect to receive the data that I requested on OneWest Bank’s foreclosures in Pennsylvania and nationally?

Mr. MALONEY. Well, Senator, as you know, I am not yet confirmed. So I am not at the Treasury Department. So I am not familiar with the requests that you have made.

As I said in my opening statement, I am fully committed to being open and transparent in this role and ensuring that we respond in a timely manner and have the adequate staff to respond in that matter. But I am not familiar with your requests.

Senator CASEY. Would it be true to say you agree with the statement that I just made reference to with regard to Mr. McIntosh, that if a Democratic Senator requests any information, but especially the same information requested by a Republican, that the Department has a duty to respond to the Democratic request as they would the Republican request?

Mr. MALONEY. It is my understanding that the Department has been responding to both Republicans and Democrats, and I intend to continue that tradition.

Senator CASEY. Thank you very much. I will have other questions in the next round.

The CHAIRMAN. Thank you, Senator.

Senator Cassidy?

Senator CASSIDY. Mr. Malpass, this is not directly under your stewardship, but there is an issue related to international competition. In the context of renegotiation of the U.S.-Norway Bilateral

Tax Treatment, we asked President Obama's Treasury Department to rectify significant unfair tax advantage.

Background: in 2007, Norway opened the door to a tax structure where Norwegian companies can operate in the U.S. outer continental shelf with virtually no tax liability in their home country. Clearly, that puts our U.S.-based companies at a severe disadvantage in these outer continental shelf operations.

Just to put a point on it, there are disadvantaged workers and their families who are then laid off, and their future diminished, because the Norwegians have an unfair tax advantage.

In 2016, March, the Louisiana delegation requested information from Treasury on whether this tax advantage would be addressed in the revised U.S.-Norway Tax Treaty, and we have yet to receive an answer.

So, I know that this is technically under the Office of Tax Policy, but there is not even a nominee for that office yet. So I guess my question to you is, within your ability to do so, will you commit to assisting us in arranging a briefing from Treasury on this matter?

Mr. MALPASS. Absolutely. I would be happy to communicate with you and see what we can do within the Department, if I am confirmed. So I will work with you. It sounds like an important issue, and one that should be looked into.

Senator CASSIDY. On behalf of those families, thank you.

Mr. HARGAN, something that will eventually have to be addressed—looking at the work you have done in your legal career—is anti-kickbacks, Stark laws, et cetera. There seems to be kind of a growing recognition that as we attempt to align incentives and providers would go to a two-sided risk, that Stark laws may be now counterproductive. And hospitals which traditionally have opposed reforms of Stark laws but now have joint ventures, they seem to also recognize that this is counterproductive. I am giving you my position, obviously.

But you have actually kind of worked on this in your legal practice. I am just trying to get your thoughts on that issue.

Mr. HARGAN. Thank you, Senator. In the position that I am going into as Deputy Secretary, I would look forward to looking at that and helping implement anything that you all do in terms of reforms to the system in order to achieve a goal of coordinated care, or any of the other issues where I think people who have commented in this area have seen, perhaps, a conflict between the Stark law on one hand and the goals of coordinated care, community care systems, on the other, and other types of reform.

But obviously, this rests within the hands of Congress to consider any changes to that law. But if I am put into the position of Deputy Secretary, I would be happy to work to implement those laws within the Department.

Senator CASSIDY. Now clearly, you have kind of a granular understanding of the issue, I presume, just because you have been involved in that. Would you give recommendations if, in the theoretical, we were to undertake—and with my chairman up there and his staff taking notes—a granular way to sort of address this?

Mr. HARGAN. That is what I do in my private life, is work at a very great degree of granularity, and I would look forward to apply-



ing that same focus at HHS and work with you all and with the Department to make sure that that is well done.

Senator CASSIDY. Thank you.

Mr. Chairman, I yield back.

The CHAIRMAN. Well, thank you so much.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman.

Mr. Hargan, continuing on health care—I read some of your comments. I wondered if there were things in the Affordable Care Act that you think were working and that we should keep?

Mr. HARGAN. Well, Senator, obviously that is the subject of a lot of dispute here on Capitol Hill. I know that you all have—there is a lot of policy—

Senator CANTWELL. My colleague from Louisiana has said there are things that are working, and that the States should keep them if they want to.

Mr. HARGAN. There have certainly been some things in the health-care landscape that have changed. I am not particularly a policy person in this area to opine about the influence of the Affordable Care Act and all the changes in the health-care landscape that have taken place.

Senator CANTWELL. Okay. Let us say, for example, you can have clout. I know you have kind of disparaged moving further with expansion of the children's health care program as more government. But sometimes, when bundling up individuals, like we have been able to do in some of these markets—New York, Minnesota—you can get leverage by bundling up a large population and serving them up to the providers.

Obviously, you may get more cost-effective for them. The consumer gets clout because, if they are an individual not with a major employer, it gets them clout. They can be bundled up and get clout that way.

Do you think that is a good idea?

Mr. HARGAN. Well, you can always achieve efficiencies within the health-care system by allowing people to work together in the system. It is always an issue about exactly how you all might reform this system in order to allow that to take place most efficiently and well within the confines that we have within the current system.

Senator CANTWELL. So I will get you more specifics on that, and maybe you can give me a little more detailed answer.

The same on rebalancing—we have been very big proponents of pushing States to establish a focus on community-based care versus nursing home care because it can save huge dollars for individual States and for individual families.

Is that a concept that you think might be something that you could support?

Mr. HARGAN. I think that that is an issue where both patients and the physical health of the programs pull in the same direction. Moving people from institutional care to community-based and home-based care is a place where it seems like the market is going. And I think that both patients and the programs themselves might be well-served by moving more in that direction.

Senator CANTWELL. And if we could encourage them to do so, it would be good?

Mr. HARGAN. Encouraging people to move into their communities, I think that—from what I have seen—I am not a physician in this area—

Senator CANTWELL. We will get you some more on that too, because we think these are initiatives that are saving for consumers and for institutions and for government. So we think it is a win for everyone.

If I could, Mr. McIntosh, I know Secretary Mnuchin has been before the committee talking about a 21st-century Glass-Steagall proposal. Do you know—he is doing this regulatory review as part of the operations. Is he anticipating including a proposal in there?

Mr. MCINTOSH. Senator, I appreciate the question. As I am not in the Department now, I am not privy to the deliberations regarding the regulatory reform proposals the Secretary intends to propose, and I do not know whether 21st-century Glass-Steagall would be among them.

Senator CANTWELL. Do you think it is a good idea?

Mr. MCINTOSH. Senator, I do not pretend to have an expertise on what policies this body ought to adopt in that space.

Senator CANTWELL. Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you.

Senator Casey has a couple more questions.

Senator CASEY. Mr. Chairman, I know we are ready to wrap up, but I just have a question for Mr. Hargan.

We have a dispute with HHS about responsiveness to letters. Let me just quickly ask you this question. If you are confirmed, do you commit to respond in a timely manner to all congressional inquiries and requests for information from members of Congress, including requests from members in the minority?

Mr. HARGAN. I do commit.

Senator CASEY. Thank you. Mr. Chairman, the last thing I will do is, I would ask consent to enter into the record a letter I sent to Secretary Mnuchin dated May 25, 2017, regarding these requests to the Treasury.

The CHAIRMAN. Without objection, it will be in the record.

[The letter appears in the appendix on p. 23.]

Senator CASEY. Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you.

I want to say that I have been around here a long time, and I think all four of you, each of you, is an excellent pick by this administration. I look forward to working with you and helping you as much as we possibly can on this committee.

I am proud that you are willing to serve. We welcome your families here, your children, other members of your family, and we just want to thank you for your willingness to serve. It is very difficult sometimes to serve in these positions, and sometimes you get no credit for it at all. All you get is abuse, but the fact of the matter is, you are willing to do it. And each of you has special expertise in your particular areas that I think will benefit this country greatly.

So with that, then, we will recess until further notice. Thank you.

[Whereupon, at 11:03 a.m., the hearing was concluded.]

# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

LETTER SUBMITTED BY HON. ROBERT P. CASEY, JR.

### United States Senate

WASHINGTON, DC 20510

May 25, 2017

**Robert P. Casey, Jr.**  
Pennsylvania

COMMITTEES

Agriculture, Nutrition, and Forestry

Finance

Health, Education, Labor, and Pensions

Special Committee on Aging

Joint Economic Committee

Dear Secretary Mnuchin:

In January, I submitted a question for the record asking you provide a copy of the letter to HUD you referenced in your sworn testimony with regards to reverse mortgages. In addition, I asked you provide State and national foreclosure data from OneWest Bank. You will recall, you provided this information to Senator Heller, a Republican member of this committee, prior to your confirmation, but have as of yet failed to provide this information to Democratic requesters.

In response to my January 25, 2017 question for the record, you stated, "I have requested the additional [foreclosure] information as well as the referenced [HUD] letter."

The full question is below.

**1. Response to Casey Question 23 and 23 a-d:** Mr. Mnuchin, in addition to your providing the total number of foreclosures executed by OneWest bank, please provide the following sub-data:

- a. The foreclosure rate on mortgages owned by OneWest;
- b. The foreclosure rate on mortgages serviced by OneWest;
- c. The modification rate of mortgages owned by OneWest; and
- d. The modification rate of mortgages serviced by OneWest.

*You did not provide a response to the question; further, you provided assurances when we met that you would provide national foreclosure data, and assurances to my staff you would provide a copy of the letter referenced in your testimony to the Committee. Please do so.*

**Amended Response:**

I have requested the additional information as well as the referenced letter.

In accordance with your stated response:

Please provide the committee by COB Friday a copy of your correspondence requesting the letter on reverse mortgages.

Please provide the committee by COB Friday a copy of your correspondence requesting State and national foreclosure information.

Sincerely,

Robert P. Casey, Jr.  
United States Senator

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PREPARED STATEMENT OF ERIC D. HARGAN, NOMINATED TO BE DEPUTY SECRETARY,  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Thank you, Governor Thompson, for that warm introduction. And also, thank you to the many dedicated public servants who have loaned their talents to such great effect at HHS over the years, such as Secretary Leavitt and Deputy Secretary Azar during my previous time at HHS. I learned so much from them. Thank you also to Chairman Hatch, Ranking Member Wyden, and all of the members of the committee, many of whom I have already visited during this process. It has been a tremendous honor to meet with you, and I look forward, if I have the privilege to receive the approval of the Senate, to meet with and work with all of you on future challenges and opportunities at HHS.

I would like to start by acknowledging some of the members of my family who have joined me here today: my wife Emily, my sons Thomas and Joe, and my sister Jody, who has come in from Paducah, Kentucky. Thank you all for being here with me today!

Now I think it would be informative for me to give you some of my personal background. I am currently an attorney, most recently with a law firm in its Chicago office, specializing in health law. Before returning to the private practice of law, I served at HHS under the George W. Bush administration, as Deputy General Counsel, then as Chief of Staff to the Deputy Secretary, and finally as Acting Deputy Secretary. My time at HHS serving in the position of Deputy Secretary has provided me with valuable experience that will help inform my work in the same role in this administration. I believe that my years at HHS will help me with understanding HHS and helping it fulfill the unique role the Department has to play in ensuring that the many programs Congress has committed to it are carried out well and faithfully, for the benefit of the millions of Americans who rely on them.

I understand this role, coming to it from my own personal background. Although I live in Chicagoland now, I am originally from deep southern Illinois, from a farm near a small town called Mounds, population 810 now I believe. My father worked at a local DOE plant as a technician, and my mother was an X-ray tech. My father was also a Korean War veteran having served as a sergeant in the Air Force as a mechanic. He was also, on and off, a local politician, as county commissioner in Pulaski County, VFW commander in Mounds, and he also served as a union shop steward in the local plant.

My mother, originally from a small Finnish community near Duluth, worked at our local health-care facility for 58 years prior to passing away a few years ago. I say "health-care facility" because she started at what was then St. Mary's Hospital in Cairo, Illinois. This hospital underwent the same evolution that has happened to many small town hospitals throughout the country, as rural areas and their health-care systems have suffered so much in the past decades. St. Mary's, as is the unfortunate case with many rural hospitals, is no longer around, although the good local people still continue to provide care to the community.

After leaving high school, I attended Harvard College and then Columbia Law School, followed by years of private practice. And all along, I have tried to carry on the family tradition of public service not only by joining President Bush's HHS, but also serving as Governor Rauner's co-chair for his health care and human services transition in 2014 and 2015, and then volunteering for the State of Illinois on its State Health Improvement Planning Council and the State Innovation Model Workgroup. I also serve my community as a precinct committeeman for my township, and help as much as I can with our parish and school at St. Isaac's.

So, between my father's example of public service and my mother's longtime work at our local hospital, in some ways combining public service and health care seems like fate to me. I am proud that President Trump has shown confidence in me to nominate me to return to my former position at HHS. And in Secretary Price, I see a leader with an ideal background: a physician with experience as a provider in HHS's programs, as well as having been a leading legislator on Capitol Hill. I am

hopeful that my experience as an attorney and administrator will serve as a good complement to him, and enable us and the Department to achieve our mission on behalf of the American people.

People have asked me: why go back in? But I cannot imagine, if given the opportunity by you, that I could turn away. The challenges are so great, whether in public health, in health-care finance, in facilitating innovation in health care and in the administration of human services, that I cannot imagine not wanting to participate, and to lend to the government both my past experience at HHS, as well as the fruit of my years of work in the health-care sector since then, to help as much as I can.

At HHS, I found in my previous tenure a congenial group of public servants, who are dedicated to fulfilling their given tasks. There is a level of patriotism and good attitude that I think many outside would find surprising, given the level of rhetoric we often see. Certainly, in a reversal of many people's experiences, I walked out of a place of employment, HHS, less cynical than I went in.

This does not mean that HHS does not have any challenges that need to be addressed. And in the Deputy Secretary position, as the chief operating officer of the Department, you see the issues and details up close. The office helps implement the laws that the Department has been given, coordinates the agencies and divisions, and ensures the Department runs efficiently. For so large an enterprise, this is a daunting goal. But I believe with good will and the assistance of the staff at HHS, and the Congress, that this is not an impossible task. We cannot solve everything at once, but we can, I believe, make a real and lasting difference in Americans' lives and health, and that in itself would be a worthy goal. Thank you.

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## SENATE FINANCE COMMITTEE

### STATEMENT OF INFORMATION REQUESTED OF NOMINEE

#### A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Eric D. Hargan.
2. Position to which nominated: Deputy Secretary of the Department of Health and Human Services.
3. Date of nomination: April 4, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: June 3, 1968, Cape Girardeau, Missouri.
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): Meridian High School, 1982–1986, high school degree; Harvard University, 1986–1990, BA *cum laude* in philosophy, June 1990; Columbia University Law School, 1990–1993, J.D., May 1993.
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):
  - Title: Assistant
  - Employer: Law Offices of Gloria E. Thurston
  - Location: Pulaski, Illinois
  - Dates: Summer 1990
  - Description: Assisted a solo law practitioner with various administrative tasks.
  - Title: Associate, Corporate Department
  - Employer: Skadden, Arps, Slate, Meagher, and Flom
  - Location: Chicago, Illinois; Hong Kong; Jakarta, Indonesia
  - Dates: 1993–1996, Summer 1992

Description: Summer Associate, Summer 1992. Associate attorney in Corporate Department. Sole representative of the firm in its Jakarta, Indonesia workspace, based out of the Hong Kong office, 1996.

Title: Associate and Partner, Corporate Department  
Employer: Winston and Strawn  
Location: Chicago, Illinois  
Dates: 1997–2003

Description: Attorney in Chicago office, working primarily on mergers and acquisitions, securities, and corporate finance. Elected partner in 2001.

Title: Deputy General Counsel  
Employer: U.S. Department of Health and Human Services  
Location: Washington, DC  
Dates: 2003–2005

Description: Assisting the General Counsel in managing a team of over 400 attorneys advising HHS agencies on a wide range of litigation, regulatory, and contract matters.

Title: Principal Associate Deputy Secretary  
Employer: U.S. Department of Health and Human Services  
Location: Washington, DC  
Dates: 2005–2007

Description: Served as principal deputy and chief of staff to the Deputy Secretary, then as Acting Deputy Secretary of the Department.

Title: Partner, Health Law Department  
Employer: McDermott, Will, and Emery  
Location: Chicago, Illinois  
Dates: 2008–2010

Description: Work concentrated in health-care transactional and regulatory areas.

Title: Shareholder, Health, and FDA Business Group  
Employer: Greenberg Traurig, LLP  
Location: Chicago, Illinois  
Dates: 2010–2017

Description: Work focused on transactions, health-care regulations and government relations. Within the transactional area, concentrated on mergers and acquisitions and corporate finance in the health-care sector.

Title: Adjunct Professor of Law  
Employer: Loyola University Law School  
Location: Chicago, Illinois  
Dates: 2012–2017

Description: Taught a course on administrative law and health-care regulations.

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):

Co-Chair and Convener of Illinois Governor Rauner's Healthcare and Human Services Transition Committee, 2015–2016.

Member, Illinois State Health Improvement Plan Planning Council, 2015–2016.

Member, Illinois State Innovation Model (SIM) Workgroup, 2015–2016.

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): Shareholder, Greenberg Traurig, LLP.

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

Member, Executive Board, Chicago Lawyers Chapter, Federalist Society.

Policy Fellow, American Conservative Union Foundation.

Oblate, Order of St. Benedict.

Knight, Order of Malta, Federal Association.

13. Political affiliations and activities:

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

Precinct Committeeman, Downers Grove Township Republican Organization.

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

Volunteer, 72-Hour GOTV Strike Force, Bush–Cheney 2004.  
 Volunteer, GOTV team, Republican National Committee, 2006.  
 Volunteer, GOTV team, Republican National Committee, 2008.  
 Member, Finance Committee, Bill Brady for Governor, 2010.  
 Delegate, Illinois State Republican Convention, 2012.  
 Delegate, Illinois State Republican Convention, 2016.  
 Precinct Committeeman, Downers Grove Township Republican Organization.

- 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.

McCain Victory Committee, 9/29/2008, \$2,300.00  
 Oklahoma Leadership Council, 10/26/2008, \$500.00.  
 McCain–Palin Victory 2008, 10/27/2008, \$1,000.00.  
 Kirk for Senate, 12/14/2009, \$1,000.00.  
 Bill Brady for Governor, 2010, approx. \$8,000.00.  
 Bobby Schilling for Congress, 10/16/2010 \$350.00.  
 Perry for President, 9/30/2011, \$2,500.00.  
 Dold for Congress, 11/22/2011, \$250.00.  
 Romney Victory, Inc., 9/6/2012, \$10,000.00.  
 Tommy Thompson for Senate, 10/31/2012, \$500.00.  
 Duffy for Wisconsin, 11/3/2012, \$250.00.  
 Ted Cruz for Senate, 5/30/2013, \$1,000.00.  
 George P. Bush for Texas Land Commissioner, 2014, \$1,000.00.  
 Downers Grove Township Republican Organization, 2014, \$1,000.00.  
 Downers Grove Township Republican Organization, 2015, \$1,000.00.

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):

Harvard College Scholarship, Harvard University.  
 Dean’s List, Harvard University.  
 Eliot Thesis Prize, Harvard University.  
 Senior Editor, *Columbia Law Review*.  
 Certificate of Recognition in International Law, Parker School of Foreign and Comparative Law, Columbia University.  
 Recipient, HHS Secretary’s Award for Distinguished Service.  
 Member, Winning Team, Global M&A Network’s 2012 Turnaround Atlas Award for “Private Equity Turnaround of the Year” for the Chapter 11 reorganization and acquisition of American Laser Skincare LLC.  
 Member, Winning Team, M&A Advisor Awards, “Healthcare and Life Sciences Deal of the Year (from \$10mm to \$500mm)” for the Chapter 11 sale of ATLS Acquisition, LLC, dba Liberty Medical Supply, Inc., 2015.  
 Member, Winning Team, Global M&A Network’s Turnaround Atlas Awards, “Turnaround of the Year—Small Markets” for the restructuring and sale of ATLS Acquisition, LLC (dba Liberty Medical), 2015.

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

“Medical Tourism and India,” *India Law News*, Spring/Early Summer 2012.  
 “Managed Care,” *Hospital Legal Forms, Checklists, and Guidelines*, Aspen Publishers, 2012.  
 “The Internet, Information Technology, and the FDA,” in *Inside the Minds: Recent Development in Food and Drug Laws*, Aspatore Books, 2012.  
 “Compliance,” *Hospital Legal Forms, Checklists, and Guidelines*, Aspen Publishers.  
 “A Realistic Approach to Food Safety Regulation,” *Food Quality*, June/July 2010.

“Are REMS Doing More Damage than Good?” FDLI’s *Update* magazine, March/April 2010.

“Quality Ingredients From Across the Ocean,” *QA* magazine, March/April 2010.

“The FDA Shifts From Food Safety to Public Safety,” *Food Quality*, December/January 2010.

“Antibribery Crackdown Transforms Business Practices in China,” *MX* magazine, December 2009.

“Faking It,” *BioPharm*, December 1, 2009.

“Safer Chinese Food,” *Food Product Design*, November 10, 2009.

“Institutional Conflicts of Interest: Identifying and Managing Them in Life Sciences,” FDLI’s *Update* magazine, May/June 2008.

“Vaccine Law 101,” *Journal of Law, Medicine, and Ethics* 35:72–76, 2007.

“The Sovereignty Implications of Two Recent Supreme Court Decisions,” *Federalist Society*, 2003.

16. Speeches (list all formal speeches you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated):

“FDA Master Class: Uncovering Device Regulatory Trends and Hurdles to Expedite Speed to Market,” 4th Annual Medical Device Product Management Conference, Chicago, IL, October 27, 2016.

“Regulatory Considerations, Clinical Trials, and the FDA,” American College of Surgeons Clinical Congress, Washington, DC, October 19, 2016.

“Perspectives on Biosimilars,” Biosimilars and Biobetters USA Conference, Iselin, New Jersey, April 7, 2014.

“The Affordable Care Act: What Employers Need to Know,” Water Quality Association—Aquatech USA Conference, Orlando, FL, March 18, 2014.

“Affordable Care Act: Update,” Lexvid Presentation, March 5, 2014.

“Health Insurance Exchanges: What Employers Need to Know,” National Business Institute, Chicago, IL, December 17, 2013.

“W–2 Reporting Requirements Under the Affordable Care Act,” National Business Institute, Chicago, IL, December 17, 2013.

“Drugs and Biologics: Labeling,” FDA Book Camp, American Conference Institutes, New York, NY, March 19, 2013.

“Search Engines, Medical Apps, and the FDA,” Health Information and Technology Group Annual Luncheon, AHLA Annual Conference, Chicago, IL, June 26, 2012.

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

I had the privilege to serve the Department previously as Acting Deputy Secretary for a period, which served as preparation for serving in this same position. Prior to serving in that capacity, I served HHS as Principal Associate Deputy Secretary, acting as chief of staff to the Deputy Secretary. Prior to that, I served HHS as Deputy General Counsel, which, together with the other positions, enabled me to understand many separate parts of the Department and how they work together to achieve the goals set for them.

More recently, I served as a volunteer member of the State of Illinois’ State Health Improvement Plan Planning Council and its State Improvement Model Workgroup, enabling me to see more closely how the programs administered by HHS affect its State partners, and how the States implement their own programs.

Finally, I have worked as a health-care attorney in the private sector for over 9 years since leaving HHS, which enables me to understand better how HHS interacts and works with the private sector through many of its programs. In all of these ways, whether through experience at HHS in this same role of Deputy Secretary, in other offices at HHS, in working with the State of Illinois, or through my experience as a private-sector health-care attorney, I believe that



I could bring my experience to bear in helping HHS implement its programs and fulfill its responsibilities to the American people.

#### **B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.  
Yes.
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.  
No.
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.  
No.
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.  
Yes.

#### **C. POTENTIAL CONFLICTS OF INTEREST**

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.  
None.
2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.  
None, except routine representation of clients in the health-care sector.
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 served as the Treasurer of the Coalition to Protect Patient Rights, an organization which sought to prevent passage of the Affordable Care Act in 2009–2010. I did not engage in any public duties for the organization.  
I was registered as a lobbyist for Aquadvantage from 2008 to 2010.
4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the committee with two copies of any trust or other agreements.)  
I am signing an ethics agreement prepared for and reviewed by the Office of Government Ethics. Copies have been provided.
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.  
Copies have been provided.

#### **D. LEGAL AND OTHER MATTERS**

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

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.  
No.
3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.  
No.
4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.  
No.
5. Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.  
None.

#### E. TESTIFYING BEFORE CONGRESS

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

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#### QUESTIONS SUBMITTED FOR THE RECORD TO ERIC D. HARGAN

##### QUESTIONS SUBMITTED BY HON. ORRIN G. HATCH

*Question.* The Deputy Secretary role at the Department of Health and Human Services (HHS) has often been compared to that of a train conductor as the job is primarily to keep the trains running and make sure all of the programs are on track. HHS is a massive department, covering a large range of issues and programs. Can you describe what in your history has helped prepare you to help lead such a complex department?

*Answer.* I am currently an attorney, specializing in health law. Before returning to the private practice of law, I served at HHS in the George W. Bush administration, as Deputy General Counsel, then as Chief of Staff to the Deputy Secretary as Principle Associate Deputy Secretary, and finally as Acting Deputy Secretary. My time at HHS serving in the position of Deputy Secretary has provided me with valuable experience that will help inform my work in the same role in this administration. I believe that my prior years at HHS will help me with understanding HHS and helping it fulfill the unique role the Department has to play in ensuring that the many programs Congress has committed to it are carried out well and faithfully, for the benefit of the millions of Americans who rely on them.

*Question.* One of the most critical parts of your role as Deputy Secretary will be ensuring adequate oversight over the programs that comprise HHS's trillion dollar plus budget. What plans do you have to continue current oversight efforts ongoing at HHS? How do you propose to work with Congress on that?

*Answer.* If confirmed, I will faithfully implement the laws written by Congress and the regulations issued by the Department. It is exceptionally important that the different branches of HHS coordinate their enforcement of final rules. To facilitate this, I will implement standards and procedures that establish clear lines of communication between staff divisions and operating divisions and require their routine input on implementation. If a member of Congress contacts the Department with issues or concerns about any HHS program, I promise that each instance will be a top priority. The work of Congress and its staff is valuable in identifying and solving problems, and I look forward to working closely with the Congress in the years to come.

*Question.* In 2014, the GAO reported that some \$60 billion in taxpayer money, or more than 10 percent of Medicare's total budget, was lost to fraud, waste, abuse, and improper payments. A GAO report in 2011 concluded that Medicaid had \$21.9 billion in improper payments. Do you have any thoughts on steps you think should be taken to address the multi-billion-dollar problem of waste, fraud, and abuse in these programs?

*Answer.* I am committed to working with all government agencies and the Congress to ensure that taxpayer dollars are better safeguarded and that scarce resources go to those who are both truly in need of them and legally eligible for assistance. The fiscal year (FY) 2018 budget strengthens the integrity and sustainability of Medicare and Medicaid by investing in activities that prevent fraud, waste, and abuse and promote quality and efficient health care. For FY 2018, the budget assumes \$2.1 billion in total mandatory and discretionary investments in the Health Care Fraud and Abuse Control program.

Recent investments in Health Care Fraud and Abuse Control have allowed for the expansion of fraud and abuse prevention efforts and led to a shift away from the "pay-and-chase" model toward preventing fraud, waste, and abuse on the front end. The Health Care Fraud and Abuse Control investment also supports efforts to reduce the Medicare and Medicaid improper payment rates, while implementing new processes to reduce provider burden. Program integrity returns on investment are measured by program area and separately reported by activity type.

There are three key ways in which returns from program integrity activities are described. First, programs supported by Health Care Fraud and Abuse Control Program mandatory funds have a proven record of returning more money to the Medicare trust funds than the dollars spent. The most recent estimate of the Medicare Integrity Program return on investment is \$12 to \$1, and the Medicare Integrity Program has recently yielded a consistent return of over \$10 billion in savings annually.

Second, the 3-year rolling average return on investment for Health Care Fraud and Abuse Control law enforcement activities is \$5 to \$1. In FY 2016 alone, \$3.3 billion was recovered, including \$1.7 billion returned to the Medicare trust funds and \$235.2 million in Federal Medicaid recoveries returned to the Treasury.

Third, CMS actuaries conservatively project that for every new dollar spent by HHS to combat health-care fraud, about \$2 is saved or avoided.

*Question.* Mr. Hargan, we are living in an aging society, and as time goes on we will need more qualified doctors, nurses, and other health-care providers to meet the increased medical needs of this older population. What thoughts do you have into how public policy can encourage an increase in the number of new doctors, nurses, and other health-care providers entering into and remaining in the medical profession?

*Answer.* Workforce issues are a major challenge in health care. We must work to expand career options and paths for all health-care professionals. It is critical that we as a Nation make sure that every single individual has access to the kind of health care that they need. If confirmed, I look forward to working closely with you and the other members of Congress to ensure that the health-care workforce is adequately, if not robustly, staffed for this and future generations.

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QUESTIONS SUBMITTED BY HON. JOHN THUNE

*Question.* As I've raised with Secretary Price and the Obama administration previously, I have serious and continued concerns about the state of the Indian Health Service. In 2010, an administrative action plan was established after systemic problems were uncovered in South Dakota. Similar issues arose in 2015, and those issues continue to surface, even though two IHS facilities in South Dakota have entered into historic Systems Improvement Agreements with the Centers for Medicare and Medicaid Services (CMS). It has now been over a year since entering into these agreements, but CMS continues to find serious deficiencies at both facilities. In fact, the Pine Ridge emergency department is currently in Immediate Jeopardy Status after a recent unannounced site visit from CMS. This places the community in danger of losing their emergency department services and again proves that IHS is not delivering quality care. Over the years, IHS has provided responses of positive change and improvement when I have asked for progress updates, and yet these reports never match up to what I hear from tribal members who are receiving their

care from IHS. What is the Department's plan to ensure that meaningful and long term action is taking place to correct these problems?

Answer. I am not familiar with the specifics of the Pine Ridge Systems Improvement Agreement but am aware of the unique challenges facing Indian country, and specifically the Great Plains Area. During my previous tenure at HHS, I worked on many Indian Health Service issues, and if confirmed, I look forward to working with Congress, tribal partners, and health-care stakeholders to ensure access to quality care for all patients.

*Question.* As I indicated to Secretary Price during his confirmation hearing, last year Senator Barrasso and I introduced the IHS Accountability Act to facilitate significant changes to the way things work at IHS. Teaming up with more Senators and Representatives, we've proposed an improved version this year, the Restoring Accountability in the IHS Act. This bill will give HHS the flexibility to terminate poorly performing employees, streamline the hiring process so IHS can recruit talented medical professionals more quickly, and create incentives so those folks will stay on the job longer. Will the Department commit to working with us on this bill, and other reforms to fix IHS?

Answer. During my previous tenure at HHS, I worked on many Indian Health Service issues, and if confirmed, I look forward to working with you to achieve our common goal of providing quality health care to all Americans, including American Indian and Alaska Native communities.

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QUESTIONS SUBMITTED BY HON. RON WYDEN

FOOD AND DRUG ADMINISTRATION FOLLOW-UP

*Question.* Mr. Hargan, if you are confirmed to be Deputy Secretary, you will have a great deal of power to determine how the Department carries out policy.

For example, in 2007, the Food and Drug Administration was facing criticism for not doing enough to stop illnesses caused by contaminated vegetables. *The Wall Street Journal* reported at the time that you—as Acting Deputy Secretary—led Department officials in rejecting the FDA's plan to address the issue.

This episode demonstrates just how much power the Deputy Secretary, as chief operating officer, has in setting policy.

Now in our meeting earlier this week, you said that the *Journal's* story mischaracterized your role. Can you clarify what your role was in that episode, and, specifically, what the article got wrong in its reporting?

Answer. I initiated the meeting due to my concerns about our collective approach to food safety; specifically the data collection and tracking methodology across HHS divisions of food-borne illness cases. During this time, there had been several notable outbreaks, spurring the meeting, which took place primarily at my request. The meeting was a deliberative, not decisional, effort to elicit information about what was occurring, and what corrective courses to initiate across FDA, CDC and other agencies with regard to food safety.

Although FDA was correctly concerned about the high level of public criticism it was receiving, and the issue of food-borne illness was, and remains timely and important, the agency personnel presented a request for a significant budgetary increase at a time which was not conducive in the fiscal calendar budget cycle. Moreover, the meeting was not comprised of the appropriate personnel to allow for informed decision-making of such budgetary consequence.

The statement that the plan was “rejected” is an overstatement, although there were questions about certain elements of the FDA plan. There was an exchange of views, not a blanket denial of FDA's presentation. Indeed, although the article claims that HHS “rejected the FDA plan,” it also quotes Dr. Acheson (formerly) of FDA rightly noting that “nothing was ruled in or out” at the meeting. There were no decisions expected at the meeting, and the FDA Commissioner, the FDA chief medical officer for CFSAN, and (to my recollection) the HHS budget chief were not at the meeting, nor were they expected to be.

Every night when we gather with our families to enjoy dinner, the last thing any of us wants to worry about is whether the meal will harm us. I believe, as I did in 2007, that the Nation's food safety system should rely on prevention, intervention, and response. If confirmed, I am committed to supporting FDA in their efforts

to ensure the safety of the American food supply and provide appropriate flexibility for farmers and others in regulated industry.

#### ACA/AMERICAN HEALTH CARE ACT

*Question.* Mr. Hargan, when you were Acting Deputy Secretary during the Bush administration, you gave several speeches noting that there were 45 million Americans without insurance. The most recent estimates are that there are 29 million uninsured Americans.

The percentage of Americans without health insurance has dropped from 15% during the Bush administration to 9% at the end of the Obama administration.

You said during our meeting this week that the Affordable Care Act has been successful in lowering the number of uninsured Americans. Do you stand by that by that statement?

Do you support the Republican bill that the Congressional Budget Office says will result in 23 million Americans losing their health insurance?

*Answer.* As we have seen under the ACA, having insurance coverage is no guarantee of access to quality care. All Americans ought to have access to quality, affordable health care. The President has made clear his hope and plan for health-care reform. If confirmed, I look forward to working with Congress to make certain that every single American has access to the coverage they want for themselves and their families.

#### CHIP FUNDING EXTENSION

*Question.* In FY 2016 the Children's Health Insurance Program (CHIP) covered nearly 9 million children in families who earn too much to qualify for Medicaid but still lack access to affordable private coverage. While this successful, bipartisan program is permanently authorized, current law only provides Federal funding to States through FY 2017. Five States are expected to spend their remaining CHIP allotments in the first quarter of the next fiscal year while 29 more States and the District of Columbia are expected to spend their remaining CHIP allotments by March 2018. In January, MACPAC submitted a report to Congress advising a 5-year clean extension. The National Governors Association (NGA) and the Bipartisan Policy Center (BPC) have recommended similar multiyear extensions of Federal funding for CHIP.

Mr. Hargan, your record on CHIP is concerning. In your own words, "Why should we all be concerned at the prospect of expanding SCHIP? SCHIP is a government-subsidized insurance program. The more people it covers, the more it crowds out free market insurance, due to the tax payer subsidy. And the more the government controls the health-care market, the more it has to ration."

How will you reconcile your previous position on CHIP with your potential future role at HHS? What do you view is your responsibility to implement programs as directed by Congress?

*Answer.* If confirmed, I will faithfully implement the law as written by Congress. Notably, the President's FY 2018 budget proposes an additional 2-year extension of CHIP through FY 2019 and returns the program's focus to our most vulnerable and low-income children. I look forward to implementing a CHIP program which prioritizes our most vulnerable and low-income children as written by Congress.

*Question.* Understanding that the program has been permanently authorized, that HHS administers the program, and that there is long-standing bipartisan congressional support for its future, how would you direct HHS to continue implementing the program?

*Answer.* It is important that every child has access to high-quality health coverage, and CHIP plays an important role in accomplishing this objective, but there is also a need for coordinated family coverage in the private market and employer plans, and providing States necessary flexibility.

#### CONTRACEPTIVE MANDATE

*Question.* The Affordable Care Act requires insurance plans to cover all FDA-approved birth control methods. This has enormously benefitted women, enabling more than 55 million women to access birth control without out-of-pocket costs. As a result, women using the birth control pill saved \$1.4 billion in 2013.

On May 31st, through a leaked draft regulation, the country learned that the U.S. Department of Health and Human Services was considering broadening the number of employers and insurers eligible for moral or religious exemptions from the mandate. If finalized, the rule could leave hundreds of thousands of women with out-of-pocket costs when seeking birth control.

If you are confirmed as Deputy Secretary of HHS, would you support regulations or guidance widening the applicability of exemptions to the contraceptive mandate?

How would you direct HHS to ensure that those individuals who have access to all FDA-approved birth control methods without cost-sharing continue to have access to such services and protections?

Answer. The mission of HHS is to protect the health and well-being of all Americans. I take this mission seriously, and I will work with my new colleagues to do everything in our power to support access to quality, affordable health care for all Americans.

There is no doubt that we can ensure access to health care without harming the personal freedoms that our Nation was founded upon—in this case the right to the free exercise of one’s religious beliefs. If confirmed, I look forward to working together to achieve an appropriate balance that respects all individuals.

#### COST-SHARING REDUCTIONS AND COMPETITION

*Question.* Under the Affordable Care Act, individuals and families with incomes 100–250% of the Federal Poverty Level (FPL) who are eligible for the premium tax credit and enrolled in a silver plan through an exchange are eligible for cost-sharing reductions (CSR) to reduce their out-of-pocket costs for health services. For example, an individual enrolled in a silver-level plan without CSR might have a deductible of \$2,400 and a primary care physician visit fee of \$20. Enrolled in a CSR plan, an eligible enrollee may have lower out-of-pocket burdens of 2,250 and \$10, respectively. In 2016, over 6.4 million people—a majority of marketplace enrollees—were enrolled in a plan with reduced cost sharing due to CSRs.

The administration has refused to state whether it will honor this commitment to funding CSRs. As reported by independent experts and major insurer executives, this uncertainty has threatened the continued participation of insurers in the marketplace. Just recently, Anthem announced that it was withdrawing from the Ohio exchange, citing the “lack of certainty of funding for cost sharing reduction subsidies.” As a result, 10,500 patients in 20 counties could be left without a clear path to affordable medical care in 2018.

*Question.* Would you agree that the Federal Government should honor its financial commitment to reimburse insurers for the CSR program? Will you commit to working, to the best of your ability, to fully fund these subsidies, which enable affordable medical care for millions of people?

The independent Kaiser Family Foundation has reported that a refusal to pay these subsidies could end up *costing* the Federal Government \$2.3 billion, since the Federal Government will have to compensate for these lost subsidies through additional premium tax credits. Do you believe it is fiscally responsible to withhold these reimbursements from insurers?

Because the administration has caused such uncertainty in the market, consumers in bare counties where all insurers have exited the Marketplaces may face extreme barriers to accessing affordable medical care. What is the responsibility of HHS to these consumers?

Do you commit to encouraging insurers to offer plans to consumers residing in bare counties? How do you plan to fulfill this commitment?

Answer. It is my understanding that there is ongoing litigation regarding this matter, but Congress could resolve uncertainty about the payments by passing legislation to address the current law’s failed funding structure.

We need to move in a direction where insurers offer products people want, and give them the coverage they want so that they can get the care they need. While Congress works to pass legislation, I will help work to mitigate the damage being done by providing needed flexibility to issuers to help attract healthy consumers to enroll in health insurance coverage, improve the risk pool and, as much as possible under the current laws, bring stability and certainty to the individual and small group markets, while increasing the options for patients and providers.

## ENFORCEMENT OF REGULATIONS

*Question.* After a regulation is finalized and codified in the Code of Federal Regulations (CFR), Federal agencies have the authority and responsibility to enforce these final rules. At HHS, regulatory enforcement requires the multiple departments within HHS to coordinate their activities. Most notably, the HHS Office of the Inspector General (IG) is responsible for oversight of Medicare and Medicaid. In addition, the HHS Office of the General Counsel (OGC) supports the development and implementation of HHS programs. Such implementation includes enforcement activities.

How will you ensure enforcement of final rules and other regulatory guidance at HHS?

What standards and procedures will you set to assure different branches of HHS coordinate their enforcement of final rules?

After learning that enforcement of specific programs is insufficient, what specific steps will you take to improve upon enforcement of programs and activities?

In your view, what oversight issues would raise the need for public engagement to improve enforcement?

How will you engage with the public to inform enforcement and accountability activities of HHS programs?

If Congress draws your attention to potential gaps in program oversight, how will you work with members of Congress to address and close these gaps?

*Answer.* If confirmed, I will faithfully implement laws written by Congress and the regulations issued by the Department. It is exceptionally important that the different branches of HHS coordinate their enforcement of final rules. To facilitate this, I will implement standards and procedures that establish clear lines of communication between departments and require their routine input on implementation. Public engagement with HHS will be of the utmost importance. I plan to continue making sure that publicly available resources, such as 1-800-MEDICARE, and the HHS Inspector General Tipline are maintained and promoted so the public can actively help us fight fraud and abuse. If a member of Congress contacts the Department with issues or concerns about any HHS program, I promise that each instance will be a top priority. The work of Congress and its staff is valuable in identifying and solving problems, and I look forward to working closely with the Congress in the years to come.

## SECTION 1115 AND 1332 WAIVERS

*Question.* Section 1115 of the Social Security Act provides the U.S. Department of Health and Human Services (HHS) Secretary with the authority to approve demonstration projects that promote the objectives of Medicaid and the Children's Health Insurance Program (CHIP).

Section 1332 of the Patient Protection and Affordable Care Act (ACA) provides the Secretary with broad authority to approve waivers to the certain ACA exchange and coverage provisions if the applications meet four criteria: ensure that individuals get insurance coverage that is at least as comprehensive as provided under the ACA; ensure that insurance coverage offered to individuals is at least as affordable as it would be under the ACA; ensure that as many people are covered as would be under the ACA; and not increase the Federal deficit.

How will you enforce the transparency requirements for section 1115 and section 1332 waiver requests and proceedings?

Public input is a critical element of the waiver process. How will you promote greater public awareness and input in waiver generation and consideration at the State and Federal level?

How will you ensure that any approvals of section 1115 waivers promote the objectives of the Medicaid statute and do not allow for misguided policies like work requirements, lock out periods, and onerous cost-sharing and premiums that do not align with congressional intent?

In March, HHS Secretary Price noted that the agency would conduct a review of existing waiver procedures to provide greater freedom for States. To the extent such review is conducted and any changes are considered, how will you ensure compliance with the rules and requirements established by the Administrative Procedure Act?

Answer. At issue is whether health-care decisions are better made in Washington or by people in their local communities. Additional State flexibility will allow more of these decisions to be made locally, closest to the doctors and patients with their own unique sets of needs and challenges. Health-care decisions are best made locally. If confirmed as Deputy Secretary, I would focus on providing States the maximum amount of flexibility within the confines of the law to allow health-care decisions to be made by doctors and patients where the needs of the patients come first in accordance with the rules and requirements established by the Administrative Procedure Act.

PRESIDENTIAL EXECUTIVE ORDER ON REDUCING REGULATION

*Question.* On January 30th, the President signed an executive order requiring executive departments and Federal agencies (“agencies”) to identify and eliminate two existing regulations for every one new regulation they issue. In addition, the heads of all agencies are required to ensure the incremental cost of all new regulations is no greater than zero.

The executive order requires that the repeal of existing regulations be in accordance with the Administrative Procedure Act (APA), which specifies notice and comment rulemaking procedures, and other applicable law. Under the APA, agencies are required to provide the public with notice of a proposed rulemaking and a meaningful opportunity to comment on the rule.

If confirmed as Deputy Secretary of HHS, how will you implement this executive order?

Answer. If confirmed, I will work aggressively to monitor and oversee full compliance with the executive order, in accordance with the APA and the relevant case law, and solicit input from both policy staff and those organizations responsible for implementation. I will look to implement additional tools, as necessary, across the Department to achieve the requirements set in the executive order, while remaining faithful to the mission of the Department.

*Question.* How will you determine which existing regulations to repeal?

Answer. I look forward to reviewing the existing protocols within the Department to identify opportunities to reduce barriers getting in the way of the Department’s mission which is to enhance the health and well-being of Americans by providing for effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and social services.

*Question.* Will you require that HHS publicly identify which two regulations it plans to repeal at the same time as the new rule is proposed? If not, within what time frame will those two regulations be publicly identified?

Answer. If confirmed, in accordance with the APA, I will follow the requirements of the executive order and the guidance provided by OMB.

*Question.* How will you ensure that the process for repealing existing regulations complies with the APA’s notice and comment rulemaking procedures—including providing a meaningful opportunity for stakeholders to provide comments? Will you commit to providing a minimum of 30 days for the comment period?

Answer. *See above.*

*Question.* Many of the new rules issued by CMS are statutorily required annual payment updates (*e.g.*, the Medicare Physician Fee Schedule annual rule). Is it your understanding that the executive order requires CMS to identify two existing regulations to repeal each time CMS issues one of these annual payment updates?

Answer. If confirmed, I will work with HHS staff, including CMS and OGC, to review all rules and regulations and ensure compliance with the President’s executive order and the ACA.

*Question.* How will you determine the incremental cost of those statutorily required annual payment updates? How will you determine the incremental cost of new regulations more generally?

Answer. I will work in consultation with OMB to ensure consistency across the government and draw on the analytical and human capital resources of the Department.



## FUNDING FOR THE CENTER FOR BIOLOGIC POLICY EVALUATION

*Question.* On your OGE Form 278, you disclosed that you were the President of the Center for Biologic Policy Evaluation. The Center's website states that "CBPE is a 501(c)(3) organization. Initial funding was provided by Amgen Inc. in the form of an unrestricted grant." Amgen is a major medical biotech company with many interests before the Department of Health and Human Services. From the organization's publicly available filings, it appears that this contribution was made in 2013.

What role did you play in obtaining this funding from Amgen, if any? To what extent did you directly or indirectly communicate with Amgen since the grant was made in 2013 concerning the Center and its activities? Are there any other sources of funding besides Amgen for the Center? If so, please identify those sources and your role in securing that funding.

*Answer.* I played no role in obtaining this unrestricted grant funding from Amgen. I communicated with Amgen on one matter concerning the Center and obtaining payment from Amgen for one of CBPE's contractors, the Tidwell Group. This was the only time I communicated with Amgen regarding the Center.

There were no other sources of funding, to my knowledge.

## FINANCE COMMITTEE MEMBER REQUESTS

*Question.* As discussed during your confirmation hearing, you and other nominees were asked to ensure that you would directly respond to requests for information by the Finance Committee or any member of the committee. As the Deputy Secretary of Health and Human Services, you will serve as the Department's chief operating officer.

What actions will you take to ensure that the Department itself is responsive to requests by the committee or any member of the committee for information?

*Answer.* If confirmed, I will make it a top priority to ensure that the Office of the Assistant Secretary for Legislation (ASL) has the tools and resources to respond to the needs of not only the members of the Senate Finance Committee, but any member of Congress. The ASL office is Congress's chief point of contact with the Department of Health and Human Services, and I will expect them to make every effort to accommodate the requests of the committee. If confirmed, I encourage any member of Congress to contact me if they have any inquiry that is not being adequately addressed.

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 QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

## PRESIDENT'S BUDGET

*Question.* As Deputy Secretary, you would oversee operations in all areas of HHS and work to implement annual budgets, among other things. Do you support the President's FY 2018 HHS budget request in its entirety? If not, what funding levels or policy proposals do you have concerns about?

*Answer.* I have not been at the Department during the preparation of the budget. While I support the President's budget, I was not at the Department during its formulation.

## MEDICAID

*Question.* Because of Medicaid expansion in Michigan, 650,000 people have insurance, and uncompensated care has been cut by at least 50%. Thirty thousand jobs have been created, and the State will end the year with \$432 million more than it invested in the program. Do you support the President's proposed cuts to Medicaid, which would decimate these gains in my State?

*Answer.* The President's budget calls for refocusing Medicaid on the elderly, children, pregnant women, and individuals with disabilities. Today, many elderly and disabled patients remain on wait lists for crucial long-term care services while Obamacare's Medicaid expansion prioritizes non-disabled, childless adults. The President's budget also provides State-level policymakers new flexibility to advance reforms that are tailor-made to meet the unique needs of their citizens. Washington needs to stop measuring the success of a program by how much money it spends and start focusing on how well it helps those it is intended to serve. We need to

focus on health outcomes, and that is precisely what the President's budget sets out to do.

#### MATERNITY COVERAGE

*Question.* Prior to the 2010, the vast majority of plans on the individual market did not offer maternity coverage. The American Health Care Act would allow insurance companies to eliminate the essential health benefits, including the requirement that plans cover pregnancy and childbirth. This could force women and families to pay far more for the care they need, or prevent them from having coverage at all. Do you believe that all health plans should be required to cover maternity and newborn care?

*Answer.* We need to move in a direction where insurers offer products people want and give them the coverage they want, so that they can get the care they need. As Deputy Secretary, my objective would be to ensure all Americans have access to the best and highest quality coverage and care. Having coverage is not meaningful if one cannot access the care they need or the quality of care leaves them worse off—we must work toward both coverage and care.

#### MENTAL HEALTH COVERAGE

*Question.* Nearly one in five adults has a mental illness, and over 60% of people with mental illness do not receive treatment. Do you believe that mental health services should be a guaranteed benefit in all health insurance plans?

*Answer.* It is important that we as a Nation make sure that every American has access to the kind of mental health and substance use disorder treatment that they need. As stated above, we also need to move in a direction where insurers offer products people want, give them the coverage they want so that they can get the care they need. If I am privileged to serve, I will implement the policies agreed upon by the Congress and signed into law by the President.

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### QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

#### TRUST IN PUBLIC INSTITUTIONS

*Question.* If confirmed, you will serve in a position that has been referred to as the “Chief Operating Officer” of the Department of Health and Human Services. You will serve underneath and report to Secretary Price, who has repeatedly called into question in recent months the reliability of the Congressional Budget Office, despite having personally recommended and vouched for the current head of that office.

Do you have faith in the CBO's ability to produce non-partisan analysis of congressional legislation?

*Answer.* The Congressional Budget Office is full of great, hardworking individuals; however, their estimates have proven inaccurate in many areas of significance. The CBO's work is based on estimates. Estimates are often incorrect.

*Question.* Do you believe that if the CBO projects that the American Health Care Act will result in over \$800 billion in funding cuts to Medicaid and 14 million fewer people enrolled in Medicaid in the next 10 years, that this in fact is not a cut to the Medicaid program, as Secretary Price has suggested?

*Answer.* Our Nation's health-care system is in critical need of reform because the former administration and the CBO got it wrong in the first place. In fact, CBO estimated that 25 million people would be covered in Obamacare's exchanges in 2017. They were off by 14 million people. It's important to note that the CBO report estimates that total Medicaid spending will increase from 2017–2026. This is an argument about rates of growth in the program, not a cut to overall funding.

#### FIDELITY TO SCIENCE

*Question.* If confirmed, you will serve under President Trump, who has at various times called into question the established and repeatedly confirmed scientific fact that vaccines have nothing to do with autism. Additionally, I am troubled that a number of people hired at the Department in recent months for positions that do not require Senate confirmation have espoused views that have no basis in scientific fact and do harm to public health.

Do you believe that vaccines cause autism?

Answer. The general scientific consensus is that vaccines do not lead to autism spectrum disorder.

*Question.* Should you be directed by the President or the Secretary to take any action that supports the debunked and discredited claims regarding vaccines and autism, will you comply?

Answer. I understand the significant importance of vaccines to our Nation's public health, as well as the importance of patients having confidence in the therapies they receive as part of their care.

*Question.* Do you believe that abortion causes breast cancer?

Answer. If confirmed, I will work to hold HHS to the highest scientific standards.

*Question.* Do you believe that Charmaine Yoest, who was recently appointed as Assistant Secretary for Public Affairs at HHS and who has advanced this debunked claim, should continue to serve in this administration?

Answer. Dr. Yoest has stepped forward to serve her fellow citizens, and I am grateful for her willingness to do so. She is joining a department that is fully committed to its mission of protecting the health and well-being of all Americans, and will carry out that mission by advancing the President's agenda that is focused on expanding access to quality, affordable health care.

*Question.* Do you believe in the efficacy of contraception, such as birth control pills?

Answer. If confirmed, I will work to hold HHS to the highest scientific standards.

*Question.* Do you believe that Teresa Manning, who was recently appointed as Deputy Assistant Secretary for Population Affairs, meaning that she will oversee the title X family planning program, and who has stated that she believes that contraception doesn't work, should continue to serve in this administration?

Answer. Ms. Manning has stepped forward to serve her fellow citizens, and I am grateful for her willingness to do so. She too is joining a department that is fully committed to its mission of protecting the health and well-being of all Americans, and will carry out that mission by advancing the President's agenda that is focused on expanding access to quality, affordable health care.

#### AUTISM CARES ACT

*Question.* In 2014, I authored the Autism Collaboration, Accountability, Research, Education, and Support Act of 2014, also known as the Autism CARES Act. Among its provisions is a requirement that the Secretary of Health and Human Services submit a report to the Senate Finance Committee concerning the challenges associated with the transition of young adults with autism from school-based services to those available in adulthood. This report is nearly a year overdue.

When will this report be finalized? Will you work with the Secretary and staff to finalize and submit this report to Congress by August 8, 2017?

Answer. I am not currently employed at HHS, and therefore have no inside knowledge of the status of this report, nor the cause of any delays. However, I look forward to following up with your office should I receive the confidence of the Senate.

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#### QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

##### BASIC HEALTH PROGRAM

*Question.* The Basic Health Program (section 1331 of the Affordable Care Act), which I authored, is an innovative, State-run plan that is delivering high-quality and low-cost health care to more than 750,000 low-income Americans and counting. Through the Basic Health Program, States utilize Federal financing to insure individuals with incomes between 138 and 200 percent of the Federal poverty level through managed care plans. In States participating in this voluntary Affordable Care Act option, we are seeing low premiums and deductibles, high levels of enrollment, robust insurance competition, and cumulative State budget savings of more than \$1 billion. The operating principle behind the Basic Health Program is that

bundling up a low-income population can result in low premiums, high enrollment, a healthy risk pool, and take-up from private insurers.

Do you support the Basic Health Program as a way to empower States to negotiate a better deal on health insurance for their citizens?

If confirmed as Deputy Secretary of HHS, will you direct CMS to continue to administer the Basic Health Program as it is authorized under current law?

If Congress enacts future legislation to repeal the Affordable Care Act, will you use your discretionary authority to ensure that individuals currently covered by the Basic Health Program can keep their health insurance?

Answer. States ought to be empowered to innovate and find solutions for their citizens with respect to health care, in the area of insurance and otherwise. For example, HHS is seeking to empower States through section 1332 waivers to achieve the administration's top priorities, including improving patients' access to affordable care, slowing the rate of premium growth to improve the risk pool, bringing stability to the individual and small group markets, and increasing consumer choice.

A patient-centered health-care system will provide Americans access to quality, affordable health-care coverage, empowering individuals and families to choose the coverage that best meets their needs, and give States flexibility to address the diverse needs of their most vulnerable populations. If confirmed, I stand ready to implement reform that increases patient choices and strengthens access to quality care for individuals across the country.

#### LONG-TERM CARE "REBALANCING"

*Question.* Federal "rebalancing" programs, including the Balancing Incentive Program (section 10202 of the Affordable Care Act), are helping States transition their Medicaid long-term care population from expensive nursing homes to cost-effective home- and community-based care. The vast majority of seniors, including dual-eligible beneficiaries, would like to stay in their own home. Twenty-one diverse States, including your home State of Illinois, have participated in the Balancing Incentive Program under the Affordable Care Act and are successfully rebalancing their populations to community-based care—resulting in a better patient experience and lower costs to the health-care system. In fact, Washington State alone saved \$2.7 billion over a 15 year period through its own rebalancing efforts.

Do you support such "rebalancing" efforts?

Do you agree with me that transitioning patients to lower-cost settings can yield cost savings for public programs, including Medicaid?

Do you support policies wherein the Federal Government incents States to "rebalance" their long-term care populations?

Do you support the Balancing Incentive program in the Affordable Care Act?

Answer. I support the Department's efforts to comply with the laws as written by Congress. I also support Americans being in charge of their health-care decisions and dollars as well as meaningful flexibility for Washington and others States to best care for their most needy citizens. If confirmed, I will support the Department's efforts to that end and encourage greater State innovation.

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

WASHINGTON—Senate Finance Committee Chairman Orrin Hatch (R-Utah) today delivered the following opening statement at a hearing to consider a number of pending Department of Treasury and Department of Health and Human Services (HHS) nominations:

Today we will consider the nominations of Eric Hargan to serve as Deputy Secretary of Health and Human Services; David Malpass to serve as Under Secretary for International Affairs of the Treasury; Andrew Maloney to serve in a position to be designated as Assistant Secretary for Legislative Affairs of the Treasury; and Brent McIntosh to serve as General Counsel for the Treasury.

Welcome, all of you, to the Finance Committee.

We appreciate your willingness to serve in these important positions.

Before I get too far along, I want to thank all of my fellow Senators for their support and presence today. As we all know, the government is like a giant clock with many important pieces, gears, and cogs. Today we are taking an important step toward adding several more important pieces to keep that clock functioning as it should.

It is also good to see that, despite some frustrations over the past few months, we have been able to return to normal working order for processing nominees. As we all know, that process includes bipartisan input, comity, good faith, and a fair and robust vetting process. I would like to thank my colleagues, particularly Senator Wyden, for working to move this process along.

Each of these nominees will have important roles in the administration, and we'll talk more about the individual posts and our nominees' excellent credentials and experience as the hearing goes on.

But, before we get to that, I want to be very clear about my expectations regarding responsiveness to congressional inquiries.

Regardless of party affiliation, it is essential that the administration make it a top priority to respond to inquiries from members of Congress.

Let me say this a bit differently to make sure I'm clear. It does not matter who the President is, nor does it matter which member of Congress is making the request. When an inquiry is submitted to any administrative agency, we rightly expect to receive a timely and responsive answer in return.

In the years that I have been the lead Republican on this committee, I have asked virtually all of our nominees to commit to being cooperative and responsive to congressional inquiries. I have full confidence in each of the nominees that are before us today. I don't have any reason to believe that they intend to stonewall members of Congress. But, I will ask all of them to make a similar pledge to provide timely and responsive answers to questions coming from members of this committee.

With that, I look forward to hearing from each of our nominees as they share their visions and views here today. I also look forward to what I hope will continue to be a full and fair committee process that allows us to process these nominations and report them to the full Senate in short order.

I'll now recognize Senator Wyden for his opening statement.

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PREPARED STATEMENT OF ANDREW K. MALONEY, NOMINATED TO BE DEPUTY UNDER SECRETARY FOR LEGISLATIVE AFFAIRS, DEPARTMENT OF THE TREASURY

Chairman Hatch, Ranking Member Wyden, and distinguished members of the Senate Finance Committee, it is an honor to appear before you today. I am humbled to have been recommended by Treasury Secretary Steven Mnuchin and nominated by the President of the United States to serve as Assistant Secretary for Legislative Affairs at the Treasury Department. I have deep respect for the history of the Department and fully appreciate the footsteps that I must follow to uphold the traditions and mission of this position.

I would like to take a moment to thank my family who are here today: first, my wife, Dr. Sabra Klein, who is an accomplished professor at Johns Hopkins University; our two children, Madeline and Stella; my father, a former Marine, Kerry Maloney, and my mother, Geri Maloney, whose first job was as a staffer to Congressman Sonny Montgomery; my in-laws, Colonel Pete Klein and his wife, retired public school teacher Marilyn Klein.

I would also like to thank all the members and staff that I have been able to visit with over the past couple of weeks. I enjoyed meeting with you and hearing your perspective. If confirmed, I look forward to continuing the dialogue we have started and my door will always be open.

I grew up on a small farm in Rockingham County, Virginia. We raised poultry, sheep, and some beef cows. I was active in 4-H, and the Future Farmers of America. Since my mother worked on Capitol Hill and my uncle was convention coordinator to Hubert Humphrey's Presidential campaign, politics was always a discussion at our dinner table. I caught the bug early in life and wanted to work in government.

My first opportunity to work on Capitol Hill was a college internship, working in the press office of Virginia Senator John Warner. My job was to look through hard

copies of the local newspapers for articles where he was mentioned, cut each article out, tape it on another piece of paper, photocopy and distribute it as part of the press clippings.

Upon completing college, I worked as a legislative aide in the Virginia General Assembly, gaining a firsthand view of how States must address budget and economic concerns. Upon completion of the General Assembly, I returned to Washington, DC to pursue law school and work on Capitol Hill. During law school, I was able to spend a summer working for the Honorable Laurence J. Whalen at the U.S. Tax Court. Following law school, I was very fortunate to spend 5 years working in the House of Representatives. I oversaw and managed the legislative and State staff, reinforcing the importance of responding to the needs of constituents. I worked on a range of issues that included energy, financial services, tax, trade, appropriations and transportation. I also served in House leadership and keenly understand the legislative dynamic between leadership and the committees and the need to work with colleagues in a bipartisan manner.

I left Capitol Hill in 2002 to join a government affairs firm. During my tenure at the firm, I was asked to become the chief executive officer. In addition to providing strategic counsel to the firm clients, I was responsible for managing the day-to-day business of the company, coordinating with our parent company, and handling marketing and staffing decisions. I was very proud to have helped build one of the most successful bipartisan firms. After leaving the firm, I joined an American energy company, where I created an integrated global external affairs function, focusing on the intersection of public policy, public affairs and economic conditions.

As you know, the Treasury Department helps preserve and promote financial stability and security here in the United States and around the world. The Department has one of the most important functions in our government and is the premier financial institution in the world. I fully understand the enormity of the role of the Office of Legislative Affairs and the importance of the relationship this office has with Congress. If confirmed, I commit to being responsive to you and your staff. I will strive to ensure your views are communicated within the Department and pledge to maintain an open line of communication between the Department and Congress.

Again, I would like to thank Chairman Hatch, Ranking Member Wyden, the Senators, and the staff for your consideration. I look forward to responding to any questions that you may have.

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## **SENATE FINANCE COMMITTEE**

### **STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

#### **A. BIOGRAPHICAL INFORMATION**

1. Name (include any former names used): Andrew Kerwin Maloney.
2. Position to which nominated: Deputy Under Secretary, designated Assistant Secretary for Legislative Affairs.
3. Date of nomination: May 10, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: March 30, 1969, Washington, DC.
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): Turner-Ashby High School, August 1983–June 1987, graduated June 1987; Randolph-Macon College, August 1987–May 1991, bachelors in political science, received degree in May 1991; and Catholic University of America, Columbus School of Law, August 1993–June 1996, juris doctorate received in June 1996.

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):
- Campaign Manager, Tommy Norment for State Senate, Williamsburg, VA, 1991. Managed state Senate campaign.
- Legislative Aide, Senator Tommy Norment, Richmond, VA, 1992. Managed legislative activities for Senator.
- Vice President, Carlyle Gregory Company, Falls Church, VA, 1992–1993. Assisted managing political campaigns at state and congressional level.
- Summer Clerk, U.S. Tax Court, Washington, DC, summer 1994. Clerked for the Honorable Laurence Whalen.
- Legislative Liaison, Robertson, Monagle, and Eastaugh, Arlington, VA, 1995–1997. Assisted partners with Alaska-based legislative/law firm on various client initiatives, while attending law school.
- Legislative Assistant, Congressman Roger Wicker, Washington, DC, 1997–1998. Assisted member with appropriations issues, legislative correspondence, and campaign finance reform.
- Legislative Counsel, Congressman Ed Bryant, Washington, DC, 1998–1999. Assisted member with Judiciary Committee issues.
- Administrative Assistant/Legislative Director, Majority Whip Tom DeLay, Washington, DC, 1999–2002. Managed Congressional office, assisted on energy and state-related issues.
- Partner/CEO Federalist Group/Ogilvy Government Relations, Washington, DC, 2002–2012. Provided strategic and government advocacy services to multiple clients over a 10-year period. Federalist Group was sold to WPP in 2005, changed name to Ogilvy Government Relations, then became CEO in 2009.
- Senior Advisor, Republican National Committee, Washington, DC, 2012. Worked with RNC and Romney campaign on congressional outreach.
- Legislative Outreach Director, Romney Readiness Project, Washington, DC, 2012. Managed and oversaw preparations for legislative initiatives including lame duck decisions, nominations, and first 200 day priorities.
- Vice President, Hess Corporation, Washington, DC, 2012–current. Manage and oversee global communications, government affairs, and corporate social responsibility.
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): All positions listed above.
11. Business relationships (list all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution): Listed above, former partner at the Federalist Group.
12. Membership (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations): Randolph-Macon College, member, board of trustees; Meridian International Center, member, board of trustees and executive committee; Business Government Relations Council, member, board of directors; Chamber of Commerce, member, public affairs council; John Hay Institute, chairman, Energy Security Committee; Young Presidents' Organization, gold member; Arthur Page Society, member; District of Columbia Bar Association; Virginia State Bar Association; Holy Trinity Catholic Church, member, Development Committee; Cleveland Park Historical Society, former board member; The Metropolitan Club, member; Columbia Country Club, member; and Cleveland Park Club, member.
13. Political affiliations and activities:
- List all public offices for which you have been a candidate.  
None.
  - List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.  
Washington, DC Republican Party Committee; Senior Advisor, Republican National Committee.

- 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.

**Andrew K. Maloney Individual Contributions**  
**Contributions to All Other Political Committees Except Joint Fundraising Committees**

| Employer             | Occupation                | Committee Name   | Transaction Date | Amount  |
|----------------------|---------------------------|--|------------------|---------|
| Federalist Group     | Attorney                  | Bayou Leader Political Action Committee                        | 11/20/2003       | \$500   |
| Federalist Group LLC | Executive                 | Help America's Leaders Political Action Committee (HALPAC)     | 5/16/2003        | \$1,000 |
| Federalist Group LLC | Executive                 | Promoting Republicans You Can Elect Political Action Committee | 8/23/2004        | \$500   |
| Federalist Group LLC |                           | Bryant, Edward G. via Ed Bryant for U.S. Senate Inc.           | 7/25/2002        | \$250   |
| Federalist Group     | Consultant                | Good Fund, The   | 7/26/2006        | \$3,000 |
| Federalist Group     | Consultant                | Good Fund, The   | 6/3/2009         | \$1,000 |
| Federalist Group     | Executive                 | Keep Our Mission PAC   | 9/29/2004        | \$2,000 |
| Federalist Group     | Lobbyist                  | Nunes, Devin G. via Devin Nunes Campaign Committee             | 5/15/2007        | \$500   |
| Federalist Group     | Managing Director         | 21st Century PAC   | 5/31/2006        | \$1,000 |
| Federalist Group LLC | Associate                 | Tauzin, Wilbert J., III via Tauzin for Congress                | 6/28/2004        | \$500   |
| Federalist Group LLC | Executive                 | Help America's Leaders Political Action Committee (HALPAC)     | 5/25/2006        | \$1,000 |
| Federalist Group LLC | Executive                 | Lewis, Jerry via Jerry Lewis Political Action Committee        | 5/15/2006        | \$1,000 |
| Federalist Group LLC | Executive                 | Rely On Your Beliefs Fund                                      | 3/10/2005        | \$2,500 |
| Federalist Group LLC | Executive                 | Rely On Your Beliefs Fund                                      | 7/28/2005        | \$1,000 |
| Federalist Group LLC | Vice President            | Shuster, William via Bill Shuster for Congress                 | 8/8/2005         | \$1,000 |
| Federalist Group LLC | Vice President            | Shuster, William via Bill Shuster for Congress                 | 5/15/2014        | \$2,500 |
| Federalist Group LLC | Vice President            | Shuster, William via Bill Shuster for Congress                 | 2/23/2007        | \$1,000 |
| Federalist Group     | Lobbyist                  | Shuster, William via Bill Shuster for Congress                 | 8/30/2004        | \$500   |
| Hess Corporation     | Global Government Affairs | Gillespie, Edward W. via Ed Gillespie for Senate               | 2/25/2014        | \$2,600 |



**Andrew K. Maloney Individual Contributions—Continued**  
**Contributions to All Other Political Committees Except Joint Fundraising Committees**

| Employer         | Occupation   | Committee Name   | Transaction Date | Amount  |
|------------------|--|--|------------------|---------|
| Hess Corporation | Global Government Affairs                            | Gillespie, Edward W. via Ed Gillespie for Senate       | 3/6/2015         | \$500   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 4/9/2014         | \$5,000 |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 11/27/2015       | \$400   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 12/24/2015       | \$400   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 1/21/2016        | \$400   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 2/19/2016        | \$400   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 3/31/2016        | \$600   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 4/28/2016        | \$400   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 5/26/2016        | \$400   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 6/23/2016        | \$400   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 7/21/2016        | \$400   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 8/18/2016        | \$400   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 9/29/2016        | \$600   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 10/13/2016       | \$200   |
| Hess Corporation | Vice President, Government Affairs and Public Policy | Hess Corporation Political Action Committee (Hess PAC) | 11/25/2016       | \$600   |

**Andrew K. Maloney Individual Contributions—Continued**  
**Contributions to All Other Political Committees Except Joint Fundraising Committees**

| Employer                    | Occupation  | Committee Name  | Transaction Date | Amount  |
|-----------------------------|---|---|------------------|---------|
| Hess Corporation            | Vice President, Government and External Affairs             | Nunes, Devin G. via Devin Nunes Campaign Committee        | 3/27/2015        | \$500   |
| Hess Corporation            | Vice President, Global Government Affairs and Public Policy | Stefanik, Elise M. via Elise for Congress                 | 9/16/2013        | \$2,600 |
| Hess Corporation            |   | Hess Corporation Political Action Committee (Hess PAC)    | 12/22/2016       | \$400   |
| Hess Corporation            |   | Hess Corporation Political Action Committee (Hess PAC)    | 1/20/2017        | \$400   |
| Hess Corporation            |   | Hess Corporation Political Action Committee (Hess PAC)    | 2/16/2017        | \$400   |
| Ogilvy Government Relations | CEO   | Grassley, Charles E., Senator via Grassley Committee Inc. | 6/15/2011        | \$500   |
| Ogilvy Government Relations | Consultant  | Good Fund, The  | 6/8/2011         | \$2,500 |
| Ogilvy Government Relations | Government Affairs  | Wicker, Roger F. via Wicker for Senate                    | 6/30/2008        | \$2,300 |
| Ogilvy Government Relations | Government Affairs  | Wicker, Roger F. via Wicker for Senate                    | 9/25/2009        | \$2,000 |
| Ogilvy Government Relations | Government Affairs  | Wicker, Roger F. via Wicker for Senate                    | 9/25/2009        | \$2,000 |
| Ogilvy Government Relations | Government Affairs  | Wicker, Roger F. via Wicker for Senate                    | 9/25/2009        | \$2,000 |
| Ogilvy Government Relations | Government Affairs  | Wicker, Roger F. via Wicker for Senate                    | 6/17/2011        | \$500   |
| Ogilvy Government Relations | Government Affairs  | Wicker, Roger F. via Wicker for Senate                    | 6/17/2011        | \$2,000 |
| Ogilvy Government Relations | Government Relations  | Win Back America Political Action Committee               | 9/30/2009        | \$1,000 |
| Ogilvy Government Relations | Lobbyist  | King, Pete via Pete King For Congress Committee           | 6/29/2009        | \$500   |
| Ogilvy Government Relations | Management  | Graham, Lindsey O. via Lindsey Graham for Senate          | 6/28/2007        | \$500   |
| Ogilvy Government Relations | Managing Director   | Thune, John via Friends of John Thune                     | 4/27/2007        | \$500   |
| Ogilvy Government Relations | CEO   | Shuster, William via Bill Shuster for Congress            | 9/15/2011        | \$1,000 |

**Andrew K. Maloney Individual Contributions—Continued**  
**Contributions to All Other Political Committees Except Joint Fundraising Committees**

| Employer                    | Occupation                                | Committee Name   | Transaction Date | Amount   |
|-----------------------------|---|--|------------------|----------|
| Ogilvy Government Relations | Managing Director, Government Relations   | Boehner, John A. via Friends of John Boehner                               | 7/24/2007        | \$1,000  |
| Ogilvy Government Relations | Managing Director, Government Relations   | Boehner, John A. via Friends of John Boehner                               | 7/18/2008        | \$250    |
| The Federalist Group        | Partner                                   | National Association of Chain Drug Stores, Inc. Political Action Committee | 5/5/2005         | \$1,000  |
| —                           | Information Requested                     | NRSC   | 2/28/2006        | \$2,500  |
| Hess                        | Vice President, Global Government Affairs | Scott, Timothy E. via Tim Scott for Senate                                 | 5/31/2016        | \$500    |
| Hess                        | Vice President, Global Government Affairs | Scott, Timothy E. via Tim Scott for Senate                                 | 6/21/2013        | \$500    |
| Hess Corporation            | Vice President, Government Affairs        | Heartland Values PAC   | 5/7/2013         | \$1,500  |
| Hess Corporation            | Vice President, Government Affairs        | Thune, John via Friends of John Thune                                      | 1/14/2015        | \$1,000  |
| Hess Corporation            | Vice President, Global Government Affairs | Tiberi, Patrick J. via Tiberi for Congress                                 | 6/12/2014        | \$1,000  |
| Ogilvy Government Relations | CEO                                       | Meehan, Patrick L. via Pat Meehan for Congress                             | 11/14/2011       | \$500    |
| Ogilvy Government Relations | Management                                | Majority Committee PAC—MC PAC  | 4/9/2011         | \$5,000  |
| Ogilvy Government Relations | CEO                                       | Scott, Timothy via Tim Scott for Congress                                  | 6/14/2011        | \$500    |
| Ogilvy Government Relations | Chief Executive Officer                   | Rokita, Theodore Edward via Hoosiers for Rokita, Inc.                      | 5/8/2012         | \$500    |
| Ogilvy Government Relations | Government Relations                      | Win Back America Political Action Committee                                | 2/24/2009        | \$500    |
| Ogilvy Government Relations | Lobbyist                                  | Boozman, John via Boozman for Arkansas                                     | 5/13/2010        | \$500    |
| Ogilvy Government Relations | Lobbyist                                  | Boozman, John via Boozman for Arkansas                                     | 9/17/2010        | \$500    |
| Ogilvy Government Relations | Lobbyist                                  | Boozman, John via Boozman for Arkansas                                     | 10/1/2010        | \$500    |
| Ogilvy Government Relations | Lobbyist                                  | Castle, Michael N. via CastlePAC LLC                                       | 12/18/2009       | \$1,000  |
| Ogilvy Government Relations | Lobbyist                                  | Castle, Michael N. via CastlePAC LLC                                       | 6/30/2010        | — \$1000 |
| Ogilvy Government Relations | Lobbyist                                  | Castle, Michael N. via CastlePAC LLC                                       | 6/30/2010        | \$1,000  |

**Andrew K. Maloney Individual Contributions—Continued**  
**Contributions to All Other Political Committees Except Joint Fundraising Committees**

| Employer                               | Occupation  | Committee Name   | Transaction Date | Amount    |
|--|---|--|------------------|-----------|
| Ogilvy Government Relations            | Lobbyist  | Castle, Michael N. via CastlePAC LLC                       | 6/30/2010        | \$2,400   |
| Ogilvy Government Relations            | Lobbyist  | Tiaht, Todd via Kansans for Tiaht                          | 7/19/2010        | \$1,400   |
| Ogilvy Government Relations            | Lobbyist  | Walden, Gregory P. via Walden for Congress                 | 9/23/2009        | \$500     |
|  |   | Castle, Michael N. via Castlepac LLC                       | 10/4/2010        | — \$1,000 |
| Federalist Group                       | Associate   | Barton, Joe Linus via The Congressman Joe Barton Committee | 11/24/2003       | \$1,000   |
| Hess Corporation                       | Vice President, Global Government Affairs and Public Policy | NRSC   | 9/17/2013        | \$25,000  |
| Ogilvy Government Relations            | Government Affairs  | Blunt, Roy via Friends of Roy Blunt                        | 5/19/2009        | \$2,000   |
| Ogilvy Government Relations            | Government Affairs  | Blunt, Roy via Friends of Roy Blunt                        | 10/1/2010        | \$1,000   |
| Ogilvy Government Relations            | Government Affairs  | Blunt, Roy via Friends of Roy Blunt                        | 10/28/2010       | \$1,000   |
|  | Information Requested Per Best Efforts                      | NRSC   | 5/27/2008        | \$500     |
| Information Requested Per Best Efforts | Information Requested Per Best Efforts                      | NRSC   | 6/27/2013        | \$5,000   |
| Federalist Group                       | Government Relations  | Bush, George W. via Bush-Cheney 2004 (Primary) Inc.        | 6/18/2003        | \$2,000   |
| Federalist Group                       | Managing Director   | Freedom Project; The                                       | 6/30/2006        | \$2,500   |
| Info Requested                         | Info Requested  | NRCC   | 6/30/2005        | \$500     |
| The Federalist Group                   | Consultant  | New Republican Majority Fund                               | 5/9/2006         | \$1,000   |
| Federalist Group LLC                   | Executive   | Davis, Geoffrey C. via Geoff Davis for Congress            | 3/31/2006        | \$500     |
| Federalist Group LLC                   | Executive   | Fund for a Conservative Future                             | 4/3/2003         | \$1,000   |
| Federalist Group LLC                   | Executive   | Pete's Political Action Committee                          | 12/31/2003       | \$1,000   |
| Federalist Group LLC                   | Lobbyist  | American Liberty Political Action Committee                | 5/7/2004         | \$500     |
| Federalist Group LLC/Executive         | Executive   | Rely on Your Beliefs Fund                                  | 7/21/2003        | \$1,000   |

**Andrew K. Maloney Individual Contributions—Continued**  
**Contributions to All Other Political Committees Except Joint Fundraising Committees**

| Employer                    | Occupation                                | Committee Name   | Transaction Date | Amount  |
|-----------------------------|---|--|------------------|---------|
| Ogilvy Government Relations | Lobbyist                                  | Opportunity and Responsibility Restored in Our Nation PAC  | 8/9/2010         | \$1,000 |
| Federalist Group            | Consultant                                | Crane, Philip M. via Crane for Congress Committee          | 10/29/2004       | \$1,000 |
| Federalist Group            | Partner                                   | Sweeney, John E. via Sweeney for Congress, Inc.            | 7/28/2005        | \$1,000 |
| Federalist Group            | Partner                                   | Sweeney, John E. via Sweeney for Congress, Inc.            | 8/23/2006        | \$1,000 |
| Federalist Group            | Vice President                            | Fossella, Vito via Committee to Re-Elect Vito Fossella     | 4/22/2008        | \$500   |
| Federalist Group LLC        | Executive                                 | Help America's Leaders Political Action Committee (HALPAC) | 7/17/2007        | \$500   |
| Federalist Group LLC        | Executive                                 | Help America's Leaders Political Action Committee (HALPAC) | 3/31/2008        | \$1,000 |
| Federalist Group LLC        | Executive                                 | Help America's Leaders Political Action Committee (HALPAC) | 10/26/2010       | \$1,000 |
| Federalist Group LLC        | Government Consultant                     | Bilirakis, Gus M. via Bilirakis For Congress               | 9/29/2008        | \$500   |
| Hess Corporation            | Vice President, Global Government Affairs | Trust PAC Team Republicans for Utilizing Sensible Tactics  | 6/30/2014        | \$2,500 |
| Ogilvy Government Relations | Managing Director                         | Burgess, Michael C. Dr. via Michael Burgess for Congress   | 12/18/2007       | \$500   |
| Ogilvy Government Relations | Managing Director                         | Burgess, Michael C. Dr. via Michael Burgess for Congress   | 12/15/2009       | \$500   |
| Ogilvy Government Relations | Managing Director                         | Trust PAC Team Republicans for Utilizing Sensible Tactics  | 4/5/2011         | \$2,500 |
| Ogilvy Government Relations | Managing Director                         | Camp, David Lee via Dave Camp for Congress                 | 10/22/2007       | \$500   |
| Ogilvy Government Relations | Managing Director                         | Camp, David Lee via Dave Camp for Congress                 | 12/21/2007       | \$1,000 |
| Sonnenschein Nath           | Attorney                                  | Longhorn PAC   | 9/29/2006        | \$1,000 |
| The Federalist Group        | Consultant                                | McCrery, James O., III via McCrery for Congress Committee  | 6/8/2006         | \$1,000 |

**Andrew K. Maloney Individual Contributions—Continued**  
**Contributions to All Other Political Committees Except Joint Fundraising Committees**

| Employer                                 | Occupation           | Committee Name  | Transaction Date | Amount   |
|--|----------------------|---|------------------|----------|
| The Federalist Group                     | Consultant           | McCreery, James O., III via McCreery for Congress Committee | 9/28/2007        | \$1,000  |
| The Federalist Group/Government Relation | Government Relations | House Conservatives Fund                                    | 7/27/2006        | \$1,000  |
|  |                      | Boehner, John A. via Friends of John Boehner                | 11/16/2015       | —\$2,700 |
|  |                      | Boehner, John A. via Friends of John Boehner                | 12/31/2016       | \$2,700  |
|  |                      | NRCC  | 7/21/2011        | —\$5,000 |
| Ogilvy                                   | CEO                  | Ribble, Reid J. Rep. via Ribble for Congress                | 11/29/2011       | \$1,000  |
| Ogilvy                                   | CEO                  | Ribble, Reid J. Rep. via Ribble for Congress                | 5/29/2012        | \$500    |
| Ogilvy Government Relations              | CEO                  | Hudson, Richard L., Jr. via Hudson for Congress             | 10/31/2011       | \$250    |
| Ogilvy Government Relations              | CEO                  | Lucas, Frank D. via Lucas for Congress                      | 9/30/2011        | \$500    |
| Ogilvy Government Relations              | Lobbyist             | Graves, Samuel B., Jr. "Sam" via Graves for Congress        | 11/06/2009       | \$250    |
| Ogilvy Government Relations              | Lobbyist             | Graves, Samuel B., Jr. "Sam" via Graves for Congress        | 3/22/2010        | \$500    |
| Federalist Group                         | Associate            | Barton, Joe Linus via The Congressman Joe Barton Committee  | 3/17/2005        | \$1,000  |
| Federalist Group                         | Associate            | Texas Freedom Fund  | 3/21/2003        | \$1,000  |
| Federalist Group LLC                     | Associate            | Responsibility and Freedom Work PAC (RFPAC)                 | 7/14/2003        | \$500    |
| Federalist Group LLC                     | Associate            | Responsibility and Freedom Work PAC (RFPAC)                 | 10/12/2004       | \$500    |
| Ogilvy Government Relations              | Managing Director    | Upton, Frederick Stephen via Upton for All of Us            | 12/20/2007       | \$1,000  |
| Ogilvy Government Relations              | CEO                  | NRCC  | 4/20/2012        | \$30,000 |
| Self                                     | Consultant           | Republican National Committee                               | 12/31/2013       | \$15,000 |
| Federalist Group                         | Consultant           | Mica, John L. via Mica for Congress                         | 3/29/2007        | \$500    |
| Federalist Group LLC                     | Partner              | Republican National Committee                               | 3/19/2008        | \$5,000  |

**Andrew K. Maloney Individual Contributions—Continued**  
**Contributions to All Other Political Committees Except Joint Fundraising Committees**

| Employer                    | Occupation                                      | Committee Name   | Transaction Date | Amount   |
|-----------------------------|---|--|------------------|----------|
| Federalist Group LLC        | Executive                                       | Davis, Geoffrey C. via Geoff Davis for Congress            | 3/11/2008        | \$500    |
| Federalist Group LLC        | Government Relations                            | Republican Party of Virginia Inc.                          | 7/10/2014        | \$1,000  |
| Federalist Group LLC        | Member  | Sodrel, Michael E. via Friends of Mike Sodrel              | 10/26/2004       | \$500    |
| Federalist Group LLC        | President                                       | Rigell, Edward Scott via Rigell for Congress               | 10/26/2010       | \$1,000  |
| Federalist Group LLC        | Managing Director                               | Keller, Richard Anthony via Keller for Congress            | 5/5/2008         | \$500    |
| Federalist Group LLC        | Managing Director                               | Keller, Richard Anthony via Keller for Congress            | 9/26/2008        | \$500    |
| Ogilvy Government Relations | Government Relations Consultant                 | Johnson, Sam via Friends of Sam Johnson                    | 9/28/2009        | \$500    |
| Ogilvy Government Relations | Consultant                                      | Mica, John L. via Mica for Congress                        | 8/14/2007        | \$1,000  |
| Ogilvy Government Relations | Government Relations                            | Free and Strong America PAC, Inc.                          | 7/21/2008        | \$5,000  |
| Ogilvy Government Relations | Government Relations                            | Free and Strong America PAC, Inc.                          | 3/12/2009        | \$2,500  |
| Ogilvy Government Relations | Lobbyist  | NRCC   | 2/27/2009        | \$2,500  |
| Ogilvy Government Relations | Managing Director                               | Rounsaville, John Walter via John Rounsaville for Congress | 11/2/2007        | \$500    |
| Ogilvy Government Relations | Managing Director                               | White, Darren P. via Darren White for Congress             | 8/4/2008         | \$500    |
| Ogilvy Government Relations | CEO   | Upton, Frederick Stephen via Upton for All of Us           | 12/12/2011       | \$2,500  |
| The Federalist Group        | Associate                                       | Barton, Joe Linus via the Congressman Joe Barton Committee | 8/11/2005        | \$1,000  |
| The Federalist Group        | Associate                                       | Texas Freedom Fund   | 11/19/2007       | \$2,500  |
|                             | Information Requested                           | NRCC   | 10/26/2007       | \$2,500  |
| Hess Corporation            | Vice President, Government and External Affairs | Cheney, Elizabeth via Liz Cheney for Wyoming               | 6/25/2016        | \$1,000  |
| Ogilvy Government Relations | CEO   | Kinzinger, Adam via Kinzinger for Congress                 | 6/30/2011        | \$500    |
| Ogilvy Government Relations | Government Relations                            | NRCC   | 4/21/2010        | \$10,000 |
| Ogilvy Government Relations | Government Relations                            | NRCC   | 4/21/2010        | \$10,000 |

**Andrew K. Maloney Individual Contributions—Continued**  
**Contributions to All Other Political Committees Except Joint Fundraising Committees**

| Employer                    | Occupation | Committee Name   | Transaction Date | Amount              |
|-----------------------------|------------|--|------------------|---------------------|
| Ogilvy Government Relations | Lobbyist   | Free and Strong America PAC, Inc.                            | 8/26/2009        | \$2,500             |
| Ogilvy Government Relations | Lobbyist   | Free and Strong America PAC, Inc.                            | 2/18/2010        | \$5,000             |
| Ogilvy Government Relations | CEO        | Grimm, Michael via Michael Grimm for Congress                | 12/19/2011       | \$500               |
| Federalist Group LLC        | Executive  | Pickering, Charles W. "Chip," Jr. via Pickering for Congress | 3/9/2007         | \$500               |
| <b>Total Contributions</b>  |            |  |                  | <b>\$250,100.00</b> |

**Andrew K. Maloney Joint Fundraising Contributions**

These are contributions to committees that are raising funds to be distributed to other committees  
The breakdown of these contributions to their final recipients may appear below

| Employer                       | Occupation                         | Committee Name       | Transaction Date | Amount             |
|--------------------------------|------------------------------------|----------------------|------------------|--------------------|
| Federalist Group               | Executive                          | Team Texas Committee | 9/28/2004        | \$1,500            |
| Ogilvy Government Relations    | Executive                          | Boehner for Speaker  | 9/15/2010        | \$10,000           |
| Hess Corporation               | Vice President, Government Affairs | Boehner for Speaker  | 3/28/2013        | \$30,000           |
| Hess Corporation               | Vice President                     | Boehner for Speaker  | 6/22/2015        | \$25,000           |
| Hess Corporation               | Vice President, Government Affairs | Boehner for Speaker  | 7/31/2014        | \$25,000           |
| <b>Total Joint Fundraising</b> |                                    |                      |                  | <b>\$91,500.00</b> |

**Andrew K. Maloney Recipient of Joint Fundraiser Contributions**

These are the final recipients of joint fundraising contributions

| Employer         | Occupation                                | Committee Name                               | Transaction Date | Amount   |
|------------------|---|--|------------------|----------|
| Hess Corporation | Vice President, Global Government Affairs | NRCC   | 3/31/2013        | \$30,000 |
| Hess Corporation | Vice President, Global Government Affairs | NRCC   | 6/22/2015        | \$19,600 |
| Hess Corporation | Vice President, Global Government Affairs | NRCC   | 7/31/2014        | \$22,400 |
| Self             | Consultant                                | Republican National Committee                | 9/25/2012        | \$20,000 |
| Hess Corporation | Vice President, Government Affairs        | Boehner, John A. via Friends of John Boehner | 7/31/2014        | \$2,600  |
| Hess Corporation | Vice President, Government Affairs        | Boehner, John A. via Friends of John Boehner | 6/22/2015        | \$2,700  |



**Andrew K. Maloney Recipient of Joint Fundraiser Contributions—Continued**

These are the final recipients of joint fundraising contributions

| Employer                    | Occupation                         | Committee Name                               | Transaction Date | Amount              |
|-----------------------------|------------------------------------|--|------------------|---------------------|
| Hess Corporation            | Vice President, Government Affairs | Boehner, John A. via Friends of John Boehner | 6/22/2015        | \$2,700             |
| Ogilvy Government Relations | Government Relations               | NRCC   | 10/15/2010       | \$10,000            |
| <b>Recipient Total</b>      |                                    |  |                  | <b>\$110,000.00</b> |

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):

None.

15. Published writings (list the titles, publishers, and dates of all books, articles, reports, or other published materials you have written): “How to Influence Government,” Moses Mercado and Drew Maloney, *Forbes*, January 19, 2009; and “Lessons in Navigating U.S. Economic Rapids,” Jamie Moeller and Drew Maloney, *China Daily*, June 6, 2006.

16. Speeches (list all formal speeches you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated):

No formal speeches.

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

During college, I interned on Capitol Hill, and following college I worked in Virginia’s General Assembly. I have always been interested in public policy and government. After law school, I returned to Capitol Hill and worked on various issues for more than 5 years. I knew that I wanted to return to government later in my life. Now, after more than 25 years managing complex public policy issues, I look forward to the possibility of returning. I understand the need to build support for public policy positions and to be responsive to various constituencies. My background on Capitol Hill and the private sector offers a good perspective of how to support the Treasury Department and appreciate the importance of the legislative bodies.

**B. FUTURE EMPLOYMENT RELATIONSHIPS**

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

Yes.

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

No.

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

No.

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

Yes.

### C. POTENTIAL CONFLICTS OF INTEREST

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

None. I have consulted with Department of the Treasury's ethics staff and the Office of Government Ethics regarding potential issues arising out of my financial holdings, past income, and past employment relationships. These have been addressed in the ethics agreement I entered into with the Department of the Treasury's designated agency ethics official. I am not aware of any other potential conflicts of interest.

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

I am not aware of any business relationship or financial transaction which would constitute a conflict 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.

For the past 4½ years, I have been vice president of Hess Corporation, overseeing its communications, social responsibility, and government affairs operation. The company was a strong supporter and advocate of overturning the crude oil export ban. The company engaged on a variety of energy and environmental issues. Prior to Hess, I served as CEO for Ogilvy Government Relations. My focus was on the energy practice, advocating for oil and gas and power generators before Congress. I also assisted my partners with financial service, transportation, and other client interests. All advocacy activities from Ogilvy are publicly filed with the House and Senate.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

I have executed an ethics agreement with the Department of the Treasury's designated agency ethics official and will abide by the terms of such agreement. If confirmed, I will consult with ethics counsel in the event that I identify a potential conflict of interest.

### 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.

I am not aware of additional information.

### 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.

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#### QUESTIONS SUBMITTED FOR THE RECORD TO ANDREW K. MALONEY

##### QUESTION SUBMITTED BY HON. DEBBIE STABENOW

*Question.* There are disturbing reports that the Trump administration has been instructing his Secretaries and their staffs not to respond to questions and requests from Democratic members of Congress. If true, this is very troubling news, as not only does Congress have an important oversight role over the executive branch, but also, members of Congress often need to request urgent information on behalf of constituents or about issues of key local importance.

If confirmed, will you commit to being equally responsive to members of Congress on both sides of the aisle?

*Answer.* It is my understanding that party affiliation has no influence on how the Department of the Treasury responds to requests from members of Congress. If confirmed, I intend to respond, consistent with legal obligations, to all inquiries from members of Congress.

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##### QUESTION SUBMITTED BY HON. BILL NELSON

*Question.* How would you advise the Treasury Secretary to engage with Democrats on tax reform?

*Answer.* If confirmed, I would plan to offer advice and counsel to the Secretary and other Treasury Department officials based on lessons learned from my years of service on Capitol Hill. During that time, I came to understand and fully appreciate the dynamic between Congress and the executive branch, as well as the need to work with colleagues in a bipartisan manner. Complex legislative issues, such as reforming our tax code, are strengthened when work is done to find areas of agreement between both parties.

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#### QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY, JR.

*Question.* Mr. Maloney, if the Treasury General Counsel on their own, or at the direction of White House Counsel, advises that it is appropriate for you to only respond to Republican offices and not Democratic offices, will you adhere to such guidance?

*Answer.* It is my understanding that party affiliation has no influence on how the Department of the Treasury responds to requests from members of Congress. If confirmed, I intend to respond, consistent with legal obligations, to all inquiries from members of Congress.

*Question.* Mr. Maloney, if the Treasury General Counsel on their own, or at the direction of White House Counsel, directs that you only respond to requests from Republican offices and not Democratic offices, will you inform the chairman and ranking member of the Finance Committee promptly that you have been directed to not respond to Democratic requesters?

*Answer.* See response to question above.

*Question.* Mr. Maloney, if confirmed, in your capacity as Deputy Under Secretary for Legislative Affairs, would you advise the Secretary to respond to Senators' requests for information regardless of their party affiliation? That is, would you advise the Secretary that it is improper to only respond to requests from Republican offices and not requests from Democratic offices?

Answer. See response to my first question.

*Question.* Mr. Maloney, Republican members of the Finance Committee were provided OneWest Bank foreclosure data over 4 months ago. In January 2017, I followed up on my direct verbal request for this information with a question for the record, where the Secretary responded, “I have requested the additional [foreclosure] information.”

When can I expect to receive the data I requested on OneWest Bank’s foreclosures in Pennsylvania, and nationally?

Answer. Although I do not have access to any specifics concerning this matter, I can commit to work with your office on this request, if confirmed.

*Question.* Mr. Maloney, at his nomination hearing, Secretary Mnuchin told the committee in his sworn testimony that while head of OneWest Bank he sent a letter to HUD raising concerns about their reverse mortgage guidance. I requested a copy of that letter over 4 months ago. In January 2017, I followed up on this verbal request with a question for the record where the Secretary responded, “I have requested the additional [foreclosure] information as well as the referenced [reverse mortgage] letter.”

When can I expect to receive a copy of this letter?

Answer. Although I do not have access to any specifics concerning this matter, I can commit to work with your office on this request, if confirmed.

*Question.* Mr. Maloney, directly following Secretary Mnuchin’s appearance before the Finance Committee on May 25, 2017, Secretary Mnuchin was delivered a letter asking he provide the committee by end of business the following day a copy of his request to CIT for foreclosure information and his request for a copy of the letter he claims he sent to HUD regarding reverse mortgages. The committee has yet to receive a copy of this correspondence.

When can we expect to receive a copy of the Secretary’s correspondence to CIT requesting OneWest Bank’s State and national foreclosure information, and his letter on reverse mortgages?

Answer. Although I do not have access to any specifics concerning this matter, I can commit to work with your office on this request, if confirmed.

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PREPARED STATEMENT OF DAVID MALPASS, NOMINATED TO BE UNDER SECRETARY  
FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF THE TREASURY

Chairman Hatch, Ranking Member Wyden, and distinguished members of the Finance Committee, thank you for the opportunity to appear before you today and for your consideration of my nomination to be Under Secretary of the Treasury for International Affairs. I am deeply honored by the President’s decision to nominate me, and I have very much appreciated meeting with many members of the committee and your staff this spring.

Before discussing my own background, I would like to thank my wonderful wife, Adele, and our four children—Robert, Emily, Julia, and Peter—for their support. Adele is a former Senate Budget Committee staffer and someone who cares deeply about pursuing policies that promote prosperity for all Americans. I am particularly grateful for her hard work and support over the last year and her unwavering commitment to our Nation.

We especially miss our parents on this occasion. They were keenly interested in public policy and would have been very proud to be here. Both our fathers died last year. They were intensely patriotic, served in the army in World War II, and chose to be buried with military honors. Adele’s mother died earlier, and my mother was not able to travel from Colorado, but I can feel their encouragement today as the Nation faces major challenges.

While the position to which I have been nominated primarily relates to international issues, my meetings with many of you focused on the local impact on your constituents. I listened to the variety and depth of your interests and concerns, and it was a particular pleasure to meet with Senators from States where I have strong personal ties—namely Oregon, Colorado, Georgia, and Louisiana. If confirmed, I look forward to working with you on a wide range of international issues—knowing they will have significant impacts on citizens of every State.

Specifically, the Under Secretary for International Affairs is responsible for directing U.S. financial and economic relations with foreign countries and managing our roles in multilateral financial institutions such as the IMF and World Bank. The position also involves supervising those charged with running the CFIUS process, coordinating global financial regulatory standards, negotiating agreements affecting the U.S. financial sector, providing technical assistance to foreign financial systems, and protecting the trustworthiness of the U.S. dollar. I am ready and eager to take on these important responsibilities and believe my upbringing, education, and 40-year career spanning government, finance, and economics have provided me with a solid foundation.

I was raised in East Jordan, a small town in northern Michigan. My great grandfather started an iron foundry there in 1883 that was expanded by my grandfather, father, and the cousins I grew up with. The East Jordan Iron Works (now EJ Co.) is a fifth-generation global business, which still prides itself on productivity, hard work, good-paying jobs, and strong communities.

After earning a degree in physics, I worked as a contract administrator at Esco, a foundry in Portland, Oregon. We made high-alloy steel used in digging equipment, nuclear castings, and pulp mills. Both companies are emblematic of the challenges and opportunities that will continue to face our economy in the coming decades—they battle foreign competition yet have prospered through innovation, flexibility, talented leadership, and strong, skilled workers.

During the Reagan and first Bush Presidencies, I worked on economic and international affairs at the Treasury and State Departments and served on the staff of the Senate Budget Committee and the Joint Economic Committee. I had the privilege of working for Secretary James Baker and for Senators Pete Domenici and Bill Roth on many of the economic issues of the 1980s and early 1990s—including the 1986 tax reform act, the 1988 trade act, debt limit increases, and fiscal and monetary policy. I also participated in the policy responses to the Latin America debt crisis, the 1987 stock market crash, and the savings and loan crisis. At the Treasury Department, I headed the Developing Nations group, which was responsible for fiscal and monetary programs, the multilateral development banks, debt restructurings, and the securitization of debt through sovereign bonds.

After completing my government service, I moved to New York to work for Bear Stearns on macroeconomic analysis, later becoming chief economist. I subsequently started my own firm, Encima Global, which produced research on monetary and fiscal policy, markets, and currencies. I have written extensively for *Forbes*, *The Wall Street Journal*, and other national publications on growth, ways to improve spending and tax policies, the Federal Reserve, and currency stability as a core path to higher living standards.

The theme of my upbringing, career, and publications is that policies have a big impact on growth, jobs, and wages, and that a key goal of fiscal and monetary policy development is to create higher living standards for working and middle-income citizens in the United States and around the world.

If confirmed, I will endeavor to fulfill my duties by working closely with this committee, and others in the Senate and House of Representatives in order to execute the law and develop sound administration policies and initiatives. This would include helping our domestic industries remain competitive while encouraging foreign investment in the United States that creates more jobs here. I will also work to promote sound policies abroad and more growth—these are strongly in our national interest both in terms of markets for our products and national security. Finally, our international policies need to work toward broader prosperity—if confirmed, I will work to build a stronger U.S. and global economy that raises real median incomes.

Thank you again for the opportunity to appear before you today. I am happy to answer any questions you may have.

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

**A. BIOGRAPHICAL INFORMATION**

1. Name (include any former names used): David Robert Malpass.
2. Position to which nominated: Treasury Under Secretary for International Affairs.
3. Date of nomination: March 21, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: March 8, 1956, Petoskey, Michigan.
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):

| Institution   | Dates Attended | Degree Received                    | Degree Date |
|---|----------------|------------------------------------|-------------|
| Fellow, Georgetown University School of Foreign Service | 1983           | Courses in international economics | None        |
| University of Denver                                    | 1977–1978      | MBA                                | May 1978    |
| Portland State University                               | 1976–1977      | Courses in accounting              | None        |
| Colorado College  | 1973–1976      | BA (physics)                       | May 1976    |
| Moscow State University                                 | 1975           | Courses in Russian                 | None        |
| Cornell University                                      | 1972           | Courses in Russian                 | None        |
| Fairview High School                                    | 1970–1973      | Diploma                            | May 1973    |

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):
  - Encima Global LLC, president, New York, NY, June 2008–February 2017.
  - JP Morgan, economist, New York, NY, March 2008–June 2008.
  - Bear Stearns, chief economist, January 2002–March 2008; Chief International Economist, February 1993–January 2002, New York, NY, February 1993–March 2008.
  - U.S. State Department, Deputy Assistant Secretary (Latin America Economic Affairs), Washington, DC, June 1990–January 1993.
  - Joint Economic Committee, Republican Staff Director, Washington, DC, March 1989–June 1990.
  - U.S. Treasury Department, Deputy Assistant Secretary (Developing Nations), April 1988–February 1989; Legislative Manager, March 1986–April 1988, Washington, DC, March 1986–March 1989.
  - Senate Budget Committee, Senior Analyst for Taxes and Trade, International Economist, Washington, DC, January 1984–March 1986.
  - Self-employed, computer systems consultant, Portland, Oregon, October 1981–September 1983.

Consolidated Supply Co., Controller/CFO, Portland, Oregon, October 1979–October 1981.

Arthur Andersen and Co., computer systems consultant, Portland, Oregon, August 1978–October 1979.

Esco (Electric Steel) Corp., assistant contract administrator, Portland, Oregon, November 1976–August 1977.

McDonald’s breakfast chef, Boulder, Colorado, September 1976.

Regal Industries, industrial electrician, Long Beach, California, June–July 1976.

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): Member of Illinois Debt Commission established by Senator Mark Kirk, 2006; and Member of Congressional “Blue Ribbon Panel on Dynamic Budget Scoring” 2002.
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):

President, Encima Global LLC.

Partner, Vencerx Therapeutics LLC.

Director, GKCC, Gary Klinsky Children’s Center.

Trustee, Manhattan Institute.

Director, New Mountain Finance Corp. (resigned March 2017).

Director, UBS Managed Municipal Trust.

Director, UBS Investment Trust.

Director, UBS Money Series.

Director, Pace Select Advisors Trust.

Director, UBS RMA Money Market Inc.

Director, UBS Master Trust.

Director, UBS RMA Tax-Free Fund Inc.

Director, Strategic Global Income Fund, Inc.

Director, Global High Income Fund Inc.

Director, Managed High Yield Plus Fund Inc.

In addition to the foregoing, as president of Encima Global LLC, I was, in turn, engaged by a number of clients to provide economic research and consulting services (as disclosed in my Form 278 filing).

12. Memberships (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations): Member, Economic Club of New York; member, Council on Foreign Relations.
13. Political affiliations and activities:
  - a. List all public offices for which you have been a candidate.  
Candidate for U.S. Senate, New York, 2010.
  - b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.  
Senior economic advisor, presidential campaign of Rudy Giuliani, 2008; senior economic advisor, presidential campaign of Donald Trump, 2016; treasurer, Grow Pac, 2010–2017 (a federal PAC); and treasurer, Grow Pac, 2011–2017 (a NY state PAC).
  - 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.

#### Malpass Political Contributions

| Date    | Amount    | Recipient  |
|---------|-----------|--|
| 3/31/07 | \$4,600   | Giuliani, Rudolph W., via Rudy Giuliani Presidential Committee Inc.              |
| 4/27/07 | (\$2,300) | Giuliani, Rudolph W., via Rudy Giuliani Presidential Committee Inc. <sup>1</sup> |
| 6/14/07 | \$2,300   | Giuliani, Rudolph W., via Rudy Giuliani Presidential Committee Inc.              |
| 6/29/07 | \$2,300   | Kirk, Mark Steven, via Kirk for Senate   |

## Malpass Political Contributions—Continued

| Date     | Amount      | Recipient  |
|----------|-------------|--|
| 6/29/07  | \$1,700     | Kirk, Mark Steven, via Kirk for Senate   |
| 7/10/07  | (\$2,300)   | Giuliani, Rudolph W., via Rudy Giuliani Presidential Committee Inc. <sup>2</sup> |
| 7/10/07  | \$2,300     | Giuliani, Rudolph W., via Rudy Giuliani Presidential Committee Inc.              |
| 3/4/08   | (\$2,300)   | Giuliani, Rudolph W., via Rudy Giuliani Presidential Committee Inc. <sup>3</sup> |
| 5/21/08  | \$2,300     | McCain, John S., via John McCain 2008, Inc.                                      |
| 5/21/08  | \$2,300     | McCain, John S., via McCain-Palin Compliance Fund                                |
| 5/31/08  | \$2,300     | McCain Victory 2008  |
| 7/31/08  | \$2,300     | Republican National Committee  |
| 10/19/08 | \$500       | Kirk, Mark Steven, via Kirk for Senate   |
| 9/22/09  | \$2,400     | Kirk, Mark Steven, via Kirk for Senate   |
| 1/13/10  | \$2,000     | NY State Conservative Party  |
| 1/28/10  | \$2,000     | NY State Conservative Campaign Committee   |
| 2/5/10   | \$1,000     | NY County Republicans  |
| 2/8/10   | \$1,000     | New York Republican County Committee   |
| 2/22/10  | \$500       | Queens County Housekeeping Account   |
| 3/8/10   | \$500       | Malpass, David Robert, via David Malpass for Senate                              |
| 4/16/10  | \$300       | National Republican Senatorial Committee   |
| 6/4/10   | \$150       | Michael Faulkner via Michael Faulkner for Congress                               |
| 7/13/10  | \$2,300     | Republican Campaign Committee of New York (R)                                    |
| 8/29/10  | \$1,000     | Erie County Republican Party   |
| 8/29/10  | \$100       | Michael Faulkner via Michael Faulkner for Congress                               |
| 9/10/10  | \$1,000     | Erie County Republican Committee-Finance   |
| 9/30/10  | \$100,000   | Malpass, David Robert, via David Malpass for Senate                              |
| 9/30/10  | \$1,500,000 | Malpass, David Robert, via David Malpass for Senate                              |
| 12/15/10 | \$7,000     | Malpass, David Robert, via David Malpass for Senate                              |
| 12/30/10 | \$5,000     | Malpass, David Robert, via David Malpass for Senate                              |
| 3/3/11   | \$9,000     | Grow PAC   |
| 3/17/11  | \$1,000     | Malpass, David Robert, via David Malpass for Senate                              |
| 6/24/11  | \$2,000     | New York Republican County Committee Housekeeping Account                        |
| 7/1/11   | \$8,000     | Grow PAC   |
| 7/7/11   | \$1,000     | NY Conservative Party  |
| 8/4/11   | \$1,500     | Lincoln PAC (Illinois)   |
| 8/9/11   | \$250       | Friends of Paul Niehaus  |
| 9/21/11  | \$1,000     | Grow PAC   |
| 9/22/11  | \$2,500     | Perry, James R. (Rick), via Perry for President, Inc.                            |
| 11/3/11  | \$5,000     | Grow PAC   |
| 1/19/12  | \$2,500     | Romney, Mitt/Paul D. Ryan, via Romney for President, Inc.                        |
| 1/23/12  | \$200       | Grow PAC   |
| 3/2/12   | \$500       | Republican County Committee of New York  |
| 3/6/12   | \$400       | NY Republican Federal Campaign Committee   |
| 3/9/12   | \$2,500     | Mourdock, Richard E., via Hoosiers for Richard Mourdock Inc.                     |
| 6/4/12   | \$30,800    | Republican National Committee  |
| 6/4/12   | \$2,500     | Romney, Mitt/Paul D. Ryan, via Romney for President, Inc.                        |
| 6/9/12   | \$500       | NY Republican Federal Campaign Committee   |
| 7/13/12  | \$500       | Republican Campaign Committee of New York (R)                                    |
| 7/27/12  | \$1,000     | Altschuler, Randolph, via Randy Altschuler for Congress                          |
| 7/31/12  | \$4,150     | Republican Party of Idaho (R)  |
| 7/31/12  | \$4,150     | Oklahoma Leadership Council (R)  |
| 7/31/12  | \$4,150     | Vermont Republican Federal Elections Committee (R)                               |
| 7/31/12  | \$4,150     | Republican State Committee of Massachusetts (R)                                  |
| 9/30/12  | \$500       | Carvin, Joseph, via Carvin 2012  |
| 10/26/12 | \$10,000    | National Republican Congressional Committee (R)                                  |
| 10/26/12 | \$10,000    | National Republican Senatorial Committee (R)                                     |
| 11/1/12  | \$1,000     | Flake, Jeff, via Jeff Flake for U.S. Senate Inc.                                 |
| 11/4/12  | \$1,000     | Brown, Scott P., via Fiscal Responsibility PAC                                   |
| 1/18/13  | \$250       | New York Republican County Committee Housekeeping Account                        |
| 2/13/13  | \$1,500     | Lhota, Joseph J. (for Mayor of New York)   |
| 5/8/13   | \$630       | Joe Lhota for Mayor, Inc.  |
| 6/10/13  | \$1,000     | Gomez, Gabriel, via Gabriel Gomez for Senate                                     |
| 7/27/13  | \$500       | Lhota, Joseph J. (for Mayor of New York)   |
| 1/10/14  | \$1,900     | Kirk, Mark Steven, via Kirk for Senate   |
| 1/28/14  | \$1,000     | Grow PAC   |
| 3/31/14  | \$1,500     | New York Republican County Committee   |
| 8/1/14   | \$500       | Zeldin, Lee, via Zeldin for Congress   |



## Malpass Political Contributions—Continued

| Date     | Amount  | Recipient   |
|----------|---------|---|
| 10/15/14 | \$2,000 | Independent Women                                     |
| 11/26/14 | \$2,600 | Cassidy, William M., via Bill Cassidy for U.S. Senate |
| 1/19/15  | \$500   | Grow PAC  |
| 2/27/15  | \$150   | Bronx County GOP                                      |
| 3/25/15  | \$800   | Kirk, Mark Steven, via Kirk for Senate                |
| 3/25/15  | \$1,200 | Kirk, Mark Steven, via Kirk for Senate                |
| 6/24/15  | \$2,700 | Johnson, Ron Harold, via Ron Johnson for Senate Inc.  |
| 6/30/15  | \$2,700 | Bush, Jeb, via Jeb 2016, Inc.                         |
| 6/30/15  | \$2,700 | Portman, Rob, via Portman for Senate Committee        |
| 6/30/15  | \$500   | Kirk, Mark Steven, via Kirk for Senate                |
| 9/28/15  | \$2,700 | Faso, John J., via Faso for Congress                  |
| 5/19/16  | \$1,000 | Zeldin, Lee, via Zeldin for Congress                  |

<sup>1</sup>Reattribution to spouse.  
<sup>2</sup>Redesignation to general.  
<sup>3</sup>Contribution refund.

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):

- Honorary doctorate, Colorado College, 2007.
- Institutional Investor Allstar Analyst 2005–2007 (ranked second among Wall Street economists in leading survey of institutional investors).
- Treasury Department commendation for work on 1986 tax reform (by Secretary James Baker, October 3, 1986).
- Certified Public Accountant, first licensed 1980.
- University of Denver Dean's List each term, 1977–1978.
- Colorado College Dean's List each term, 1973–1976.
- Colorado College Physics Department's nominee for Danforth Fellowship.
- Colorado College grant for study in USSR, 1975.
- Boettcher Foundation Scholar, 1973–1978.
- National Merit Scholar finalist, 1973.

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

## Malpass Publications

| Publication     | Title   | Date     |
|-----------------|---|----------|
|                 | <b>Policy Change</b>                          |          |
| <i>Forbes</i>   | Democracies in Upheaval                       | 12/30/16 |
| <i>Forbes</i>   | Trump-Clinton 9.0 Earthquake                  | 11/29/16 |
| <i>Forbes</i>   | Eight Outrages Urge Trump to Upend Washington | 10/4/16  |
| <i>NY Times</i> | Why Our Economy Needs Trump                   | 9/1/16   |
| <i>Forbes</i>   | Trump Using Public's Anger                    | 7/26/16  |
| <i>Forbes</i>   | Upheaval to Reinvent U.S. Politics            | 5/10/16  |
| <i>Forbes</i>   | Can 2016 Be Salvaged for Investors?           | 2/8/16   |
| <i>Forbes</i>   | More Government, Less Representation          | 5/4/15   |
| <i>Forbes</i>   | Peace Through Weakness?                       | 7/21/14  |
| <i>Forbes</i>   | IRS Scandal is Tip of the Iceberg             | 6/24/13  |
| <i>Forbes</i>   | Corruption Scandals Rock Big Governments      | 5/6/13   |
| <i>Forbes</i>   | The Battle to Limit Government                | 2/11/13  |
| <i>WSJ</i>      | Romney, Obama, and the Economic Choice        | 11/6/12  |
| <i>Forbes</i>   | Pushing Back a Government Centered Society    | 5/21/12  |
| <i>WSJ</i>      | And the Crisis Winner is Government           | 12/16/11 |
| <i>Forbes</i>   | The Enemy Within                              | 5/23/11  |
| <i>Forbes</i>   | Class Warfare Hurts Growth                    | 5/12/11  |
| <i>Forbes</i>   | Congress Must Hit the Ground Running          | 11/22/10 |
| <i>Forbes</i>   | Restoring America's Growth                    | 9/27/10  |
| <i>Forbes</i>   | Shakedown                                     | 6/28/10  |

| Publication            | Title  | Date      |
|------------------------|--|-----------|
| <b>Policy Change</b>   |  |           |
| <i>Forbes</i>          | Washington Possessed   | 5/10/10   |
| <i>Forbes</i>          | Need Game Changers, Not “New Norm”                                       | 7/13/09   |
| <i>Forbes</i>          | Crisis Rules   | 2/16/09   |
| <i>Forbes</i>          | Containing Washington’s Power Bulge                                      | 11/10/08  |
| <b>Federal Reserve</b> |  |           |
| Cato                   | Preventing Bubbles: Regulation Versus Monetary Policy                    | Fall 2011 |
| <i>WSJ</i>             | Pro-Growth Tools for the Frozen Fed                                      | 10/7/16   |
| <i>WSJ</i>             | More Fed Bond Purchases Are the Wrong Answer                             | 8/30/16   |
| <i>NY Sun</i>          | New Course for the Fed Is Growing More Urgent                            | 2/25/16   |
| <i>WSJ</i>             | Don’t Blame the Fed’s Interest-Rate Baby Step                            | 2/11/16   |
| Testimony              | Cato Monetary Conference—Post Monetarism: Fed’s Growth Options           | 11/12/15  |
| <i>Forbes</i>          | Fed Should Raise Rates to Loosen Policy                                  | 9/28/15   |
| <i>WSJ</i>             | The Federal Reserve Pulls a Lucy   | 9/18/15   |
| <i>NY Sun</i>          | Fed Awaits the Moment to End Zero Interest and Waits                     | 8/29/15   |
| <i>NY Sun</i>          | Right Move for the Fed is Hike in Interest Rates so Markets Come Alive   | 8/20/15   |
| <i>Forbes</i>          | New Course for the Federal Reserve                                       | 7/20/15   |
| <i>WSJ</i>             | Fed Rate Forecast: Cloudy With a Chance of Slower Growth                 | 3/21/15   |
| <i>Forbes</i>          | Lower Inflation—Another Chance for Government Mistakes                   | 2/9/15    |
| <i>WSJ</i>             | The World’s Monetary Dead End  | 1/22/15   |
| <i>Forbes</i>          | Big Fed is Big Government  | 11/24/14  |
| <i>WSJ</i>             | Growth Management Isn’t Fed’s Forte                                      | 10/16/14  |
| <i>WSJ</i>             | The Fed is Looking Like a Sovereign Wealth Fund                          | 9/8/14    |
| <i>WSJ</i>             | Now is the Time to Raise Interest Rates                                  | 6/9/14    |
| <i>Forbes</i>          | Monetary Policy Relief Finally Adding Growth                             | 5/5/14    |
| <i>WSJ</i>             | The Fed’s Taper is Already Paying Off                                    | 3/14/14   |
| <i>Forbes</i>          | The American Income Crisis: The Fed Could Stop It                        | 9/2/13    |
| Cato                   | Cato Journal Fall 2013—Fed Needs to Change Course                        | 9/1/13    |
| <i>WSJ</i>             | The Federal Reserve and M2 Figures                                       | 6/7/13    |
| <i>WSJ</i>             | Fed Policy is a Drag on Recovery   | 5/30/13   |
| Testimony              | Testimony to House Financial Services Committee on Fed Policy            | 3/5/13    |
| E21                    | Monetary Policy, QE4, and the Next Era of the Federal Reserve            | 1/23/13   |
| Testimony              | Cato Monetary Conference: Fed is Contractionary                          | 11/15/12  |
| <i>Forbes</i>          | Smaller Government Fed Should Shrink, Too                                | 9/24/12   |
| Bush Center            | The “Bernanke Put”   | 9/19/12   |
| Bush Center            | Twisting the Market  | 8/20/12   |
| Bush Center            | A New Twist on an Old Story  | 7/3/12    |
| <i>WSJ</i>             | The Fed “Twist” That Won’t Dance   | 9/21/11   |
| <i>WSJ</i>             | How the Fed is Holding Back Recovery                                     | 10/19/10  |
| <i>Forbes</i>          | Fed Should Go Back to Basics   | 2/8/10    |
| <i>WSJ</i>             | Near-Zero Rates Are Hurting the Economy                                  | 12/4/09   |
| <i>National Review</i> | The Fed Lacks Urgency  | 3/24/09   |
| Cato                   | Cato: Monetary Policy and the Growing Fiscal Imbalance                   | 6/22/07   |
| <i>Fincl Executive</i> | A World of Liquidity   | 11/29/06  |
| <i>WSJ</i>             | Fed-Side Manner; Interest Rates Too Low                                  | 5/11/06   |
| <i>Fortune</i>         | Surviving Rate Hikes Will Be Easier Than You Think                       | 3/8/04    |
| Testimony              | House Financial Services Committee Testimony on economic monetary policy | 4/30/03   |
| <i>WSJ</i>             | Fed’s Moment of Weakness   | 9/25/02   |
| <b>Currencies</b>      |  |           |
| <i>WSJ</i>             | China Declares Currency Independence                                     | 8/15/15   |
| <i>WSJ</i>             | Fed Policy is a Drag on Recovery   | 5/31/13   |
| <i>WSJ</i>             | Ron Paul, the Fed, and the Need for a Stable Dollar                      | 1/26/12   |
| <i>WSJ</i>             | Beyond the Gold and Bond Bubbles   | 8/31/11   |
| <i>WSJ</i>             | Weak Dollar, Weak Economy  | 8/5/11    |
| <i>WSJ</i>             | Weak-Dollar Threat to Prosperity   | 10/8/09   |
| <i>Forbes</i>          | Debt, Deficits, Dollar Weakness  | 4/27/09   |
| <i>WSJ</i>             | Bush and the Dollar  | 3/11/08   |
| <i>WSJ</i>             | Markets and the Weak Dollar  | 1/14/08   |

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| <b>Currencies</b>             |   |          |
| <i>WSJ</i>                    | Lifelines for the Drowning Dollar                                     | 11/9/07  |
| <i>WSJ</i>                    | Drooping U.S. Dollar—Medicine or Poison?                              | 12/16/04 |
| Cato                          | Cato Journal—Exchange Rate Protectionism                              | 10/14/05 |
| <i>WSJ</i>                    | The Willy-Nilly Dollar  | 2/11/04  |
| <i>WSJ</i>                    | Brazil's Currency Lesson for the U.S.                                 | 12/5/03  |
| <i>WSJ</i>                    | The Euro's Broken Promises  | 10/21/02 |
| <i>WSJ</i>                    | Strengthening the Euro Isn't Rocket Science                           | 9/27/00  |
| <i>WSJ</i>                    | The ECB's Policy Is Obviously Not Working                             | 5/8/00   |
| <i>WSJ</i>                    | Time to Tame Exchange Rates   | 12/3/99  |
| Cato                          | Cato speech, Replacing the Vacuum in International Economic Policy    | 10/21/99 |
| Testimony                     | Senate Banking testimony on Dollarization                             | 7/15/99  |
| Testimony                     | House Banking testimony International Financial System                | 5/20/99  |
| <i>WSJ</i>                    | Dawn of the Euro: New Money Will Bring Smaller Government             | 1/6/99   |
| <i>EWSJ</i>                   | Choose Currency Stability   | 10/8/98  |
| <i>WSJ</i>                    | Beating Back the Bear: U.S. Needs to Promote Currency Stability       | 9/2/98   |
| <i>EWSJ</i>                   | A Stable Dollar Is the Key (Russia's Devaluation)                     | 8/26/98  |
| <i>WSJ</i>                    | Asia's Reckoning: A Weak Economy Needs a Strong Currency              | 6/17/98  |
| <i>WSJ</i>                    | Asia's Reckoning: The Road Back From Devaluation                      | 1/14/98  |
| <i>WSJ</i>                    | Can the U.S. Weather Asia's Storm?                                    | 1/5/98   |
| <i>WSJ</i>                    | Floating Into Monetary Trouble  | 7/23/97  |
| <i>WSJ</i>                    | Whither the EMU?  | 6/20/97  |
| <i>WSJ</i>                    | Currency Stability on the March                                       | 12/20/96 |
| <b>IMF/G7/Globalism</b>       |   |          |
| <i>WSJ</i>                    | G20 Speed Dating in Los Cabos   | 6/20/12  |
| <i>WSJ</i>                    | Greece's False Austerity  | 5/23/12  |
| <i>WSJ</i>                    | G7 Meeting: Heads Up, Seven Up  | 2/21/03  |
| <i>WSJ</i>                    | A Radical Idea: The IMF Should Promote Growth                         | 12/28/01 |
| <i>WSJ</i>                    | The IMF Gets it Wrong Again   | 8/17/01  |
| <i>WSJ</i>                    | The G7's Missed Opportunity   | 2/23/99  |
| <i>WSJ</i>                    | Break the IMF Shackles  | 9/26/97  |
| <i>WSJ</i>                    | G7's Signal: Inflation Ahead  | 7/11/94  |
| <i>WSJ</i>                    | Successful Latin Economies Show the Gain Before the Pain              | 1/29/93  |
| <i>WSJ</i>                    | Europeans Should Look West for Advice on Sound Money                  | 9/25/92  |
| <i>WSJ</i>                    | Does the IMF Deserve More Money?                                      | 10/18/89 |
| <b>Growth and Development</b> |   |          |
| Testimony                     | Testimony to House Financial Services on Slow Outlook                 | 5/17/16  |
| E21                           | Encima Global Projects World GDP Will Drop in 2015                    | 11/12/14 |
| <i>NY Post</i>                | America's Ugly New Two-Tiered Economy                                 | 9/15/14  |
| <i>Forbes</i>                 | Returns Set to Plunge   | 9/8/14   |
| <i>Forbes</i>                 | Five Steps to Faster Global Growth                                    | 2/10/14  |
| <i>WSJ</i>                    | How Big Government Drives Inequality                                  | 1/16/14  |
| <i>WSJ</i>                    | The Economy Is Showing Signs of Life                                  | 7/23/13  |
| Bush Center                   | Circling the Cliff  | 2/1/13   |
| Bush Center                   | Don't Rely on Lame Ducks  | 2/1/13   |
| <i>WSJ</i>                    | Economic Signals Point to a 2013 Recession                            | 9/29/12  |
| Bush Center                   | Stimulus Means Slow Growth  | 8/3/12   |
| Bush Center                   | Slow Growth, No Recession   | 7/26/12  |
| <i>WSJ</i>                    | The LIBOR Scandal's Threat to Growth                                  | 7/11/12  |
| Bush Center                   | Private-Sector Gloom  | 7/11/12  |
| Bush Center                   | Jobs Need a Jolt  | 6/8/12   |
| Bush Center                   | Housing Contributes to Recovery                                       | 5/29/12  |
| Bush Center                   | Getting to the Root of Stagnant Wages                                 | 5/18/12  |
| Bush Center                   | Greater Consumption/Lower Investment Raise Doubts About Future Growth | 5/4/12   |
| Bush Center                   | Household Survey Leads Upswing in Job Growth                          | 3/16/12  |
| Bush Center                   | Personal Income: Show Me the Money                                    | 3/9/12   |
| Bush Institute                | Chapter 7 From "4% Growth Solution:" Sound Money, Sound Policy        | 3/1/12   |
| <i>WSJ</i>                    | America's Troubling Investment Gap                                    | 7/5/11   |

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| <b>Growth and Development</b>       |  |          |
| FoxNews.com                         | What Jobs Numbers Mean for America                                       | 6/3/11   |
| WSJ                                 | The Panic, Round Two: What Would Reagan Do?                              | 5/26/10  |
| WSJ                                 | The Euro's Greek Tragedy, and its Lessons for America                    | 2/27/10  |
| Forbes                              | Seriously Off Track  | 11/30/09 |
| Forbes                              | Armageddon Averted—Or Was It?  | 9/7/09   |
| WSJ                                 | Did the Fed Cause the Housing Bubble? The Fed Provided the Fuel          | 3/27/09  |
| National Review                     | Path to Recovery   | 1/14/09  |
| Forbes                              | Reagan Redux—Ending America's Malaise                                    | 9/29/08  |
| Forbes                              | Investing Post-Bush  | 7/21/08  |
| Forbes                              | Credit Crisis Hits Home  | 4/21/08  |
| Forbes                              | A No-Lame-Duck Growth Agenda   | 1/28/08  |
| Forbes                              | Washington: Out of Tune With Growth                                      | 11/26/07 |
| Forbes                              | How Hard a Landing?  | 10/1/07  |
| American Spectator                  | AEI: Running on Empty?   | 9/1/07   |
| WSJ                                 | Don't Panic About the Credit Market                                      | 8/7/07   |
| WSJ                                 | Global Boom  | 4/9/07   |
| NY Sun                              | Down Because it Was Up   | 2/28/07  |
| Testimony                           | Senate Budget testimony on outlook                                       | 2/1/07   |
| American Spectator                  | AEI: The Late Landing  | 11/20/06 |
| National Review                     | Inflation Remains the Key Variable                                       | 6/30/06  |
| WSJ                                 | Job, Jobs, Jobs  | 4/6/06   |
| National Review                     | An Expansion With Staying Power  | 2/10/06  |
| National Review                     | Here We Go Again?  | 12/6/05  |
| WSJ                                 | Sailing Past Katrina   | 9/22/05  |
| WSJ                                 | So This Is a Weak Economy?   | 6/28/05  |
| American Spectator                  | It's About as Radical as IRAs: Social Security Reform Should Sell Itself | 4/1/05   |
| WSJ                                 | Running on Empty?  | 3/28/05  |
| WSJ                                 | Bush and Social Security Reform  | 1/14/05  |
| WSJ                                 | Opposite of a Lame Duck?   | 1/14/05  |
| WSJ                                 | We Grow, They Grow   | 11/3/04  |
| NY Sun                              | Bush's Durable Market  | 8/23/04  |
| WSJ                                 | Their Money, Our Strength  | 8/5/04   |
| WSJ                                 | The "I" Word: Inflation  | 6/18/04  |
| Forbes                              | Trade Deficit? So What?  | 12/8/03  |
| WSJ                                 | Bullish on America   | 6/7/02   |
| Testimony                           | Senate Banking testimony: Global Outlook, Monetary, and Fiscal Policy    | 3/12/02  |
| Heritage Foundation Report          | A New Agenda for America   | 12/28/01 |
| Forbes                              | Antidote to the Downgrade  | 9/26/01  |
| WSJ                                 | Leadership Vacuum in International Economics                             | 4/21/99  |
| Bloomberg Books                     | Chapter 3 From <i>Flying on One Engine: America's Optimistic Future</i>  | 6/27/05  |
| <b>Budget, Taxes and Debt Limit</b> |  |          |
| Forbes                              | The Republican Fiscal Divide   | 11/23/15 |
| Forbes                              | Government Wins Big—Country Needs a New Debt Limit                       | 11/18/13 |
| WSJ                                 | The Bigger Battle Behind the Shutdown                                    | 10/10/13 |
| Testimony                           | Testimony to Joint Economic Committee on Debt Limit                      | 9/18/13  |
| WSJ                                 | A Debt-Ceiling Strategy for the GOP                                      | 8/30/13  |
| WSJ                                 | The Obama Budget's Economic Message                                      | 4/11/13  |
| Testimony                           | Testimony to Senate Budget on Impact of Federal Spending on Growth       | 2/26/13  |
| WSJ                                 | Nothing Is Certain Except More Debt and Taxes                            | 1/2/13   |
| NY Sun                              | Going Over Fiscal Cliff  | 12/31/12 |
| Forbes                              | Constitution Eroding: Need Rules to Restrain Government                  | 12/10/12 |
| Bush Center                         | The Overbearing Rule Book is What Blocks True Tax Reform                 | 4/16/12  |
| Forbes                              | U.S. Needs a New Debt Limit  | 2/27/12  |
| FoxNews.com                         | A Proper Debt Limit Would Cause Pain in DC, Not Debt Default             | 6/27/11  |
| NY Sun                              | Republicans Could Lose the House Over Debt Limit                         | 6/7/11   |
| WSJ                                 | A Smarter Debt Limit Strategy  | 6/1/11   |

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| <b>Budget, Taxes and Debt Limit</b> |   |          |
| <i>Forbes</i>                       | Reflections on the Budget   | 2/28/11  |
| <i>WSJ</i>                          | After Obama's Budget, Republicans Need a New Strategy                 | 2/16/11  |
| <i>Washington Times</i>             | Truth/Dare: Rather Than Cut Spending, Obama Bets on World Overlending | 2/1/11   |
| Testimony                           | Testimony to Senate Budget Committee on fiscal policy                 | 2/1/11   |
| <i>Washington Times</i>             | Debt Limit Opportunities  | 1/17/11  |
| <i>Forbes</i>                       | The High Cost of the U.S. Budget                                      | 2/8/10   |
| <i>Forbes</i>                       | The Washington Tax Mess   | 7/23/07  |
| <i>Forbes</i>                       | Recession, Taxes, and Moral Hazard                                    | 4/16/07  |
| <i>WSJ</i>                          | Budget Strain   | 2/27/07  |
| <i>Forbes</i>                       | The Triple Deficit Paralyzes Policy Vision                            | 1/29/07  |
| <i>WSJ</i>                          | Embrace the Deficit (and the Capital Surplus That Goes With it)       | 12/21/06 |
| Cato                                | Cato speech: The Growing Fiscal Imbalance/Future of Monetary Policy   | 11/16/06 |
| Testimony                           | Senate Finance Testimony on Extending Bush Tax Cuts                   | 6/30/05  |
| <i>FT</i>                           | Don't Blame the Deficits for America's Rate Hikes                     | 5/4/04   |
| Testimony                           | Senate Budget Committee testimony on economic outlook                 | 1/29/03  |
| Testimony                           | Rules testimony on the budget   | 5/2/02   |
| Testimony                           | JEC testimony on taxes  | 3/9/00   |
| Testimony                           | Senate Budget testimony on balanced budget amendment                  | 1/22/97  |
| <b>Foreign Economies and Growth</b> |   |          |
| Bush Center                         | Europe on the Brink   | 9/25/12  |
| Bush Center                         | Europe Kicks the Can  | 7/13/12  |
| Bush Center                         | Europe's Worsening Fiscal Spiral                                      | 4/27/12  |
| Bush Center                         | How to Avoid the Fate of Greece                                       | 3/1/12   |
| <i>WSJ</i>                          | How the EuroZone Can Restore Confidence                               | 10/26/11 |
| Inter-American Dialogue             | Was the Time Right to Award Brazil Investment-Grade Status?           | 5/2/08   |
| <i>WSJ</i>                          | Japan's Monetary Policy: Hanging Loose                                | 7/21/06  |
| <i>WSJ</i>                          | Welcome Back, Japan   | 3/14/06  |
| ViewPoint Americas                  | Latin America Needs Sound Money to Grow                               | 12/9/03  |
| Testimony                           | House Ways and Means testimony on China                               | 10/31/03 |
| <i>WSJ</i>                          | Brazil: Where's the Growth?   | 6/21/02  |
| <i>WSJ</i>                          | Investors Have a Question for Brazil: Where's the Growth?             | 6/21/02  |
| <i>WSJ</i>                          | Argentina Markets Give Cavallo Redux a Bad Review                     | 3/23/01  |
| <i>WSJ</i>                          | South America Has Suffered From White House Neglect                   | 10/6/00  |
| <i>WSJ</i>                          | This Time Maybe Brazil Really Does Have a Future                      | 7/21/00  |
| <i>WSJ</i>                          | Wrong Battle for Europe   | 11/6/98  |
| Testimony                           | Japan testimony to Senate Budget Committee                            | 4/28/98  |
| <i>WSJ</i>                          | The Mexican Peso: 3.5 or Bust   | 1/11/95  |
| <i>WSJ</i>                          | Zhu Rongji: The Man Who's Saving China From Soviet-Style Disaster     | 7/29/93  |
| U.S. Department of State            | Economic Reconstruction in Cuba                                       | 6/1/92   |

16. Speeches (list all formal speeches you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated):

- Testimony to House Financial Services on slow growth outlook, May 17, 2016.
- Cato Conference "Post Monetarism: Fed's Growth Options," November 12, 2015.
- Testimony to Joint Economic Committee: "Need to Rewrite Debt Limit," September 18, 2013.
- Testimony to House Financial Services Committee on Fed policy, March 5, 2013.
- Testimony to Senate Budget Committee: "Impact of Federal Spending on Growth," February 26, 2013.
- Cato Monetary Conference "Fed Is Contractionary," November 15, 2012.

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

I bring extensive government and private-sector experience in the global financial system, central bank policy, exchange rate systems, country growth programs, and international finance. I have significant past experience in the IMF, the MDBs, trade negotiations, CFIUS, debt restructurings, and the legislative and budget processes. I believe this economic experience will help me be effective in working within the administration and with the Congress on important policy matters.

#### **B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.  
Yes.
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.  
No.
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.  
No.
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.  
Yes.

#### **C. POTENTIAL CONFLICTS OF INTEREST**

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.  
None. During the course of the nomination process, I have engaged in detailed discussions with career team ethics staff and the Office of Government Ethics regarding potential issues arising out of my financial holdings, past income, and past employment relationships. These have been addressed in my ethics agreement. 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.  
None.
3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal Government need not be listed.  
As a columnist and economic analyst, I have been extensively involved in public policy debates regarding economic growth, tax reform, fiscal restraint, and policy reform. In addition to my regular media columns, this includes engagement through congressional testimony, numerous articles and speeches, and membership in policy-focused organizations such as the Economic Club of New York and the Council on Foreign Relations. I have also regularly appeared as a policy commentator on various cable and network channels, including CNBC, Fox Business, Bloomberg News, and C-SPAN.
4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the committee with two copies of any trust or other agreements.)

I have executed an ethics agreement following detailed discussions with career ethics staff in the Treasury Department and the Office of Government Ethics

and will abide by the terms of such agreement. In addition, I am committed to following all applicable ethics laws. If I identify a potential conflict of interest, I will consult with ethics counsel.

#### D. LEGAL AND OTHER MATTERS

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

No.

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

No.

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

Yes. I was included as a party in a civil case regarding a rent dispute. Our former landlord sued my wife and me in 2004 for an extra year's rent after our departure from our former apartment on East 68th Street. In an order issued in 2008, the presiding judge found that we properly exercised the right to terminate the lease, dismissed the landlord's claims, and awarded us attorney's fees. On appeal, the dismissal of the landlord's claims was upheld, while the decision regarding attorney's fees was reversed.

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.

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#### QUESTIONS SUBMITTED FOR THE RECORD TO DAVID MALPASS

##### QUESTION SUBMITTED BY HON. ORRIN G. HATCH

*Question.* Mr. Malpass, I expect you to work closely with the U.S. Trade Representative to pursue high-standard trade agreements that enhance economic opportunities for American businesses and consumers. No sector—including financial services—should be excluded from our efforts.

Do you agree that financial services play an essential role in facilitating trade and investment and therefore must not be excluded from market access expansions, regulatory cooperation initiatives, and protections for cross-border data flows?

*Answer.* If confirmed, I look forward to working with the U.S. Trade Representative to pursue high-standard trade agreements. Financial services play a critical role in facilitating investment and other economic activity, and I understand that most trade agreements contain a financial services chapter with obligations that enable new market access opportunities for U.S. firms and work toward a level playing field. If I am confirmed, I will support the continued inclusion of financial services

chapters, and will look for additional ways to enhance the effectiveness of this process.

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QUESTION SUBMITTED BY HON. JOHN THUNE

*Question.* The office of Treasury Under Secretary for International Affairs has significant responsibilities that intersect with other departments and agencies within the Federal Government, including the Departments of Commerce and State as well as the U.S. Trade Representative. How do you foresee coordinating your efforts with these other offices, in particular with respect to the President's trade agenda?

Answer. If confirmed, I will work closely with other departments and agencies on the President's trade agenda. I look forward to coordinating our efforts, including following the related statutory requirements under U.S. trade law.

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QUESTIONS SUBMITTED BY HON. RON WYDEN

REAL MEDIAN INCOME GROWTH

*Question.* Mr. Malpass, I was encouraged in our meeting to hear your views on a key priority you and I share, and in which I think many Democrats and Republicans can find common ground. And that's making sure economic growth is shared at all income levels.

I believe under the current tax code we have a tale of two tax systems—a mandatory system that takes money out of workers' paychecks and a system that allows the most fortunate to pay what they want when they want.

I believe tax reform should give everyone the chance to get ahead.

I understand you have written articles about how it's not only important to grow the economy overall (GDP), but also to grow workers' paychecks.

Please elaborate on your views on why that's important and how tax reform can best achieve the goals of growing the economy and achieving real benefits for the middle-class, including growth in real median incomes.

Answer. Economists often measure success in terms of GDP growth rates and the change in per capita income. However, these measures aren't a clear indication of economic progress. I think a better measure of economic progress is after-tax real median income, meaning the inflation-adjusted income or wage of the middle of a society, after taxes and government-imposed fees are deducted.

Your question focuses on tax policy, which can hold back real median income in at least two ways. First, as your question suggests, middle-income taxes are high and hard to avoid or reduce. One key goal of tax reform should be to lower the tax rate on middle-income taxpayers. Second, tax policy may be an obstacle to job growth—my view is that one of the best ways to increase real median income is through high business demand for middle- and lower-income jobs and the workers needed to fill them. Our current tax code creates several major obstacles to middle-income job creation including: (1) the high corporate income tax rate, which discourages investment and job creation in the United States; (2) the complexity of the tax code, costing billions of hours in compliance costs even for middle-income earners; and (3) the many tax barriers to the formation and growth of small businesses, which create many of the low- and middle-wage jobs that are critical to raising real median incomes.

*Question.* In 2016, President Obama signed into law new disciplines and criteria for dealing with currency manipulation that were written by the Finance Committee.

It also established the Advisory Committee on International Exchange Rate Policy, which is responsible for advising Treasury on the impact of international exchange rates and financial policies on the United States.

But this committee has not been set up yet, despite the fact that Democrats have put forward their candidates for membership.

If confirmed, will you work with me to stand up this committee?



Answer. If confirmed, I look forward to working with you, the Finance Committee, and my colleagues in Treasury to meet the obligations created by the law and regulations related to this advisory committee.

*Question.* Mr. Malpass, in 2006 you wrote an op-ed in *The Wall Street Journal* entitled "Embrace the Deficit" in which you argue that the U.S. trade deficit is actually a "positive part" of the U.S. growth outlook, and that the trade deficit's role as a political "lightning rod" is not born out in reality. It is the position of this administration, and the President personally, that trade deficits are bad for the U.S. economy, and that it should be a primary goal of our trade policy to reduce that deficit. Given your views as expressed in the op-ed, do you agree with that position or would you advise the President to reconsider his approach?

Answer. In theory, trade deficits can be the result of one country growing and investing faster than its trading partners, causing its imports to grow faster than its exports and allowing the country's annual investment to exceed its additions to savings. That was the argument made in the 2006 article. In practice, and especially in the last decade, trade agreements have come to play an increasing role in the development of exports, imports and investment flows. Well-crafted trade agreements should work in the U.S. interest by reducing trade barriers to U.S. exports and encouraging commerce, whereas some of the agreements have placed harmful burdens on commerce and biased the U.S. economy toward products and services made abroad. That has been a major problem for U.S. job growth within the last decade and can be addressed by improving the existing trade agreements and making sure that future trade negotiations are in the best interest of American workers and the United States.

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QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

*Question.* China and other countries like Japan have a long history of manipulating their currencies, hurting American workers and manufacturers. Some reports indicate as many as 5 million jobs, many of which are manufacturing jobs, have been lost due to currency manipulation and other unfair barriers and practices.

How will you successfully deal with countries such as China and Japan that have a long history of manipulating their currencies?

Answer. I place a very high priority on ensuring that American workers and companies face a level playing field when competing internationally. When our trading partners engage in currency manipulation, they impose significant, and often long-lasting, hardship on American workers and companies.

If I am confirmed, I will be vigilant and be ready to combat currency manipulation and practices that facilitate currency weakness and unfair competitive advantage.

*Question.* What tools would you use to stop our trading partners from subsidizing their exports and violating their agreements?

Answer. The administration as a whole has several tools to stop improper foreign export subsidization, offset it, and enforce trade agreements. If confirmed, I will be an active participant in those efforts, and I am committed to ensuring that unfair currency practices are identified and addressed.

*Question.* Will you support the inclusion of strong and enforceable currency provisions in future trade agreements?

Answer. I am committed to ensuring that unfair currency practices are identified and combated. If confirmed, I will work with Congress to ensure that trade negotiations are consistent with congressional guidance on trade policy priorities and negotiating objectives, as outlined under Trade Promotion Authority, including those applicable to currencies.

*Question.* Will you support including enforceable currency disciplines in a NAFTA renegotiation?

Answer. If confirmed, I will work with my colleagues in the administration and with Congress to ensure that a NAFTA renegotiation is consistent with congressional guidance on trade policy priorities and negotiating objectives, as outlined under Trade Promotion Authority, including those applicable to currencies.

*Question.* Do you believe the CFIUS process needs to be reformed to keep up with the increasing volume of purchasing activity we're seeing from Chinese SOEs?

Answer. The Committee on Foreign Investment in the United States is tasked with reviewing foreign transactions in the United States and their national security implications. The growth in acquisitions of U.S. companies by state-owned enterprises (SOEs)—in particular, Chinese SOEs—raises a number of important issues that may have national security concerns.

With respect to potential CFIUS reforms, it is important that we evaluate, given the changing national security environment, whether the government has, and is properly exercising, the appropriate tools to address any current and emerging national security risks. I understand that the Treasury Department is carefully considering whether any steps are necessary to further enhance CFIUS authorities and, if so, what steps would be most effective in addressing specific emerging national security risks. If confirmed, I am committed to supporting this initiative.

*Question.* If yes, are you committed to working with members of Congress to reform and modernize the CFIUS process to ensure that all sectors of the economy are represented on the panel, including making USDA and HHS permanent members of CFIUS?

Answer. If confirmed, I am committed to reviewing the current CFIUS process and working with members of Congress, as well as members of the administration, to address new challenges faced by CFIUS in a careful and deliberate manner. This would include making sure that relevant expertise across the government is brought to bear in an appropriate manner.

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QUESTIONS SUBMITTED BY HON. BILL NELSON

*Question.* What do you believe is the greatest challenge facing the G20?

Answer. The G20 has an important role to play in encouraging policies that support strong and balanced global growth and a level playing field for U.S. workers and businesses at a time when global GDP growth has been disappointing and global imbalances have persisted.

*Question.* How would you seek to overcome that challenge?

Answer. As discussed in my statement to the committee, a key goal of fiscal and monetary policy development is to create higher living standards for working and middle-income citizens around the world. If confirmed, I will endeavor to fulfill my duties by working closely with this committee, and others in the Senate and House of Representatives in order to execute the law and develop sound administration policies and initiatives, including in the G20, which work toward broader prosperity.

*Question.* What do you believe can be done to stop countries from manipulating their currency for a trade advantage?

Answer. I place a very high priority on ensuring that American workers and companies face a level playing field when competing internationally. Though there has been a trend in the last 2 years toward reduced currency intervention by key trading partners, it is critical that we remain vigilant in monitoring and combating currency manipulation and practices that facilitate currency weakness and unfair competitive advantages. If confirmed, I will help to lead these efforts, and I am committed to ensuring that unfair currency practices are identified and addressed.

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QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

*Question.* Mr. Malpass, President Trump has affirmed that Secretary Mnuchin is the administration's point person with regard to the debt limit. Secretary Mnuchin has said in testimony before the House Ways and Means Committee that he wants Congress to pass a clean debt limit. I know you have published a large number of op-eds regarding the debt limit, and I want to know if you can commit to supporting the President and Treasury Secretary in your efforts to pass a clean debt limit increase?

Answer. The administration has indicated that it is important to raise the debt ceiling as soon as possible. I am aware that Secretary Mnuchin has urged Congress to pass a clean debt ceiling increase prior to the August recess, and I fully support the President and Treasury Secretary in this matter. If confirmed, I commit to supporting their efforts.

*Question.* I have been an outspoken critic of the dictatorship in Venezuela, and I have serious concerns about the country's intensifying humanitarian and financial crisis. The United States cannot stand idly by as Venezuelans continue to suffer under the Maduro regime's failed economic and social policies. I have called on the administration to sanction the brutal thugs who are profiting off of starving their own people.

As such, I have real concerns about Venezuelan debt, the real possibility of default, and transactions specifically involving Venezuela's state-owned oil company, PdVSA. In particular, I raised to Secretary Mnuchin the issue of the potential for Rosneft, Russia's state-owned oil company, to acquire an ownership interest in critical energy infrastructure in the United States due to PdVSA's pledge of 49.9 percent of Citgo shares to Rosneft as collateral for a loan.

I was particularly alarmed to learn last week of Goldman Sachs' purchase of \$2.8 billion in PdVSA bonds. I worry that this purchase ultimately serves to prop up the corrupt and brutal Maduro regime. I'd note that Goldman Sachs is certainly not the only U.S. financial firm that has made significant investments in Venezuelan debt.

Are you concerned by U.S. financial firms' investments in Venezuelan debt, and that such investments extend a lifeline to the Maduro regime?

*Answer.* I share your concerns about the humanitarian crisis, widespread repression, and systemic corruption in Venezuela. As Secretary Mnuchin has noted, the Venezuelan people are suffering from a collapsing economy brought about by their government's mismanagement and corruption.

Reflecting these concerns, Treasury has imposed targeted sanctions against Venezuelan nationals, including government officials, who have engaged in activities such as human rights violations, undermining democratic governance, and narcotics trafficking.

Although I am not familiar with the details of the transaction you mention or how much it benefitted the Maduro regime, my understanding is that the Venezuelan regime is making many efforts to sell debt, including to Americans, at high interest rates and large discounts, while American firms, such as those in the petroleum sector, may have royalty arrangements that convey benefits to the Venezuelan regime. These raise clear financial and reputational risks for private sector market participants.

If confirmed, I look forward to working with Congress and colleagues in the administration to advance policies that protect U.S. interests and contribute to improving the situation in Venezuela.

*Question.* Mr. Malpass, if confirmed, you will play an important role in implementing America's foreign policy priorities. One such priority, according to the President and an overwhelming bipartisan majority of the Congress, is the fight against human trafficking. Trafficking is a \$150 billion a year crime with over 20 million victims around the world today. Specifically, as Under Secretary for International Affairs you will have the ability to exert influence on the multilateral development banks, to get them to leverage their projects in smart ways that prevent trafficking and encourage borrowing countries to increase their own efforts to fight trafficking.

If confirmed, will you commit to working to leverage the United States' influence on the multilateral development banks to fight human trafficking?

*Answer.* I share your concerns about human trafficking. The United States has substantial influence in the MDBs to advance our policy priorities, including the fight against the scourge of human trafficking. I understand that the Treasury Department has been implementing existing legislation that instructs the U.S. Executive Director, pursuant to a Presidential determination, to vote against MDB projects in trafficking countries. If confirmed, I would work to strengthen the impact of this mandate, further encourage the anti-trafficking efforts of the MDBs and our international partners, and make progress in the fight against human trafficking.

*Question.* Mr. Malpass, another area where you can have a profound impact on the fight against human trafficking is by working to ensure that international criminal networks don't have access to the financial system to perpetuate their crimes.

Will you commit to working to limit human traffickers' access to the financial system?

Answer. My understanding is that Treasury is committed to safeguarding the U.S. and international financial systems from all forms of illicit use, including by human traffickers. Treasury's Office of Foreign Assets Control (OFAC) and Financial Crimes Enforcement Network (FinCEN)—which are components of the Office of Terrorism and Financial Intelligence (TFI)—use an array of tools and authorities to deter and combat human trafficking. The financing of human trafficking often involves criminal networks located in different countries. Treasury has historically recognized the reliance of such criminals on the U.S. and international financial systems. If confirmed, I will support Treasury's efforts to limit their access to the financial system and disrupt their finances.

*Question.* Mr. Malpass, I know that China hasn't been manipulating its currency over the past 6 months or so, but now that the administration has decided not to name China a currency manipulator, how do you plan to raise the costs of such behavior to ensure that they do not start manipulating again?

Answer. I place a very high priority on ensuring that American workers and companies face a level playing field when competing internationally. When our trading partners engage in currency manipulation, they impose significant, and often long-lasting, hardship on American workers and companies.

Though there has been a trend toward reduced currency intervention by key trading partners, it is critical that we remain vigilant. If confirmed, I will support efforts to scrutinize China's trade and currency practices very closely and commit to monitoring and combatting currency manipulation and practices that facilitate currency weakness and unfair competitive advantages.

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QUESTIONS SUBMITTED BY HON. SHERROD BROWN

*Question.* When asked about the U.S.'s role in international financial regulatory bodies, Secretary Lew said that he is "proud that the United States is a leader, that we have taken decisive action, the most decisive action of any country in the world after the deep recession and economic crisis of 2008 and 2009" and that "we should make a call to the world community in the appropriate fora, like the G20 and the FSB to try and drive that race to the top." Will you commit to me that the U.S. Treasury Department (including FSOC and FIO) will continue to advocate for higher standards of financial regulation in all international bodies, including the G20, the FSB, the Basel Committee, the IAIS, and IOSCO, and that we will not acquiesce to any efforts to roll back the reforms that have already been agreed to?

Answer. One of President Trump's Core Principles for Financial Regulation is to advance American interests in international financial regulatory negotiations and meetings. The international standard setting process is one of the key ways that the administration and U.S. regulators can promote financial stability that benefits the U.S. and global economy as well as a level playing field that benefits U.S. firms. Like the FSOC, the international bodies are also monitoring implementation of regulatory reform, adjusting standards that may have unintended and undesirable consequences, and remaining vigilant for new or emerging vulnerabilities.

*Question.* If confirmed, one issue you will need to address is the U.S./EU Covered Agreement. Some have suggested that the agreement is clear on its face, while others believe that, before the United States signs the agreement, the United States and EU must clarify certain issues through an exchange of letters. What is your view of the covered agreement, including whether it achieves the stated objectives of U.S. negotiators when they notified Congress of their intent to enter into these negotiations back in November of 2015 or needs further clarification?

Answer. This is an important and complicated issue. I understand that Secretary Mnuchin has asked Treasury staff to meet with a number of stakeholders on the covered agreement to hear their perspectives. If confirmed, I will give utmost consideration to the issues you raise. I look forward to discussing the covered agreement and the various views with Treasury staff, and providing appropriate communication with the committee.

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QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

*Question.* Mr. Malpass, I am deeply concerned about some recent statements that imply that failing to increase the debt limit by the time extraordinary measures are exhausted and cash balances are down to critically low levels would not be a cata-

strophic mistake. I appreciate Secretary Mnuchin's expressions that the debt limit needs to be raised without delay and without unrelated policy conditions. I was heartened to see reporting that suggests President Trump agrees.

Mr. Malpass, do you believe that all of the obligations of the United States should always be paid on time and in full, as we have done throughout our history?

Answer. I believe the government must meet all of its outstanding obligations, and for this reason I understand that Congress has always acted to raise the debt limit when necessary.

*Question.* Mr. Malpass, do you believe that the debt limit should be raised well in advance of any deadline and that it should not be held hostage to unrelated policy demands?

Answer. I believe it is important for Congress to raise the debt ceiling as soon as possible.

*Question.* Mr. Malpass, do you believe that prioritization of interest payments over the government's other obligations is either an advisable or workable solution if the debt limit is not raised by the time extraordinary measures and cash balances have run out?

Answer. I am confident that Congress will act on the debt limit in a timely manner to ensure the full faith and credit of the United States Government and to enable us to avoid confronting the situation raised in your question.

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QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY, JR.

*Question.* Mr. Malpass, the Committee on Foreign Investment in the United States was established to review transactions that could result in a U.S. business being controlled by a foreigner, in order to determine the impact of these transactions on national security. Given the sensitivity of these investigations, only affirmative determinations, those that present national security risks, are made public. The President has the discretion to not exercise his authority to stop a transaction, even if CFIUS makes a determination that a transaction presents a national security risk.

With respect to CFIUS investigations, do you have (or intend to establish) a process to review internal conflicts of interest?

If so, please describe that process.

Will you require members of the administration, including members of the Cabinet, with an implicit or explicit interest in the transaction to recuse themselves?

Will you establish protocols to determine whether any member of the administration, including the President or the Treasury Secretary, has an interest in the business under review or a financial interest in the home country of the acquiring entity?

If a conflict is found, will you advise such individuals recuse themselves from CFIUS proceedings?

How would you respond if you received a request from the President or a member of the administration that Treasury either initiate a CFIUS investigation, requesting Treasury drop an ongoing CFIUS investigation, or requesting Treasury to not commence a CFIUS investigation?

Answer. I understand that Treasury already has in place a robust process for assessing and handling conflicts of interest in the Treasury's CFIUS process. Each department and office that participates in CFIUS is responsible for handling the conflicts of interest of its staff in accordance with law and agency ethics policies. I understand that these policies provide standards and guidelines for recusal. If confirmed, I will work to ensure that all applicable laws and conflicts of interest policies are appropriately applied to Treasury staff, including those related to recusal and to the appropriate functioning of CFIUS.

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QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL

*Question.* What procedures and policies should CFIUS implement to ensure the independence of initial CFIUS deliberations and investigations involving the Trump

Organization, Kushner Companies, or related entities, including any determination by CFIUS regarding whether to make a referral or recommendation for presidential action?

*Answer.* Adherence to the conflicts of interest statutes and regulations is important. As I understand it, Treasury takes appropriate steps to facilitate ethics compliance by Treasury employees participating in the CFIUS process and to protect the integrity of Treasury's participation. Other CFIUS member agencies are expected to do the same. If confirmed, I will do my utmost to ensure that I, and all personnel under my supervision, comply with our ethical obligations.

*Question.* Are there circumstances under which President Trump should delegate to another executive branch official his authority under 50 U.S.C. App. § 2170(d) to make a final determination on CFIUS referrals or recommendations?

*Answer.* This question addresses a matter for consideration by the White House.

*Question.* If President Trump declines to delegate his decision-making authority in the circumstances described above, what ethical or legal guidance should CFIUS recommend he seek before making a final determination on transactions involving the Trump Organization, Kushner Companies, or related entities?

*Answer.* This question addresses a matter for consideration by the Treasury General Counsel's office and/or other relevant Federal departments or agencies.

*Question.* What procedures and policies should CFIUS implement to ensure that senior administration officials with potential conflicts of interest, such as Mr. Kushner, play no role in initial CFIUS deliberations and investigations, as well as any final determinations on CFIUS referrals or recommendations, involving the Trump Organization, Kushner Companies, or related entities?

*Answer.* If confirmed, I will do my utmost to ensure that I, and all personnel under my supervision, comply with our ethical obligations, and I would expect other CFIUS member agencies to do the same.

*Question.* Would it ever be appropriate for CFIUS to block a transaction for reasons of economic policy, as opposed to national security concerns? In general, how will your office insulate CFIUS from pressure to make particular decisions as a way to bolster the administration's economic policy or trade agenda?

*Answer.* The CFIUS statute authorizes the President to block a covered transaction when that transaction "threatens to impair the national security of the United States." If confirmed, I will advise CFIUS consistent with its statutory authorities and restrictions.

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PREPARED STATEMENT OF BRENT JAMES MCINTOSH, NOMINATED TO BE  
GENERAL COUNSEL, DEPARTMENT OF THE TREASURY

Chairman Hatch, Senator Wyden, and members of the committee, thank you for the opportunity to appear before you today. I am honored to be the President's nominee to be General Counsel for the Department of the Treasury, and I am grateful to the Secretary for his confidence in recommending me for this position.

Since being nominated, I have had the opportunity to meet with several of you and your staffs, and I appreciate the courtesies you afforded me in hosting those meetings. From my prior Federal service, I am acutely aware of the need for a close working relationship with the Congress, and I look forward to working with you and your staffs to foster such a relationship should I be confirmed.

The challenges that the Treasury confronts, and the responsibilities of its chief legal officer in helping to navigate them, are daunting in both breadth and complexity. In the past two decades, I have twice watched the Treasury—including in particular the General Counsel's office—grapple with pressing, emergent issues of grave global consequence.

Having been in Manhattan's Financial District on September 11, 2001, I saw firsthand the horrors that terrorism wreaked that day. In the years following, I watched with deep gratitude the heroic work of Treasury personnel to bring to bear powerful financial tools to thwart those who would do us harm. And while serving on the White House staff from 2006 to 2009, I watched the tireless work of Treasury personnel to address urgent issues in the American economy. In both cases, the Treasury's dedicated, experienced, and immensely talented legal staff was central to the

Department's efforts. It has long been apparent to me that it would be the honor of a lifetime to work among and lead that staff.

One prior Treasury General Counsel said at his confirmation hearing that "the legal issues facing the Treasury today are among the most critical in government." That statement has often been true, and I believe it is true today. Treasury has a crucial role to play in safeguarding the dynamism of the U.S. economy, in ensuring a fair and effective tax system, in advancing this Nation's interests in the world, and in bolstering our national security.

I pledge that if confirmed, I will bring to my share of these tasks a commitment to rigorous legal analysis, zeal in the pursuit of the interests of the American people, and steadfast dedication to upholding the rule of law. I would strive to bring an unstinting devotion to duty inspired by the work ethic of my parents, both raised on farms in the Thumb of Michigan. I would be guided at all times by the obligation of fidelity to the Constitution. And I would keep ever in mind the fundamental truth, articulated by a mentor of mine, that the demands of honor have special application to government service.

Thank you again for the opportunity to appear today. I look forward to your questions.

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## SENATE FINANCE COMMITTEE

### STATEMENT OF INFORMATION REQUESTED OF NOMINEE

#### A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Brent James McIntosh.
2. Position to which nominated: General Counsel, U.S. Department of the Treasury.
3. Date of nomination: April 24, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: September 28, 1973, Lansing, Michigan.
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):  
 Yale Law School (1996–1999), Juris Doctor, May 1999.  
 University of Michigan (1992–1996), Bachelor of Arts, May 1996.  
 London School of Economics (1994–1995).  
 Williamston High School (1988–1992), diploma, June 1992.
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):  
 Partner, Sullivan and Cromwell LLP, Washington, DC (2011–present).  
 Special counsel, Sullivan and Cromwell LLP, Washington, DC (2009–2010).  
 Deputy Assistant to the President and Deputy Staff Secretary, The White House, Washington, DC (2007–2009).  
 Associate Counsel to the President, The White House, Washington, DC (2006–2007).  
 Deputy Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice, Washington, DC (2005–2006).  
 Counselor to the Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice, Washington, DC (2005).

Senior Counsel, Office of Legal Policy, U.S. Department of Justice, Washington, DC (2005).

Counsel, Office of Legal Policy, U.S. Department of Justice, Washington, DC (2004–2005).

Associate, Sullivan and Cromwell LLP, New York, New York (2001–2004).

Law clerk, Honorable Laurence H. Silberman, U.S. Court of Appeals for the District of Columbia Circuit, Washington, DC (2000–2001).

Law clerk, Honorable Dennis Jacobs, U.S. Court of Appeals for the Second Circuit, New York, New York (1999–2000).

Summer law clerk, Kirkland and Ellis, Washington, DC (1999).

Research assistant, Professor William Eskridge, Jr., Yale Law School (1998–1999).

Summer associate, Davis, Polk, and Wardwell, New York, New York and London, England (1998).

Research assistant, Professor Henry B. Hansmann, Yale Law School (1997–1998).

Legal intern, Special Prosecutions Group, U.S. Attorney's Office for the Eastern District of New York, Brooklyn, New York (1997).

Administrative assistant, Alumni Association of the University of Michigan, Ann Arbor, Michigan (1996).

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): Romney-Ryan Readiness Team (pre-election presidential transition team) (2012).
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, Sullivan and Cromwell LLP (2011–present).
12. Memberships (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations):

To the best of my recollection, I am or have been a member of, or hold or have held another position with, the following organizations since graduating from law school:

Ahn Family Foundation, Grants Committee (2001–2016).

Alexander Hamilton Society (2010–present), Co-chair, DC Chapter (2012–present), DC Chapter Steering Committee (2010–2012).

Alumni and Friends of the London School of Economics, Life Member (2000–present).

Alumni Association of the University of Michigan, Life Member (2000–present).

American Bar Association (2001–2006, 2009–present).

American Society of International Law (2001–2005, 2009–present).

Association of the Bar of the City of New York (2001–2005), Pro Bono Society (2002, 2003).

Bannockburn Swim Club (neighborhood pool) (2005–2011).

Bretton Woods Committee (2015–present).

Chevy Chase Club (summer 2016).

Council on Foreign Relations (2005–2011).

Entomological Society of America (2011–2012).

Federalist Society (1997–present), International and National Security Law Practice Group Executive Committee (2010–present).

Heritage Foundation/Chertoff Group National Security Law Working Group (2014–present).



International Bar Association (2015–present).  
 International Institute for Strategic Studies (2009–present).  
 John Hay Initiative, International Law Working Group (2015–present).  
 The Links (2017–present).  
 Metropolitan Club of the City of Washington (2008–present).  
 Montgomery County Recreation, Youth Basketball Coach (2016–2017).  
 Republican National Lawyers Association (2013–present).  
 St. Columba’s Episcopal Church, Gratitude and Resources Strategic Initiative Team (2016), Lay Reader (2016–present).  
 Supreme Court Historical Society (2011–present).  
 U.S. Chamber Litigation Center, U.S. Chamber of Commerce, Financial Services Advisory Committee (2015–present).  
 Yale Club of New York City (2009–present).  
 Yale Law School Association, Executive Committee (2012–2015), Nominating Committee (2015).  
 Yale Law School Class of 1999, Class Secretary (2013–present).  
 Yale Law School Reunion Gift Campaign, Co-chair (2003–2004), Class Committee (2013–2014).

Bar admissions:

State of New York (admitted 2001).  
 District of Columbia (admitted 2009).  
 Supreme Court of the United States (admitted 2005).  
 U.S. Court of Appeals for the District of Columbia Circuit (admitted 2010).  
 U.S. Court of Appeals for the Second Circuit (admitted 2010).  
 U.S. Court of Appeals for the Third Circuit (admitted 2015).  
 U.S. Court of Appeals for the Fourth Circuit (admitted 2001).  
 U.S. Court of Appeals for the Fifth Circuit (admitted 2016).  
 U.S. Court of Appeals for the Ninth Circuit (admitted 2006).  
 U.S. District Court for the District of Columbia (admitted 2010).  
 U.S. District Court for the Eastern District of New York (admitted 2002).  
 U.S. District Court for the Southern District of New York (admitted 2002).  
 U.S. District Court for the Southern District of Texas (admitted 2003).  
 U.S. Court of Federal Claims (admitted 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.  
Romney Justice Advisory Committee (2011–2012).
- 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.

| Recipient                  | Date       | Amount   |
|----------------------------|------------|----------|
| John Adams for Virginia    | 6/08/2016  | \$803.46 |
| Matthew Berry for Congress | 11/18/2009 | \$250.00 |

| <b>Recipient</b>                                | <b>Date</b>                                      | <b>Amount</b>                                  |
|---|--|--|
| George P. Bush Land Commissioner campaign       | 1/04/2013  | \$250.00                                       |
| Jeb 2016 (Jeb Bush)                             | 10/05/2015                                       | \$2,700.00                                     |
| Capito for West Virginia (Shelley Moore Capito) | 4/24/2013<br>7/22/2014                           | \$500.00<br>\$1,000.00                         |
| Cotton for Senate (Thomas Cotton)               | 10/24/2013                                       | \$250.00                                       |
| Mike Crapo for U.S. Senate                      | 8/06/2016  | \$1,000.00                                     |
| Ted Cruz for Senate                             | 6/30/2011  | \$300.00                                       |
| Robert L. Ehrlich, Jr. gubernatorial campaign   | 7/28/2010  | \$250.00                                       |
| Foley for Connecticut (Thomas C. Foley)         | 4/22/2014  | \$100.00                                       |
| Freedom First PAC                               | 7/29/2010  | \$250.00                                       |
| Ed Gillespie for Governor                       | 1/23/2017  | \$2,000.00                                     |
| Ed Gillespie for Senate                         | 3/06/2014<br>7/17/2014<br>9/25/2014              | \$2,600.00<br>\$500.00<br>\$1,000.00           |
| Adam Laxalt Attorney General campaign           | 5/14/2014  | \$250.00                                       |
| Friends of Mike Lee                             | 6/19/2015  | \$1,000.00                                     |
| Josh Mandel Senate Victory Committee            | 9/21/2012  | \$300.00                                       |
| John McCain 2008                                | 5/03/2008  | \$400.00                                       |
| McCain-Palin Victory 2008                       | 10/17/2008                                       | \$250.00                                       |
| Justice for All                                 | 10/04/2013                                       | \$300.00                                       |
| NRCC  | 7/19/2010  | \$250.00                                       |
| NRSC/NRCC Victory Committee                     | 11/13/2013                                       | \$250.00                                       |
| Portman for Senate Committee (Rob Portman)      | 6/16/2009<br>8/15/2010<br>5/14/2015<br>9/27/2016 | \$250.00<br>\$250.00<br>\$1,500.00<br>\$500.00 |
| David A. Pepper mayoral campaign                | 6/01/2009<br>9/29/2010                           | \$250.00<br>\$150.00                           |
| Prosperity Action                               | 6/30/2011  | \$1,000.00                                     |
| Romney for President (Mitt Romney)              | 5/09/2011<br>1/31/2012                           | \$1,000.00<br>\$1,500.00                       |
| Romney Victory                                  | 5/24/2012  | \$2,500.00                                     |
| Ben Sasse for U.S. Senate                       | 9/16/2013<br>3/31/2014<br>11/28/2016             | \$1,000.00<br>\$1,000.00<br>\$1,000.00         |
| Shelby for U.S. Senate (Richard C. Shelby)      | 10/13/2015                                       | \$1,000.00                                     |
| Elise for Congress (Elise M. Stefanik)          | 11/21/2013<br>9/21/2016                          | \$250.00<br>\$500.00                           |
| Sullivan for U.S. Senate (Dan Sullivan)         | 10/28/2013                                       | \$250.00                                       |

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):
  - Alvin and Arvella Bentley Scholar (University of Michigan).
  - Distinguished Alumni Award (Williamston High School).
  - Distinguished Legal Writing Award 2016, Burton Awards for Legal Achievement.
  - Horace Rackham Scholar (University of Michigan).
  - James B. Angell Scholar (University of Michigan).
  - National Merit Scholar.
  - New York Law Journal* 2013 “Rising Star.”
  - Phi Beta Kappa (University of Michigan).
  - Pi Sigma Alpha political science honor society (University of Michigan).
  - Presidential Scholar (U.S. Department of Education).
  - U.S. Department of State Superior Honor Award (group award).
  - Yale Law Journal*, Articles Editor (Yale Law School).
15. Published writings (list the titles, publishers, and dates of all books, articles, reports, or other published materials you have written):
  - “City Fair Housing Suits May Have Unfortunate Consequences,” *Law360* (November 15, 2016).
  - “D.C. Circuit Invalidates CFPB Structure as Unconstitutional; Rejects ‘Flawed’ Statutory Application in Enforcement Proceeding,” *Columbia Law School Blue Sky Blog* (October 20, 2016) (with Steven Meyer et al.).
  - “A Guide to the Cybersecurity Act of 2015,” *Law360* (January 12, 2016) (with John Evangelakos et al.).
  - “The Cybersecurity Act of 2015,” *Columbia Law School Blue Sky Blog* (January 6, 2016) (with John Evangelakos et al.).
  - “SEC Enforcement: SEC Issues Guidance on Approach to Forum Selection in Contested Actions,” *Columbia Law School Blue Sky Blog* (June 15, 2015) (with Nicolas Bourtin et al.).
  - “How Cybercriminals are Targeting Corporate Transactions,” *Law360* (May 19, 2015) (with Judson Littleton).
  - “President Obama Issues Executive Order Authorizing Sanctions for Malicious Cyber Activities,” *Columbia Law School Blue Sky Blog* (April 17, 2015) (with Erle Kadel, Jr.).
  - “The FBI Followed You: Why Twitter’s Surveillance-Disclosure Lawsuit Puts U.S. Intel Agencies in a Quandary,” *Law.com* (April 16, 2015).
  - “*Perez v. Mortgage Bankers Association*,” Harvard Law School Forum on Corporate Governance and Financial Regulation (March 29, 2015) (with Jeffrey Wall et al.).
  - “Supreme Court Clarifies Liability for Opinions in Registration Statement,” Harvard Law School Forum on Corporate Governance and Financial Regulation (March 28, 2015) (with Robert Giuffra, Jr. et al.).
  - “An Emblem of a Deeper Pathology in the Criminal Code: Thoughts on the Supreme Court’s Ruling That, Sometimes, Fish Aren’t Tangible Objects,” *Law.com* (March 4, 2015).
  - “Judicial Review of SEC Consent Judgments,” 47, *Review of Securities and Commodities Regulation* 275 (December 3, 2014).
  - “Second Circuit Adopts Bright-Line Rule for Determining Customer Status for Mandatory FINRA Arbitration,” *Business Law Today* (September 2014) (with Robert Giuffra, Jr. et al.).
  - “As End of Supreme Court Term Looms, High-Profile Business Disputes Remain,” *Law.com* (May 24, 2014).
  - “Patriot Act Protects U.S.,” *Lansing State Journal* (March 19, 2006).

“The Revolutionary Second Amendment,” 51, *Alabama Law Review* 673 (2000).

As a student journalist in college (1993–1996), numerous articles in the *Lansing State Journal*, the *Michigan Daily* (University of Michigan student newspaper), and the *Alumnus* (University of Michigan alumni magazine), primarily regarding University of Michigan and mid-Michigan sports.

16. Speeches (list all formal speeches you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated):

None.

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

I believe my experience as a lawyer representing clients in complex disputes and my prior service in the executive and judicial branches has prepared me for the responsibilities I would undertake, if confirmed, as General Counsel of the Department of the Treasury. Both in government and in private practice, my practice has focused on the resolution of difficult, often novel legal disputes, providing me experience with analysis of complicated legal problems, advocacy in the service of my clients, counseling and negotiation, and various forms of dispute resolution. Much of my practice at Sullivan and Cromwell has centered on the financial services industry, affording me familiarity with many issues relevant to the work of the Department of the Treasury. While in government at the White House and the Department of Justice, I worked with a wide variety of agencies across the executive branch as well as with a number of congressional committees. My time in government also gave me the opportunity to work on various national security matters, which should serve me well in addressing the national security matters in which the Department of the Treasury is involved. Finally, both in government and in private practice, I have managed large teams of professionals.

#### **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.

If confirmed by the Senate, I will sever all such connections. Note that pursuant to the Sullivan and Cromwell LLP defined benefit plans for partners, I am eligible to receive monthly lifetime retirement payments from the firm commencing at age 65. If confirmed by the Senate, I will remain a participant in these defined benefit plans but will not be entitled to benefits prior to that age (approximately 22 years from now) and will not accrue additional benefits under these plans after I resign from the firm.

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.

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by letter to Rochelle F. Granat, Designated Agency Ethics Official and Assistant General Counsel for General Law

and Ethics. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

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.

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by letter to Rochelle F. Granat, Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

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.

None.

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 have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by letter to Rochelle F. Granat, Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

#### **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.

In 1994, when I was a sophomore at the University of Michigan, I was charged with one misdemeanor count of "Receiving stolen property—\$100 or less." The charge was subsequently dropped.

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

No.

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

No.

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

None.

#### **E. TESTIFYING BEFORE CONGRESS**

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

Yes.

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

Yes.

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QUESTIONS SUBMITTED FOR THE RECORD TO BRENT JAMES MCINTOSH

QUESTION SUBMITTED BY HON. ORRIN G. HATCH

*Question.* Current law provides a production tax credit (PTC) for refined coal facilities placed in service before 2012. The PTC applies to refined coal produced in the 10-year period after the facility was placed in service. Refined coal is a fuel produced from coal that, when used in the production of steam, results in a significant reduction in the emissions of nitrogen oxide and either sulfur dioxide or mercury when compared to emissions from the use of the feedstock coal.

The IRS Chief Counsel recently issued a Technical Advice Memorandum (TAM) that concludes that in order to qualify for the resulting PTC, the activity engaged in by the taxpayer must meet certain economic and/or commercial risk transfer goals. This has caused some concern among facilities producing refined coal.

I understand that the IRS Chief Counsel might consider considering establishing guidance for permissible investment structures to facilitate the production of refined coal. If that is indeed the case, you may want to review the status of those efforts and organize additional activities to ensure that legitimate industry concerns are considered. Additionally, facilities qualified for the refined coal PTC are now at least 6 years (some have been producing for 8 years) into their 10-year life. You may want to consider ways to ensure that the intended tax benefits are realized before too much more of the remaining 10-year production cycle runs out.

Answer. I can commit to work with the IRS Chief Counsel and consult further with your staff on this issue, if confirmed.

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QUESTIONS SUBMITTED BY HON. RON WYDEN

*Question.* Mr. McIntosh, while no one questions that we need to get our long-term deficits under control, we shouldn't risk the full faith and credit of the United States to address the debt limit, a key function of the Treasury Department. Raising the debt limit is a necessary response to past spending and revenue decisions, allowing the Federal Government to borrow what it needs to honor existing laws and commitments.

The United States has the best credit in the world because investors believe the government will always honor those commitments. If it ever fails to do so, it may be impossible to restore the faith of investors.

Republican "debt prioritization" proposals would have Treasury pay interest payments to China and pay Social Security benefits, while defaulting on military salaries, benefits to veterans and seniors on Medicare, and payments to defense contractors. The Federal Government makes 80 million payments each month, all of which were previously authorized by Congress.

As former Treasury Secretary Lew has attested, debt prioritization is not a viable back-up plan for Treasury if Congress fails to raise the debt limit—there is just no such thing as "managed default." Default is default and global credit markets will recognize it.

Mr. McIntosh, as Treasury General Counsel, will you advise Secretary Mnuchin and members of Congress that all Federal debts must be honored, or, that Treasury can pay some debts while defaulting on others?

Answer. I share Secretary Mnuchin's publicly stated view that the government should meet all of its outstanding obligations and that Congress should act to raise the debt limit as soon as possible.

*Question.* Mr. McIntosh, as Chairman of the Committee on Foreign Investment in the United States, the Secretary is responsible for evaluating the national security implications of specific foreign investments and recommending whether to modify or reject them. During your meeting with staff you indicated you would not object to the Secretary meeting with the White House regarding a specific transaction under consideration by CFIUS and that the President's views should be given "great

weight.” You also said that you would “probe the position” if you thought a financial interest was motivating the recommendation, but that, as you put it, “there is very little you can do about being lied to.”

I appreciate your honest engagement with staff on these difficult questions.

On your last point, regarding what might be done to mitigate the risk that financial interests of White House officials would improperly influence the Secretary’s decisions in a CFIUS matter, do you agree that it may be useful for you to have additional information regarding the particular financial interests of those officials in order to advise the Secretary on White House involvement in a CFIUS matter?

Answer. I do not believe the statements attributed to me in this question accurately reflect my position as to the functioning of the CFIUS process. So as to put my answer to this question in proper context, I will first explain my view of that process.

First, CFIUS’s mandatory members are drawn from a wide variety of agencies, and all CFIUS members are obliged by law to evaluate a covered transaction impartially to determine the effects of the transaction on the national security of the United States according to the applicable statutory factors, not based on non-statutory criteria such as any particular individual’s pecuniary interest.

Second, it is my understanding that in the statute mandating reviews of covered transactions, Congress specified that such reviews are to be conducted by “the President, acting through the Committee”; that pursuant to a longstanding executive order followed by Presidents of both parties, two components of the Executive Office of the President—the Office of Science and Technology Policy and the U.S. Trade Representative—are full members of the committee; that under the same order, other White House components—including the National Security Council and National Economic Council staffs—may serve as observers of and participants in CFIUS reviews, as appropriate; and that in the CFIUS statute, Congress provided that the final decision to suspend or prohibit a covered transaction that threatens to impair the national security of the United States is made by the President. Notwithstanding those facts, it is my understanding that the vast majority of the CFIUS process is handled by portions of the executive branch other than the White House. My responses to your staff’s questions were intended to describe the CFIUS process and the statutory allocation of authorities in that process as they exist and have been executed by Presidents of both parties, not to suggest some desire to change existing practice.

Third, all participants in the CFIUS process are obligated to carry out their CFIUS responsibilities in adherence to the ethical duties that apply to them.

Fourth, top executive branch personnel, including White House staff, are required by law to file periodic reports disclosing their financial interests, and those reports are publicly available.

In summary, the CFIUS process has certain built-in safeguards for the integrity of that process. The diversity of views and viewpoints represented on CFIUS, the consideration of specified statutory factors, the ethical obligations incumbent on all participants, and the mandatory financial disclosures required of executive branch employees all serve to guard against inappropriate interference in the CFIUS process. With regard to your question about whether CFIUS should receive additional information beyond the information currently provided, I understand that CFIUS already has broad authority to request information from the parties to a covered transaction during a review or investigation of a transaction. Because I am not currently serving at the Treasury Department or involved in the CFIUS process, I do not have a view, or the information necessary to formulate a well-informed view, as to whether the information available to CFIUS is sufficient to inform it fully of all relevant considerations.

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QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

*Question.* Pensions are a key lifeline for many Michigan families—and an earned benefit based on a lifetime of hard work. About 47,000 workers and retirees in my State have been paying into the Central States Pension Fund, which is in serious trouble and in desperate need of a workable solution. I recently led a letter along with 13 of my colleagues, to Secretary Mnuchin and the other members of the PBGC board asking about what the administration proposes to protect the hard-earned pension benefits of American workers and retirees. Obviously, any proposal has to

be enacted into law by Congress, but the administration is in a position to lead on this issue.

To the extent that you are involved in this issue at Treasury, do you commit to making the protection of workers' pension benefits a top priority?

Answer. I appreciated the opportunity to discuss this important issue with you in your office. As you know, the Treasury is required by statute to implement the Multiemployer Pension Reform Act of 2014 (MPRA). MPRA allows the sponsors of severely underfunded multiemployer pension plans to apply to Treasury for permission to reduce the retirement benefits of participants to avoid insolvency that could trigger even deeper cuts. To protect beneficiaries, the statute requires applicants to demonstrate, among other things, that any proposed suspension of benefits will meet but not materially exceed the level required to avoid insolvency. If the application satisfies all applicable legal requirements, Treasury is required by law to approve the application. Although the office responsible for reviewing applications under MPRA is not within the Office of the General Counsel, it is my understanding that Treasury is committed to carefully and thoughtfully complying with all legal requirements when deciding whether to approve MPRA applications. If confirmed, I look forward to assisting tax policy and other retirement policy experts at the Treasury Department in developing better ways to protect the pensions of hard-working Americans.

*Question.* The Committee on Foreign investment in the United States is tasked with reviewing foreign transactions in the United States and their national security implications. I am very concerned about the growth in acquisitions of U.S. companies by state-owned enterprises (SOEs)—in particular, Chinese SOEs.

Do you believe the CFIUS process needs to be reformed to keep up with the increasing volume of purchasing activity we're seeing from Chinese SOEs?

Answer. Protecting our national security is central to the Treasury Department's mission, and CFIUS is a crucial tool in fulfilling that mission. I also believe CFIUS is, and should continue to be, focused on ensuring that any national security risks posed by the transactions subject to its review are identified and addressed. My understanding is that CFIUS has the statutory authority to review a broad range of transactions and consider a wide range of threats, including those that are unique to SOEs.

With respect to potential CFIUS reforms, I believe it is important that we consider whether the U.S. Government has and is properly exercising all appropriate tools to address emerging national security risks. I understand that the Treasury Department is carefully considering whether any steps are necessary to further enhance CFIUS authorities and, if so, what steps would be most effective in addressing specific emerging risks. If confirmed, I am committed to providing legal support to this initiative.

*Question.* If yes, are you committed to working with members of Congress to reform and modernize the CFIUS process to ensure that all sectors of the economy are represented on the panel, including making USDA and HHS permanent members of CFIUS?

Answer. If confirmed, I am committed to reviewing the current CFIUS process and working with members of Congress and members of this administration to address new challenges CFIUS faces.

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#### QUESTIONS SUBMITTED BY HON. BILL NELSON

*Question.* On the website of Sullivan and Cromwell it lists your work as counsel to BP in the aftermath of the Deepwater Horizon oil spill among your accomplishments. Please describe what you did for BP in relation to the spill.

Answer. Beginning in mid-2015, more than 5 years after the Deepwater Horizon oil spill, I (along with colleagues from Sullivan and Cromwell) represented BP in negotiating the settlement of most of BP's then-outstanding liabilities arising out of the spill, including payments to the Federal Government, the five States bordering the Gulf of Mexico, several hundred local government entities, and various private plaintiffs. I also worked briefly on analyzing a discrete legal question in the immediate aftermath of the spill.

*Question.* On the website of Sullivan and Cromwell it lists your work representing Volkswagen and Audi in their emissions reporting case among your accomplish-



ments. Please describe what you did for Volkswagen and Audi in relation to their emissions scandal.

*Answer.* In 2016 and 2017, I (along with colleagues from Sullivan and Cromwell) represented Volkswagen and Audi in negotiating the settlement of Federal criminal, environmental, customs, and other claims arising out of the diesel emissions matter. The settlement involved agreements with the Justice Department's Civil Division, Criminal Division, and Environment and Natural Resources Division, and Customs and Border Protection at the Department of Homeland Security.

*Question.* The final settlement between BP and the Department of Justice did not stop BP from writing off some of the settlement payments from its taxes, including natural resource damages. Did you play a role in protecting the deductibility of these payments for BP?

*Answer.* The deductibility and non-deductibility of various types of settlement payments is controlled by law. In the case of BP's 2015 Deepwater Horizon settlements, the Federal consent decree—which has been approved by a Federal judge—expressly provided that no tax deduction could be taken for civil penalty payments and did not specify the tax treatment of other settlement payments, and the agreement with the States bordering the Gulf of Mexico did not specify the tax treatment of the payments thereunder. I was involved in the negotiation of these two settlement agreements, but I am not a tax lawyer, I regarded the tax treatment of the various payments thereunder to be controlled by Federal law, and I did not regard my work to involve protecting the tax treatment dictated by applicable law.

*Question.* Do you think it is wrong for corporations to try to use loopholes in law to get out of their responsibilities? Why?

*Answer.* Corporations should fulfill the responsibilities that apply to them, not attempt to get out of those responsibilities, because corporations, no less than individuals, are obliged to fulfill the responsibilities they bear. In our system, the governed—whether individuals or corporations—have a right to fair notice of the legal obligations that apply to them, and we strive to secure that right by having their legal obligations clearly set forth in the law as written.

*Question.* Would you advise the Secretary of the Treasury, to the fullest extent allowed by law, to close loopholes that allow corporations or individuals to undermine the intent and spirit of the law?

*Answer.* In our system, the governed—whether individuals or corporations—have a right to fair notice of the legal obligations that apply to them, and we strive to secure that right by having their legal obligations clearly set forth in the law as written. As such, it is important that the law be written in a way that fulfills its intent. In some areas of the law, Congress has granted Federal agencies the authority to promulgate appropriate anti-abuse rules designed to reinforce a statutory standard or prevent gaps in compliance. In other cases, only Congress has the power to amend the law where it perceives the law as written to include “loopholes” that conflict with Congress's intent. In light of those principles, if confirmed, I would advise the Secretary that regulations and guidance the Department may promulgate must be consistent with the statutory text adopted by Congress and, to the extent allowed by law, should have as a goal prevention of “undermin[ing] the intent and spirit of the law,” insofar as the law's intent and spirit are ascertainable and not inconsistent with the statutory text.

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QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

*Question.* Mr. McIntosh, as you know, Treasury serves as a powerful stabilizing force for our country. Part of that stability is preserved by insulating Treasury from politics, which is central to the role of the General Counsel.

Do you agree that Treasury's work to combat illicit financial activity, impose sanctions, and conduct national security reviews through the CFIUS process should be free from political interference? Do you believe the same is also true for tax administration and enforcement at the IRS?

*Answer.* The Treasury Department's programs and activities should be administered consistent with all applicable laws, regulations, and administration policies, in a manner that is free from any improper influence.

*Question.* Mr. McIntosh, I am deeply concerned about President Trump and his family's ongoing financial conflicts of interest. These conflicts have the potential to

result in the President and his family's financial interests being directly impacted with his and his family's knowledge by policies, investigations, national security reviews, enforcement actions, and other matters related to your responsibilities at the Department of the Treasury.

Can you commit that you will not allow anyone—from the White House or otherwise—to interfere with Treasury's work to combat illicit financial activity, to enforce sanctions, or to conduct national security reviews, even if a company affiliated with President Trump, his close associates, or family members is involved?

Answer. I am committed to supporting the evenhanded and impartial enforcement of our Nation's anti-money laundering laws, economic sanctions regime, and CFIUS review process, consistent with all applicable statutes and the Constitution.

*Question.* Can you also commit to doing everything within your power to protect the IRS from political interference generally, whether from the President, his family, or his associates?

Answer. I believe that the neutral administration and enforcement of our Nation's tax law is an inviolable public trust and that the IRS should operate free of any improper influence.

*Question.* Mr. McIntosh, will you notify this committee if inappropriate political interference occurs, from the White House or otherwise, in any of these areas?

Answer. I am committed to ensuring that the Treasury Department's programs and activities are administered consistent with all applicable laws, regulations, and administration policies, in a manner that is free from improper influence.

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QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY, JR.

*Question.* Mr. McIntosh, following up on my hearing question, now that you've had the opportunity to review the statute, as Treasury General Counsel, would you advise the Secretary to respond to Senators' requests for information regardless of their party affiliation. That is, would you advise the Secretary that it is improper to only respond to requests from Republican offices and not requests from Democratic offices?

Answer. My prior service in the executive branch impressed upon me the importance of a strong, constructive working relationship between agencies and Congress. Responsiveness to congressional requests for information promotes comity between coequal branches of government and aids Congress in performing its important constitutional responsibilities. Accordingly, if confirmed, I would advise the Department of the Treasury to respond appropriately to all inquiries from members of Congress without regard to party affiliation.

*Question.* Mr. McIntosh, as Treasury General Counsel, if you determine it is lawful for the Secretary to only respond to requests from Republican offices and not requests from Democratic offices, will you inform the chairman and ranking member of the Finance Committee of that determination and provide them a copy of that determination?

Answer. Please see my response to the question above.

*Question.* Mr. McIntosh, if White House Counsel directs Treasury or any office within Treasury to only respond to Republican offices and not Democratic offices, will you follow that direction?

Answer. Please see my response to the first question.

*Question.* Mr. McIntosh, if White House Counsel directs Treasury to only respond to Republican offices and not respond to letters or requests for information from Democratic offices, will you inform the chairman and ranking member of the Finance Committee that you have been directed by White House Counsel to not respond to Democratic requesters?

Answer. Please see my response to the first question.

*Question.* Mr. McIntosh, if at any time White House Counsel requests that Treasury not respond to the request or requests of a member or members of this Finance committee, will you inform the chairman and ranking member of the Finance Committee of that White House Counsel request?

Answer. Please see my response to the first question.

*Question.* Mr. McIntosh, in January, I asked Secretary Mnuchin to provide a copy of the number of foreclosures OneWest Bank engaged in in Pennsylvania while he owned OneWest Bank, as well as State-by-State foreclosure data. Secretary Mnuchin provided State foreclosure numbers to Senator Heller prior to his confirmation in January, but he has yet to provide Democratic requesters the same information. In other words, a Republican Senator has received a response for information from the Secretary, but Democratic offices have not received a response for similar information from the Secretary.

Is it proper for the Secretary to provide this information to a Republican Senator and not a Democratic Senator?

*Answer.* I am not familiar with the details of either request described here; nor do I have access to any nonpublic information concerning this issue. As a result, I cannot offer a responsible, well-informed opinion on this matter.

*Question.* What advice and recommendation would you provide to the Secretary with respect to this specific situation?

*Answer.* Please see my response to the first question and the question above.

*Question.* Mr. McIntosh, the Committee on Foreign Investment in the United States was established to review transactions that could result in a U.S. business being controlled by a foreigner, in order to determine the impact of these transactions on national security. Given the sensitivity of these investigations, only affirmative determinations, those that are found to present national security risks, are made public. The President has the discretion to not exercise his authority to stop a transaction, even if CFIUS makes a determination that a transaction presents a national security risk.

With respect to CFIUS investigations, do you have (or intend to establish) a process to review internal conflicts of interest?

If so, please describe that process.

Will you require members of the administration, including members of the Cabinet, with an implicit or explicit interest in the transaction to recuse themselves?

Will you establish protocols to determine whether any member of the administration, including the President or the Treasury Secretary, has an interest in the business under review or a financial interest in the home country of the acquiring entity?

If a conflict is found, will you advise such individuals recuse themselves from CFIUS proceedings?

How would you respond if you, the Secretary, or the Treasury Under Secretary for International Affairs, received or a request from the President or a member of the administration that Treasury either initiate a CFIUS investigation, requesting Treasury drop an ongoing CFIUS investigation or requesting Treasury to not commence a CFIUS investigation?

*Answer.* I understand that Treasury already has in place a robust process for assessing and handling conflicts of interest with respect to Treasury's participation in the CFIUS process. Each department and office that participates in CFIUS is responsible for handling the conflicts of interest of its staff in accordance with law and agency ethics policies. I understand that these policies provide standards and guidelines for recusal. If confirmed, I will work to ensure that all applicable laws and conflicts of interest policies are appropriately applied to Treasury staff, including those related to recusal and to the appropriate functioning of CFIUS.

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QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL

*Question.* What guidance should the Treasury provide to the Trump Organization concerning the procedures it should follow in transferring payments, including the timing of these payments, policies for determining their necessity, and any documentation or other details that should accompany them?

*Answer.* Based on press reports, I understand that the Trump Organization has indicated that it will donate profits from foreign government payments made to the Organization's hotels on an annual basis. Reports further indicate that any such profits will be identified based on policies and procedures developed by the Trump Organization. The website of Treasury's Bureau of the Fiscal Service provides guid-

ance on how to make gifts to the U.S. Government. The website states that financial gifts can be made by check or money order payable to the United States Treasury and mailed to a P.O. Box in Parkersburg, WV. More information is available on the Fiscal Service's website at [https://www.fiscal.treasury.gov/fsfaq/faq\\_gifts\\_to\\_govt.htm](https://www.fiscal.treasury.gov/fsfaq/faq_gifts_to_govt.htm).

*Question.* What standards should the Treasury employ internally in determining whether specific transfers from the Trump Organization—resulting from particular examples of foreign government patronage—are necessary to enable President Trump to fulfill his ethical promises?

*Answer.* I understand the premise of your question as relating to the Trump Organization's decision to donate voluntarily to the United States Treasury certain profits earned by Trump Organization hotels. Because I understand these payments would be gifts to the U.S. Government, my understanding is that this is a Trump Organization matter and not a Treasury matter.

*Question.* What standards should the Treasury employ internally in calculating whether transfers from the Trump Organization represent the full amounts due under the guidelines President Trump has established?

*Answer.* Please see my response to the question above.

*Question.* What oversight should the Treasury conduct, in general, regarding whether President Trump and the Trump Organization have fulfilled their payment obligations under the ethical guidelines President Trump has established?

*Answer.* My understanding is that any such payments are being made by the Trump Organization on a voluntary basis, as gifts to the U.S. Government. As such, it is my understanding that any question concerning whether the Trump Organization has remitted any such payment should be directed to the Trump Organization.

*Question.* At what intervals should the Treasury make disclosures to the public and Congress concerning transfers from the Trump Organization, if any, and what information, specifically, should these disclosures contain?

*Answer.* My understanding from press reports is that any such payments will be made by the Trump Organization on a voluntary basis. It is my expectation that such payments would be handled by the Treasury Department consistent with all applicable laws governing gifts to the Treasury.

*Question.* What efforts should the Treasury undertake to determine the full extent of President Trump's debts, including debts held by both international and domestic creditors, securitized debts and corresponding investors, and debts for limited liability partnerships in which President Trump or the Trump Organization maintains a minority share?

*Answer.* It is unclear to me in what context Treasury would have the responsibility or authority to undertake such inquiry.

*Question.* Will you commit to providing a full and public report of the debts described above to Congress, and if so, what level of detail will this report contain?

*Answer.* As noted above, it is unclear to me in what context Treasury would have the responsibility or authority to undertake such inquiry.

*Question.* What measures should the Treasury take to insulate Treasury decision-making from conflicts of interest arising from debts incurred by President Trump, the Trump Organization and related entities, or any members of the Trump family?

*Answer.* As I understand it, Treasury is responsible for facilitating ethics compliance by Treasury employees to protect the integrity of Treasury decision-making. Potential conflicts of interests for Treasury employees turn on their personal financial interests, not the financial interests (including debts) of others.

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PREPARED STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON

This morning, the Finance Committee will consider four nominations:

- Mr. Eric Hargan to be Deputy Secretary of the Health and Human Services Department;
- Mr. David Malpass to be Under Secretary for International Affairs at the Treasury Department;

- Mr. Drew Maloney to be Deputy Under Secretary of the Treasury Department for Legislative Affairs; and
- Mr. Brent McIntosh to be the Treasury Department General Counsel.

Let me begin with Mr. Hargan's nomination to be HHS Deputy Secretary. It's the second-highest ranking position at the Department, effectively the chief operating officer, a big job that encompasses a lot more than making sure the trains run on time. As an example, Mr. Hargan held this job on an acting basis during the Bush administration. If *The Wall Street Journal* is to be believed, he used his position to block efforts by the FDA to increase food safety inspections.

Today, with HHS pushing a radical agenda that would send the number of Americans without health coverage through the roof, endanger seniors who count on Medicaid for nursing home care, and slash the programs that lay out basic living standards for working families, Mr. Hargan and every HHS nominee will face serious questions about how they'd approach their roles.

Next, if confirmed, Mr. Malpass would lead the office at Treasury in charge of advancing our leadership in the global economy. It's a tough job under any President. It's extraordinarily difficult under this one. Senior Trump officials regularly contradict each other on major economic policy issues, and then the President contradicts them. Is the administration for a strong dollar or a weak dollar? Nobody knows. Statements and actions on climate, trade and NATO have alienated long-time allies and close economic partners, handing China greater power and influence. Given all that, it'll be vital to focus on finding policies that give all Americans a chance to get ahead and advance our country's interests at the same time.

Mr. McIntosh is nominated to be Treasury General Counsel. A key part of his portfolio, if confirmed, will be guaranteeing that sanctions and rules on foreign investment are enforced and adhered to. And during an administration rife with scandal and conflicts—reportedly including undisclosed meetings with a Russian bank under sanction—the Treasury General Counsel has to be unflinching in their commitment to that task, even if they come under pressure to neglect it.

Finally, I want to take a moment to address the issue of congressional oversight, which is closely relevant to the jobs Mr. McIntosh, as General Counsel, and Mr. Maloney, as Deputy Under Secretary for Legislative Affairs, are nominated to fill at the Treasury.

Word has come down from the Trump White House that the executive branch essentially has free reign to ignore the questions that come from Democrats conducting oversight. The White House counsel's office is quoted as saying that the administration will only respond to the chairmen of congressional committees, and of course all the chairmen are Republicans. So this is a stated policy of stonewalling Democratic lawmakers.

I want to make my feeling on this clear. This is a disgrace, and it is deeply undemocratic. Members of Congress do not conduct oversight of the executive branch for sport. Our obligation to perform vigorous oversight is derived from the powers laid out in Article One of the Constitution. We ask questions directly on behalf of the people we represent, and it's those people, not just us in Congress, the administration owes answers to. Bottom line, this is not the behavior of a government that sees itself as answerable to the people.

The Finance Committee has a bipartisan tradition of supporting the right of the minority to get responses from the administration regardless of party. One of the questions this committee poses to every executive branch nominee that comes before us is, "do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of this committee?" I'll repeat the last part—"any Senator of this committee," not "any Senator of this committee with an 'R' next to their name." When nominees answer "yes," we take them at their word.

This is an issue near and dear to members on both sides. Senator Grassley's got a track record of fighting as hard as anybody out there for transparency and responsiveness from the executive branch. And I'd wager that every member on my side of the dais could rattle off examples of letters they've sent to this administration only to get nothing substantive in return.

It's true that in the Trump administration, Treasury has not been the worst culprit in terms of stonewalling oversight inquiries. If confirmed, Mr. McIntosh and Mr. Maloney will have a direct hand in working with Congress on these issues. And very shortly they'll get that same question asked of every nominee who sits before

this dais. So it's my expectation that Mr. McIntosh and Mr. Maloney will help guarantee that the department responds to the inquiries of all of the committee's members, not just those of the President's party.

