

Questions for The Honorable Janet L. Yellen, Secretary, Department of the Treasury, from, Ranking Member Patrick J. Toomey:

Capital

1. As the Federal Reserve, FDIC, and OCC prepare to implement the remaining elements of the Basel III capital framework, I am concerned that more stringent rules will apply to U.S. banks than their international peers, creating a competitive disadvantage. For example, there have recently been reports that regulators in France, Germany, and other European Union (EU) countries are seeking to implement a less stringent version of Basel III.¹ I have long been concerned about outsourcing regulation of U.S. banks to foreign organizations, as well as the overly burdensome capital requirements that result from aspects of the Basel framework.

a. If non-U.S. jurisdictions propose a less stringent version of Basel III, do you believe U.S. regulators should adjust their rules accordingly to maintain the international competitiveness of U.S. banks?

- **Answer: As with many questions of financial regulation, coordinating with our allies and with international bodies is essential to achieving regulatory outcomes that serve American interests and protect financial stability. The international standard-setting process is one of the key ways that the Administration and U.S. financial regulators can promote financial stability and a level playing field that benefit the U.S. and global economy, consumers, and businesses. The Basel Committee performs periodic monitoring and assessment to ensure consistency and completeness of standard adoption and a level playing field, and Treasury makes standard adoption a focus of our bilateral financial regulatory engagement with the EU and others.**

b. How could disparate rules across jurisdictions impact the cost of credit to U.S. consumers?

- **Answer: As with many questions of financial regulation, coordinating with our allies and with international bodies is essential to achieving regulatory outcomes that serve American interests and protect financial stability. It is vital that we continue to aim to mitigate risks and promote a sound financial system at home and abroad so that Americans have steady access to finance.**

¹ <https://www.ft.com/content/0122b5c4-1cd2-4c17-aaee-590f10205543>

Treasury Market Reform

2. SEC Chair Gary Gensler has publicly stated that potential reforms are need for the Treasury markets. Do you agree and, if so, which agency will take the lead in further reform?
 - **Answer: Treasury is currently engaged in an interagency process to study recent disruptions to the Treasury market. The study will consider a range of potential reforms in an effort to enhance the resilience of this market going forward and to minimize the need for government interventions during stress. Any decisions on reforms will involve the work of various authorities and plans would be communicated to the public well in advance of implementation. The Interagency Working Group on Treasury Market Surveillance recently issued a staff progress report on this topic, available at <https://home.treasury.gov/system/files/136/IAWG-Treasury-Report.pdf>.**
3. SEC Chair Gary Gensler has suggested central clearing of Treasury securities as a potential reform. What, if any, other reforms to the regulation of the Treasury markets should be considered?
 - **Answer: Treasury's interagency work in this area includes evaluating the possible effects of expanded central clearing. However, there remain other areas worth exploring that could improve the functioning of the Treasury market. Some of these areas include improving the resilience of market intermediation, improving data quality and availability, enhancing trading venue transparency and oversight, and examining the effects of leverage and fund liquidity risk management practices.**

OECD Tax Agreements

4. In the hearing, you claimed that there could be alternate routes to implementing Pillar One of the OECD tax agreement. Please outline such processes and explain why, in your opinion, they would not require a formal treaty and Senate ratification.
 - **Answer: Pillar 1 is subject to ongoing international discussion, and what is needed to implement Pillar 1 will depend on the details of those discussions. I understand that Treasury regularly updates Congress on a bipartisan basis on the ongoing discussions on Pillar 1, and at the appropriate time will consult on the form a Pillar 1 agreement would take. My goal is to proceed with Pillar 1 implementation on a basis that both respects the prerogatives of the two branches of government and is bipartisan. I will work with Congress and my colleagues at Treasury and the State Department to determine the appropriate approach to implementing an agreement.**

Cryptocurrencies

5. Recent reports indicate that Treasury, along with other agencies, may propose that stablecoin providers register as banks or apply for a special-purpose charter. If stablecoin providers are treated similar to banks, should they be permitted to make loans with a portion of their reserves, like banks do now?

- **Answer: The President's Working Group on Financial Markets (PWG), together with the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency, issued its report on stablecoins on November 1, 2021. The PWG report highlights gaps in the authority of federal regulators to address the risks of payment stablecoins and recommends that Congress act promptly to enact legislation to ensure that payment stablecoins and payment stablecoin arrangements are subject to a federal framework on a consistent and comprehensive basis. The PWG report specifically recommends that to address risks to stablecoin users and guard against stablecoin runs, legislation should require stablecoin issuers to be insured depository institutions, which are subject to appropriate supervision and regulation, at the depository institution and the holding company level.**

6. Does Treasury believe the Financial Stability Oversight Council (FSOC) has the authority to designate all stablecoin providers as financial market utilities or payment, clearing, or settlement activities?

- **Answer: To address prudential risks associated with the use of stablecoins as a means of payment, the PWG Report on Stablecoins recommends that Congress act promptly to ensure that payment stablecoins are subject to appropriate federal prudential oversight on a consistent and comprehensive basis. In the absence of Congressional action, the report recommends that the Council consider steps available to it to address the risks outlined in the report. As Treasury's work on stablecoins progresses, it intends to evaluate how FSOC's designation authority with respect to financial market utilities and payment, clearing, and settlement activities may potentially apply to stablecoin arrangements.**

7. The Financial Action Task Force (FATF) has released updated draft guidance on cryptocurrencies and virtual asset service providers which could subject to regulation entities that never take custody of or control another person's assets. This is counter to existing FinCEN guidance, which has made clear that miners, certain wallet providers, software developers, and other non-custodial services are not subject to Money Service Business registration. In light of this FATF guidance, does Treasury believe that non-custodial services should be subject to Money Service Business registration?

- **Answer: In June 2019, under the U.S. Presidency of the FATF, the FATF revised its standards to explicitly require virtual asset service providers**

(VASPs) to implement the full range of preventive measures for AML/CFT and issued guidance to aid jurisdictions with swiftly implementing laws and regulations for this sector using a risk-based approach. The principal aim of the FATF standards and the Updated Guidance for a Risk-based Approach to Virtual Assets and VASPs, which was published last month, is to regulate financial activity and not technology. I agree with standing FinCEN guidance on this topic, and I believe the FATF does, too.

In the updated guidance, the FATF clarified that the intent of the standards was not to regulate as VASPs natural or legal persons that provide only ancillary services or products to a virtual asset network, including hardware wallet manufacturers, providers of unhosted wallets, software developers, or miners that are not otherwise engaged in covered activities. Additionally, I would like to point out that the purpose of the FATF guidance is to help jurisdictions implement the existing FATF standards for VASPs and guidance does not and indeed cannot alter the existing FATF standards. It is important to note that the guidance is not a part of the FATF standards, against which countries are assessed in mutual evaluations and follow up reports. Additionally, the FATF received substantive input from public consultation for the updated guidance in March, which was constructive and informed the final product. In the final version of the updated guidance, the FATF clarified that the intent was not to regulate as VASPs natural or legal persons that provide ancillary services or products to a virtual asset network, including hardware wallet manufacturers, providers of unhosted wallets, software developers, or miners that are not otherwise engaged in covered activities.

8. In July 2018, Treasury recommended that “if states are unable to achieve meaningful harmonization across their licensing and supervisory regimes within three years, Congress should act to encourage greater uniformity in rules governing lending and money transmission to be adopted, supervised, and enforced by state regulators.”² After three years, what actions does Treasury recommend that Congress take to provide for greater uniformity?
 - **Answer: Note that this report and its recommendations were revoked by the White House in February 2021 through the Executive Order on the Revocation of Certain Presidential Actions. That notwithstanding, the Conference for State Bank Supervisors (CSBS) has made progress in the last three years in seeking greater harmonization of state licensing requirements through their Vision 2020 initiative. In September 2021, CSBS released the Uniform Money Transmission Modernization Act, which is intended to serve as a template for states to draft and pass legislation to replace state-specific money transmitter laws and rules with a single set of nationwide standards.**

² U.S. Department of the Treasury, “Nonbank Financials, Fintech, and Innovation,” available at https://home.treasury.gov/sites/default/files/2018-08/A-Financial-System-that-Creates-Economic-Opportunities---Nonbank-Financials-Fintech-and-Innovation_0.pdf

CSBS' latest Fintech Industry Advisory Panel Accountability Report also discusses additional progress made under the Vision 2020 initiative.³

Congressional Oversight

9. On June 10, 2021, I sent you a letter requesting by June 25, 2021, certain records in the possession of the Treasury Department related to the Biden administration's efforts to enter into a nuclear agreement with, and/or provide sanctions relief to, Iran, the world's foremost state sponsor of terrorism. On September 7, 2021, Treasury provided a one-page letter in response but has not provided any of the records I requested more than 115 days ago. Why has Treasury not provided any of these records?

- **Answer: As stated in our response of September 7, we share your concerns related to Iran's support for terrorism, human rights abuses, nuclear escalation, and the development and proliferation of ballistic missiles, as well as its destabilizing activities in the region. With respect to the production of records related to diplomatic initiatives, we respectfully defer to the State Department. With respect to future sanctions actions, Treasury will continue to use the tools at its disposal, including sanctions, to address the full range of Iran's destabilizing behavior.**

10. In my June 10, 2021 letter, I requested that Treasury produce by June 25, 2021: "All reports or other assessments describing or referring to the national security implications of providing billions of dollars in sanctions relief to the IRGC-controlled regime in Iran, including but not limited to, any analyses that have led the administration to conclude that lifting sanctions on Iran-affiliated terrorist entities furthers U.S. national interests." Has Treasury conducted a search reasonably calculated to locate all responsive records in the possession, custody, or control of Treasury related to this request? Please answer "yes" or "no."

- If "yes," did this search identify any responsive records in the possession, custody, or control of Treasury? Please answer "yes" or "no."
- If "yes," will you commit to timely producing these records?
 - **Answer: As stated in our response of September 7, we share your concerns related to Iran's support for terrorism, human rights abuses, nuclear escalation, and the development and proliferation of ballistic missiles, as well as its destabilizing activities in the region. With respect to the production of records related to reports or other national security assessments, we respectfully defer to the Intelligence Community.**

³ Fintech Industry Advisory Panel Accountability Report, February 19, 2021, <https://www.csbs.org/policy/statements-comments/fintech-industry-advisory-panel-accountability-report-feb-2021>.

11. In my June 10, 2021 letter, I requested that Treasury produce by June 25, 2021: “Records sufficient to demonstrate the Biden administration’s determination to enforce mandatory Iran oil sanctions on Chinese violators of (i) the Iran Freedom and Counter-Proliferation Act of 2012 (P.L. 112- 239) and/or (ii) Section 1245 of the Fiscal Year 2012 National Defense Authorization Act (P.L. 112-81).” Has Treasury conducted a search reasonably calculated to locate all responsive records in the possession, custody, or control of Treasury related to this request? Please answer “yes” or “no.”

- If “yes,” did this search identify any responsive records in the possession, custody, or control of Treasury? Please answer “yes” or “no.”
- If “yes,” will you commit to timely producing these records?
 - **Answer: As stated in our response of September 7, we indicated we could provide a classified briefing in response to your request for such records. We were pleased to provide your staff with a classified briefing on this topic on Wednesday, October 20.**

12. In my June 10, 2021 letter, I requested that Treasury produce by June 25, 2021: “Records sufficient to demonstrate the steps the Biden administration will take to make good on its promise to reach a ‘longer and stronger’ accord that will block Iran’s nuclear pathways for generations and address the full range of Iranian threats, including terrorism, ballistic missiles, and the detention of U.S. nationals.” Has Treasury conducted a search reasonably calculated to locate all responsive records in the possession, custody, or control of Treasury related to this request? Please answer “yes” or “no.”

- If “yes,” did this search identify any responsive records in the possession, custody, or control of Treasury? Please answer “yes” or “no.”
- If “yes,” will you commit to timely producing these records?
 - **Answer: As stated in our response above, with respect to the production of records related to diplomatic initiatives, including with respect to addressing the full range of Iranian threats, we respectfully defer to the State Department.**

13. Has anyone in the White House, Treasury Department, or another Federal agency advised you not to produce any of these records? Please answer “yes” or “no.”

- “If yes,” please identify the official(s) or employee(s) who advised you not to produce any such records and the justification that the official or employee provided for not producing them.
 - **Answer: The Treasury Department respects Congress’s important oversight role and remains committed, consistent with longstanding**

Executive Branch policy, to working with Congress through the accommodation process to be responsive to oversight requests.

IMF Special Drawing Rights (SDRs)

14. As my colleagues and I warned this spring, an untargeted allocation of SDRs will provide funding to projects that are against the best interests of the United States, such as repaying predatory loans from China⁴ and bailing out state-owned oil companies.⁵ You stated in March 2021 that you will “work with [developing nations] and with China to ensure that they don’t go to repay their loans from the Belt and Road initiative.”⁶

- Please provide an overview of your efforts to do so.
 - **Answer: The United States supported the IMF’s recent general SDR allocation to bolster global liquidity and provide countries space to rebuild the buffers reduced by the COVID crisis and avert deeper economic scarring. SDRs are, by design, an unconditional reserve asset that countries can draw on readily to meet their liquidity needs, so neither Treasury nor the IMF can directly control the uses to which countries put their SDRs. We have, however, engaged extensively with IMF staff and management to minimize the risks of misuse of the SDR allocation. We pressed the IMF to agree to increasing the transparency of SDR exchanges, including by agreeing to publish quarterly reports on the uses of the proceeds of SDR exchanges, whether for fiscal support to the economy, health expenditures including purchases of vaccines, paying multilateral debt or interest obligations or to increase holdings of hard currency. We have not seen evidence at this stage that countries in debt distress have used the liquidity provided by the SDR allocation to repay Chinese-held debt.**

In addition to pressing for increased transparency around SDR exchanges, we pressed for the IMF to provide proactive guidance to countries on effective uses for their SDRs. Accordingly, the IMF published guidance in advance of the SDR allocation on best uses, which made clear that SDRs should not be used to delay needed debt restructurings or to service unmanageable debt burdens. Since many countries are confronting debt distress, we are continuing to work to advance the Common Framework and provide debt treatments through robust participation by all official creditors, including China.

Finally, we are continuing to work to build on the effectiveness of the SDR allocation by developing frameworks for major economies to

⁴ <https://www.businessdailyafrica.com/bd/economy/kenya-seeks-imf-aid-repay-chinese-loans-3557198>

⁵ <https://www.reuters.com/business/energy/mexican-president-hints-eyeing-imf-funds-pay-pemex-debt-2021-09-06/>

⁶ <https://www.bloomberg.com/news/articles/2021-03-24/yellen-gets-testy-with-gop-senator-questioning-over-imf-funding>

voluntarily channel some of their SDRs to vulnerable countries, and we are working to bring China into this effort. China supported the recent G20 leaders' declaration, which welcomed the IMF's work to establish facilities for channeling SDRs and endorsed an ambition of channeling \$100 billion to vulnerable countries.