

July 1, 2021

Mr. Brian Eddie Nelson
Under Secretary for Terrorism and Financial Crimes Designate
Department of the Treasury
1500 Pennsylvania Avenue NW,
Washington, DC 20220

Dear Mr. Nelson:

Thank you for testifying before the United States Senate Committee on Banking, Housing, and Urban Affairs on June 22, 2021, at our hearing to consider nominations.

In order to complete the hearing record, please respond to the enclosed questions by Thursday, July 1, 2021, at 12:00PM. When formatting your response, please repeat the question, then your answer, single spacing both question and answer. Please do not use all capitals.

Send your reply to Mr. Cameron Ricker, the Committee's Chief Clerk. He will transmit copies to the appropriate offices, including the Committee's publications office. Due to current procedures regarding Senate mail, it is recommended that you send replies via e-mail in a Microsoft Word or PDF attachment to Cameron_Ricker@banking.senate.gov.

If you have any questions about this letter, please contact Mr. Ricker at (202) 224-5587.

Sincerely,

Sherrod Brown
Chairman

SB/cr

**Committee on Banking, Housing, and Urban Affairs
Nominations of Mr. Brian Eddie Nelson and Ms. Elizabeth Rosenberg
June 22, 2021**

Questions for Mr. Brian Eddie Nelson, of California, to be Under Secretary for Terrorism and Financial Crimes, Department of the Treasury, from Chairman Sherrod Brown:

Fighting Domestic Terrorism

1) As mentioned in my opening statement at the hearing, the FBI Director testified recently that racially motivated and anti-government extremists are likely to be the biggest domestic threat over the next few years. The Biden Administration recently rolled out a new strategy to counter domestic terrorism. The strategy calls for greater scrutiny of public social media posts and better coordination among law enforcement and national security agencies. How should Treasury work with other law enforcement agencies like the FBI and Homeland Security to better fight domestic terrorism, while protecting people's civil rights and liberties? Is there anything more Congress should be doing now to better assist TFI in protecting us from these threats?

Answer: As noted in the *National Strategy for Countering Domestic Terrorism*, the Intelligence Community assesses that domestic violent extremists (DVEs) who are motivated by a range of ideologies and galvanized by recent political and societal events in the United States pose an elevated threat to the United States in 2021. Enduring DVE motivations pertaining to biases against minority populations and perceived government overreach will almost certainly continue to drive DVE radicalization and mobilization to violence.

If confirmed, I pledge Treasury will continue to: (i) explore, in coordination with law enforcement and other interagency partners, ways to enhance the identification and analysis of financial activity associated with domestic terrorists and their foreign counterparts; (ii) enhance engagement with financial institutions on domestic terrorist financing, including through existing provisions of the Bank Secrecy Act; (iii) coordinate with the Department of State, other interagency partners, and with our foreign allies to assess whether additional foreign entities linked to domestic terrorism can be designated as Specially Designated Global Terrorists, or Foreign Terrorist Organizations; (iv) in coordination with interagency partners, continue to support law enforcement action against domestic terrorists and their foreign supporters through the provision of financial intelligence, information, and analysis; and (v) across these efforts, work to ensure that Americans' civil liberties and constitutional rights continue to be protected.

Additionally, I understand that Treasury is working with our foreign partners bilaterally and through the Financial Action Task Force to better identify cross-border financial activity associated with racially or ethnically motivated violent extremists. If confirmed, I will prioritize this critical work to counter domestic terrorism and working with Congress to assess whether there are additional ways the Office of Terrorism and Financial Intelligence (TFI) can support the national strategy to counter domestic terrorism.

Anti-Money Laundering Act/Corporate Transparency Act

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2) Most of the requirements of the new Anti- Money Laundering Act will be implemented by Treasury. In April, FinCEN issued an Advance Notice of Proposed Rulemaking, soliciting comments on the reporting regulation and the shape and function of the new beneficial ownership database. Will you commit to work to issue the Final Rule on beneficial ownership information collection by January 1st of next year?

Answer: Yes, if confirmed, I will strive to meet the deadlines Congress set in the Anti-Money Laundering Act of 2020.

Anti-Corruption and Anti-Kleptocracy Initiative

3) On June 3, 2021, President Biden issued a formal national security memorandum on “Establishing the Fight Against Corruption as a Core United States National Security Interest.” The memo requires collaboration between federal agencies and establishes a whole-of-government approach to fighting global corruption and kleptocracy to further the national security interests of the United States. Should you be confirmed, what role do you see your office playing in this important fight against international corruption, broadly and specifically?

Answer: As President Biden made clear in the National Security Study Memorandum you reference, countering corruption is a core national security interest of the United States. If confirmed, I will make this among my highest priorities and ensure that TFI uses a wide range of tools to tackle this global problem.

First, Treasury’s efforts against money laundering aim to make it more difficult for corrupt actors and their enablers to use the U.S. and global financial system to launder and conceal ill-gotten gains. Implementing the new beneficial ownership reporting regime established by the Anti-Money Laundering Act of 2020 (AMLA) will be a critical component of this effort, enabling the collection and dissemination of important information to law enforcement and financial institutions about the ownership of shell companies and other corporate vehicles that can be used to hide and launder illicit proceeds. In addition to implementing the AMLA, TFI’s anti-money laundering efforts include FinCEN advisories to financial institutions to assist them in complying with their Bank Secrecy Act (BSA) obligations by identifying typologies and red flags, as well as the recently published Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) National Priorities. These have included indicators of corruption, including corruption that enables human rights abuses. If confirmed, I will encourage these and other efforts against money laundering that facilitates corruption.

The Office of Foreign Assets Control’s (OFAC) sanctions authorities are another important tool against global corruption. If confirmed, I would ensure that OFAC continues to use financial sanctions to hold corrupt actors accountable, whether through Global Magnitsky (GloMag) sanctions, or other sanctions authorities. The United States has used GloMag authorities to target corruption and serious human rights abuses wherever they occur around the world, including Africa, Asia, Central America, Europe, and the Middle East. Earlier this month, I understand that Treasury took its largest GloMag action to date, sanctioning three Bulgarian individuals for their extensive roles in

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corruption in Bulgaria as well as their networks encompassing 64 entities. If confirmed, I will seek to capitalize on the momentum of this action to encourage like-minded countries to create anti-corruption authorities in their sanctions programs and take similar actions. In addition, TFI plays an important role in highlighting global corruption and kleptocracy on the international stage. Through dialogue in various multilateral fora (e.g., the recent G7 Summit) and engagement and information sharing with like-minded countries, civil society, and the private sector, TFI can expose and target corrupt individuals and institutions; make our financial systems more transparent and resistant to corruption; and promote democratic and regulatory reforms to address financial and economic risks, vulnerabilities, and deficiencies that can enable human rights abuse and corruption. Specifically, TFI's Office of Terrorist Financing and Financial Crimes (TFFC) leads the U.S. delegation to the Financial Action Task Force, and, if confirmed, I will use that forum and others to ensure that TFI continues to actively engage with our foreign partners to effectively implement relevant international standards, including the Financial Action Task Force recommendations, as a key means to combat corruption.

I am also aware that TFI is establishing a pilot Kleptocracy Assets Recovery Rewards program that will provide payments to individuals for information leading to the identification and recovery of stolen assets linked to foreign government corruption held in U.S financial institutions. If confirmed, I will endeavor to make this program a success.

TFI Structure

4) The prior Administration placed an emphasis on having all TFI components bring their unique equities and tools together to address anti-money laundering and counterterrorism as a whole-of-TFI effort involving approximately 900 employees. Do you agree with this approach? How would you continue to strengthen TFI in this way?

Answer: Yes, I agree with that approach. The critical work of safeguarding the U.S. financial system from abuse, and bringing malign actors that threaten the national security of the United States to account for their activities, is best performed when TFI works together effectively across its components, with each bringing key technical expertise and institutional memory to the execution of TFI's core mission. If confirmed, I look forward to working with these dedicated men and women.

Human Trafficking

5) I understand that as part of your work in the California Office of Attorney General you lead several multi-state and multi-national projects to address human trafficking, and that you are fiercely committed to this mission. And several years ago, Congress changed the law to make clear that illicit finance related to human trafficking was to be a core part of TFI's mission. Would you please briefly summarize for the committee your work in this area and, based on that, describe what you see as the best tools within TFI to combat human trafficking. Also, how might TFI better work with the states to address the issue?

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Answer: At the California Office of the Attorney General, we prioritized the fight against human trafficking by comprehensively evaluating that threat and then working closely with key partners—including law enforcement, victim service providers, non-profit organizations, and technology companies—to combat human trafficking in a coordinated manner. A key finding from that intelligence-gathering and comprehensive report was the need to work more closely with our Mexican law enforcement counterparts. To that end, I directly negotiated with Mexican law enforcement officials to implement a Mexico Attorney General-California Attorney General accord to expand prosecutions and secure convictions of criminals who engage in the trafficking of human beings. We also successfully sought new enforcement tools, including asset forfeiture authorities for items used to facilitate human trafficking involving a commercial sex act where the victim is under 18 years of age; and new transparency legislation authorizing law enforcement agencies to seek a court order preventing the concealment of property implicated in a human trafficking prosecution.

If confirmed, I would seek to take much the same intelligence-driven and coordinated approach to this critical effort to combat human trafficking, leveraging TFI's wide range of tools, and coordinating with interagency and foreign government partners, as outlined in the administration's *National Action Plan to Combat Human Trafficking*, as part of a coordinated whole-of-government approach.

As I briefly mentioned during the hearing, I believe a threat assessment is a necessary first step in combating illicit finance threats, including human trafficking. Treasury's publication of such reports as the *National Money Laundering Risk Assessment* (NMLRA) and the *National Strategy for Combating Terrorist and Other Illicit Financing* can highlight the grave threat that human trafficking poses not only to the safety and security of trafficked victims and the rule of law, but also to the U.S. financial system and the global financial system more broadly. If confirmed, I would emphasize the role and impact of such reports in identifying evolving threats, particularly given TFI's Office of Terrorist Financing and Financial Crimes (TFFC) leads Treasury's efforts in drafting and coordinating this report.

I pledge to continue TFI's efforts to address this critical issue, to include conducting risk assessments; collecting, analyzing, and sharing financial intelligence and data to identify human traffickers and their networks; engaging with foreign partners to promote effective anti-money laundering and countering the financing of terrorism (AML/CFT) regimes; disrupting and disabling the financial underpinnings of these networks through sanctions and other authorities; and supporting law enforcement investigations that can lead to accountability and justice.

I would work to apply financial sanctions, where appropriate, utilizing a range of sanctions programs that can target human trafficking, including country-specific sanctions programs, Global Magnitsky sanctions, the Transnational Criminal Organizations program, and the Counter Narcotics program. These programs also target activities that typically occur alongside human trafficking, such as narcotics trafficking, serious human

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rights abuse and corruption, malicious cyber-enabled activities, terrorism, and transnational organized crime. I would also ensure financial intelligence obtained from Bank Secrecy Act reporting is provided to law enforcement at the federal, state, local, and tribal level. I would encourage additional trainings, such as the event TFFC, in coordination with DHS and DOJ, held in April for the gaming industry to raise human trafficking awareness for front line workers who may interact with victims and illustrate how the perpetrators of human trafficking can use the casino industry to launder their illicit proceeds. I will also continue engagements with foreign partners, the private sector, and civil society as well as in multilateral forums to raise awareness about the illicit finance threats associated with human trafficking. TFI officials can highlight how effective AML/CFT regimes can help identify and mitigate these risks in speaking opportunities with key audiences.

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Questions for Mr. Brian Eddie Nelson, of California, to be Under Secretary for Terrorism and Financial Crimes, Department of the Treasury, from Ranking Member Patrick Toomey:

Congressional Oversight

1) Please provide your philosophy on how the Office of Terrorism Financing and Financial Intelligence (TFI) at the Department of the Treasury (Treasury) will approach and respond to Congressional information requests (both for documentary information and oral testimony), if you are confirmed.

Answer: I recognize that Congress plays an important oversight role regarding executive branch activities. If confirmed, I pledge to work through the accommodations process to comply with Congressional requests for information consistent with the constitutional and statutory obligations of the executive branch.

2) If confirmed, do you intend to respond to information requests differently depending on who is making the Congressional information request (whether it's the chair of the Congressional committee, the ranking member, or another member of Congress)? Please answer "yes" or "no." If your answer is "yes," please explain.

Answer: I recognize that Congress plays an important oversight role regarding executive branch activities, and I pledge to thoughtfully consider all Congressional information requests, recognizing the importance of transparency in government. If confirmed, I pledge to work through the accommodations process to comply with Congressional requests for information consistent with the constitutional and statutory obligations of the executive branch.

3) Will you commit that, if confirmed, you will respond in a timely manner and fully comply with all information requests from me? Please answer "yes" or "no." If your answer is "no," please explain.

Answer: I recognize that Congress plays an important oversight role regarding executive branch activities, and I pledge to thoughtfully consider all Congressional information requests including from any member, recognizing the importance of transparency in government. If confirmed, I pledge to work through the accommodations process to comply with Congressional requests for information consistent with the constitutional and statutory obligations of the executive branch.

4) Will you commit that, if confirmed, you will make yourself and any other TFI employee expeditiously available to provide oral testimony (including but not limited to briefings, hearings, and transcribed interviews) to the Committee on any matter within its jurisdiction, upon the request of either the Chairman or Ranking Member? Please answer "yes" or "no." If your answer is "no," please explain why.

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Answer: I recognize that oral testimony plays an important role in Congress' oversight responsibilities regarding executive branch activities. If confirmed, I commit to brief or testify regarding Congressional requests consistent with the constitutional and statutory obligations of the executive branch.

The Joint Comprehensive Plan of Action (JCPOA)

5) On April 21, 2021, an unnamed senior State Department Official suggested that during the Trump administration some sanctions, including terrorism sanctions, on Iranian entities were “not legitimately imposed.”¹ Do you agree that such accusations undermine the integrity of the U.S. sanctions regime and disparage the career civil servants at Treasury who compile the evidentiary packages for such sanctions? Please answer “yes” or “no.” If your answer is “no,” please explain.

Answer: I have confidence in the diligence and dedication of Treasury's career civil servants, including the civil servants in the Office of Terrorism and Financial Intelligence. If confirmed, I will look into this matter.

6) If confirmed, will you commit to transmitting to me, in writing, no later than seven days after which you are confirmed, a determination on whether terrorism sanctions were imposed illegitimately by the Trump administration?

Answer: If confirmed, I will commit to expeditiously looking into the matter regarding the terrorism sanctions imposed on Iranian entities.

7) Iran has not answered the International Atomic Energy Agency's (IAEA) questions regarding why nuclear particles have been found at undisclosed Iranian sites. As a result, the nuclear watchdog recently warned it is now impossible to confirm Iran is not seeking a nuclear weapon.²

- a. Do you believe Iran should account for the existence of these nuclear particles before the United States rejoins the Iran nuclear deal and offers sanctions relief?

Answer: I believe Iran should only enjoy sanctions relief under the JCPOA if it takes the appropriate steps to resume compliance with its nuclear commitments under the JCPOA. Iran must also adhere to its nuclear obligations outside of the JCPOA. If confirmed, I will

¹ United States Department of State, *Briefing with Senior State Department Official On Recent U.S. Engagement in Vienna Regarding the JCPOA* (April 21, 2021), <https://www.state.gov/briefing-with-senior-state-department-official-on-recent-u-s-engagement-in-vienna-regarding-the-jcpoa-2/>.

² International Atomic Energy Agency, *IAEA Director General's Introductory Statement to the Board of Governors* (June 7, 2021), <https://www.iaea.org/iaea-director-generals-introductory-statement-to-the-board-of-governors-7-june-2021>.

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work to ensure that Treasury continues its important work to enforce U.S. sanctions and combat Iran's support for terrorism, abuse of human rights, Weapons of Mass Destruction (WMD) proliferation and ballistic missile development, as well as the regime's destabilizing activities in the region.

8) What is your view of the JCPOA and the sanctions relief it provided Iran and will provide Iran if the United States rejoins it?

Answer: If confirmed, I would support the Biden-Harris Administration's national security and foreign policy decisions regarding the JCPOA in these vitally important matters.

9) If the United States returns to the JCPOA, do you agree that non-nuclear sanctions on Iran, such as terrorism sanctions, should be maintained?

Answer: Yes. Treasury's sanctions programs address a wide range of malign activities, including terrorism, and if confirmed, I commit to vigorously enforcing U.S. sanctions.

10) Will you commit to keeping in place U.S. sanctions on the Central Bank of Iran and other Iranian entities designated for supporting terrorism and the development of weapons of mass destruction (WMD) unless there is credible information that those entities have ceased engaging in the activity for which they were sanctioned? Will you commit to briefing this Committee and providing relevant information about changes in these entities' activities if they are delisted?

Answer: As senior members of the Biden-Harris administration have said, if Iran implements its nuclear commitments under the JCPOA, the U.S. would implement its commitments under the JCPOA to lift sanctions. Furthermore, I will commit to keeping Congress informed regarding Treasury's actions.

11) Yes or no, do you agree that Iran's Islamic Revolutionary Guard Corps (IRGC) is a terrorist organization?

Answer: Yes, Iran's Islamic Revolutionary Guard Corps (IRGC) was designated as a Foreign Terrorist Organization (FTO) by the Secretary of State pursuant to section 219 of the Immigration and Nationality Act (INA) on April 15, 2019. On October 13, 2017, Treasury designated the IRGC pursuant to the global counterterrorism Executive Order (E. O.) 13224 and consistent with the Countering America's Adversaries Through Sanctions Act.

12) Are you committed to strict enforcement of sanctions against the IRGC and its subsidiaries and affiliates, including, but not limited to the National Iranian Oil Company?

Answer: U.S. sanctions depend on their effective implementation and enforcement. If confirmed, I will work to ensure that all economic sanctions are vigorously enforced.

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13) If a return to compliance with the JCPOA does occur, will you commit to continuing to prevent Iran from gaining any access to the U.S. financial system, including through so called “U-turn” transactions?

Answer: I will support the Biden-Harris Administration and the President’s national security and foreign policy decisions regarding the JCPOA, and will work to protect the integrity of the U.S. financial system.

14) If a U.S. return to the JCPOA is not achieved, what role do you believe conduct-based sanctions can play in persuading the Iranian regime to change its malign behavior?

Answer: I believe sanctions will remain a powerful tool to incentivize the Iranian regime to change its behavior. If confirmed, I would seek to amplify the effects of our sanctions through coordination with U.S. allies and partners. As Secretary Yellen said, U.S. sanctions are more likely to compel changes in behavior and disrupt threatening activities when pursued in concert with our allies — carrying a more forceful economic impact by disrupting access to the international financial system — and sending a stronger message to malign actors by virtue of our solidarity.

15) The United States imposed sanctions on Iran’s new president, Ebrahim Raisi, in 2019, pursuant to E. O. 13876. The order authorizes sanctions against the Supreme Leader of Iran, the Office of the Supreme Leader, any official appointed by him, and anyone conducting transactions with them. In particular, the order authorizes sanctions on foreign financial institutions that knowingly facilitate or conduct a significant transaction with any individual or entity designated pursuant to that E. O. These sanctions are not nuclear-related and, thus, are consistent with the JCPOA.

- a. What would be the conditions under which Treasury would lift or waive sanctions on Ebrahim Raisi?
- b. Will you commit to consulting with me and the entire Committee before any potential waiving or lifting of sanctions on Ebrahim Raisi?

Answer: If confirmed, I would study the relevant legal authorities and available intelligence and can commit to briefing Congress on this topic.

Iranian Funding for Terrorism

16) What is your assessment of the impact sanctions relief under a U.S. return to the JCPOA will have on Iran’s funding of terror groups, such as Hezbollah, Hamas, Palestinian Islamic Jihad, and Kata’ib Hizballah (KH)?

Answer: As Secretary of State Blinken has said, an Iran with a nuclear weapon or the ability to produce one in very short order is an Iran that is going to act with even greater impunity when it comes to support for terrorist groups and for destabilizing activities in the region. If confirmed, I will not hesitate to use counterterrorism authorities to target Iran’s support to Hizballah and HAMAS, or any other designated terrorist group.

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17) Would you agree that if the Iranian regime spent less money supporting terrorists and lining their own pockets, they could afford to purchase vaccines or pay the country's U.N. dues?

Answer: Treasury's Iran sanctions program is intended to reduce the Iranian regime's funding of its support for terrorism, its nuclear program, and its other malign activities in the region.

I agree that financial systems should never be used to support terrorists or line the pockets of corrupt officials, and if confirmed, I will lead Treasury's important work to fight corruption, human rights abuses, and the funding of terrorism.

18) Do you agree that every dollar of U.S. sanctions relief provided to Iran, frees up another dollar that Tehran can spend on illicit activities?

Answer: As Secretary of State Blinken has said, an Iran with a nuclear weapon or the ability to produce one in very short order is an Iran that's going to act with even greater impunity when it comes to support for terrorist groups and for destabilizing activities in the region. I believe Treasury's sanctions are thoughtfully designed to create clear incentives to end malign behavior and illicit activity.

China

19) According to leading ship tracking websites and the International Energy Agency (IEA), China has managed to import over 100 million barrels of oil from Iran since January 2021,³ in violation of U.S. sanctions on Iranian oil.⁴ By a conservative estimate, that is approximately \$5 billion in illicit revenues accruing to the regime in the space of six months. China purchased five times more oil in March 2021 than in the first nine months of 2020, according to the IEA. The Biden administration has not sanctioned a single Chinese transgressor.

- a. Do you believe that China's ongoing violation of our sanctions regime is a problem? Please answer "yes" or "no." If your answer is "no," please explain.
- b. What specific steps would you take, if confirmed, to staunch the flow of Iranian oil to China and properly enforce U.S. sanctions?
- c. Do you agree that if U.S. adversaries perceive the United States to be unwilling or unable to enforce U.S. sanctions, then they will be more likely to violate sanctions?

³ Benoit Faucon, *Iran Boosts Oil Exports Amid Nuclear Deal Talks*, THE WALL STREET JOURNAL (April 15, 2021), <https://www.wsj.com/articles/iran-boosts-oil-exports-amid-nuclear-deal-talks-11618497634>.

⁴ See the Iran Freedom and Counter-Proliferation Act of 2012 (P.L. 112- 239) and Section 1245 of the Fiscal Year 2012 National Defense Authorization Act (P.L. 112-81).

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Answer: Yes, I am concerned by all reports of alleged sanctions evasion. U.S. sanctions depend on their effective implementation and enforcement. Since the passage and implementation of the Comprehensive Iran Sanctions, Accountability, And Divestment Act in 2010, successive Administrations have demonstrated a willingness to sanction Chinese targets for conducting sanctionable transactions related to Iran. If confirmed, I will also work to ensure that the Treasury Department is focused on any efforts to evade sanctions and abuse the international banking system, working closely with colleagues in the Treasury Department and throughout the interagency.

20) Open source ship tracking websites have identified suspected vessels and entities involved in transporting Iranian oil to China since January 2021 (see UANI attached report). If confirmed, will you investigate these entities and apply sanctions to them if they have indeed violated U.S. law?

Answer: If confirmed, I pledge to review the facts and circumstances identified in this report and to promptly address any violations of U.S. law.

21) China has long been one of the worst violators of U.S. sanctions. If confirmed, how would you go about seeking better cooperation from China on sanction matters?

Answer: If confirmed, I will be clear-eyed regarding where we can seek cooperation with China and where our interests diverge. Our sanctions play a crucial role in upholding international standards and norms, countering terrorism and the proliferation of weapons of mass destruction, and other national security interests. I am committed to using the full breadth of Treasury's tools and authorities to implement U.S. sanctions and where necessary to hold China accountable for violations.

22) China is aggressively moving to develop and deploy a central bank digital currency (CBDC), which could potentially undercut the power of U.S. sanctions. What specific steps would you take at Treasury to prevent a Chinese CBDC from undermining U.S. sanctions?

Answer: If confirmed, I look forward to studying China's development of a central bank digital currency (CBDC), and to carefully consider the possible impacts of Chinese CBDC on U.S. sanctions.

23) China has established a joint venture with the SWIFT network, which could facilitate the integration of a Chinese CBDC with existing international payments standards.⁵ What steps do you believe should be taken to ensure the United States retains its international economic leverage and leadership as the dominant international trade currency?

⁵ UPDATE 1-SWIFT sets up JV with China's central bank, REUTERS (February 21, 2021), <https://www.reuters.com/article/china-swift-pboc/update-1-swift-sets-up-jv-with-chinas-central-bank-idUSL1N2KA0MS>.

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Answer: If confirmed, I will commit to using Treasury’s existing tools and authorities, and if necessary, seeking new tools and authorities, as appropriate, to ensure the United States retains its economic leverage and leadership. I am committed to strengthening the anti-money laundering/countering the financing of terrorism (AML/CFT) regimes of countries around the world, including working with relevant multilateral organizations to ensure proper standards and mechanisms are instituted and effectively implemented to promote an environment that best supports our national security and economic prosperity.

Sanctioning NordStream II AG

24) Nord Stream II AG is the company responsible “for planning, construction and subsequent operation of the Nord Stream 2 Pipeline.”⁶ The State Department—in its most recent Protecting Europe’s Energy Security Act (“PEESA”) report to Congress⁷—reported that Nord Stream II AG is using the Russian pipe-laying contractor LLC Koksokhimtrans for this project.⁸ Notably, in 2016, LLC Koksokhimtrans was sanctioned under E. O. 13685 for its involvement in Russia’s invasion of Crimea and its connections to another sanctioned entity, the Russian shipping company, Sovfracht-Sovmortrans Group.⁹ Under Section 228 of Countering America’s Adversaries Through Sanctions Act (CAATSA), which passed the Senate 98 to 2, Nord Stream II AG must be sanctioned if it is facilitating a significant transaction with a sanctioned entity, such as LLC Koksokhimtrans.

Furthermore, the State Department’s most recent PEESA report also identified LLC Mortransservice, a company that reportedly acquired another one of the vessels identified in the PEESA report.¹⁰ LLC Mortransservice appears to be the successor to ZAO ‘MORTTRANSSEVIS’ a similarly named company established by the Sovfracht-Sovmortrans

⁶“Shareholder & Financial Investors” Nord Stream 2, <https://www.nord-stream2.com/company/shareholder-and-financial-investors/>.

⁷ See Report to Congress and Waiver with Respect to Certain Persons Identified on the PEESA Report, May 19 2021.

⁸ Title LXXV of Public Law 116-92, as amended by section 1242 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (P.L. 116-283).

⁹ “LLC KOKSOKHIMTRANS.” *Specially Designated Nationals and Blocked Persons List*, U.S. Department of the Treasury, Office of Foreign Assets Control (May 20 2021) <https://sanctionssearch.ofac.treas.gov/Details.aspx?id=20290>; “Treasury Sanctions Individuals and Entities for Sanctions Evasion and Activities Related to the Conflict in Ukraine.” U.S. Department of the Treasury, September 1, 2016. <https://www.treasury.gov/press-center/press-releases/pages/j15048.aspx>.

¹⁰ “NORD STREAM 2: Russia Is Trying to Circumvent Sanctions Against the Project.” Foreign Intelligence Service of Ukraine, March 28, 2021. <https://szru.gov.ua/en/news-media/news/nord-stream-2-russia-is-trying-to-circumvent-sanctions-against-the-project>; see also “Ein Rennen gegen die Zeit und die USA” *Süddeutsche Zeitung*, February 23 2021, <https://www.sueddeutsche.de/politik/nord-stream-2-usa-russland-gaspipeline-1.5215746>.

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Group.11 The Sovfracht-Sovmortrans Group was sanctioned under E. O. 13685 for its operations in Crimea.12

- a. With the identification of LLC Koksokhimtrans and LLC Mortransservice in the most recent PEESA report, it appears Nord Stream II AG has conducted significant transactions with previously sanctioned entities, making the legal connection that warrants Nord Stream II AG to be sanctioned pursuant to CAATSA 228. If confirmed, will you commit to getting back to me within seven days of you being confirmed on whether Nord Stream II AG should be sanctioned under CAATSA 228?
- b. If confirmed, will you commit to getting back to me within seven days of you being confirmed on whether any foreign persons or entities affiliated with LLC Mortransservice, LLC Koksokhimtrans and ZAO ‘MORTTRANSSERVIS’ have been involved in sanctions evasion efforts in connection with the Sovfracht-Sovmortrans Group or the Nord Stream 2 project?

Answer: If confirmed, I commit to looking into these very important questions and working with our interagency partners to respond to the Committee’s questions on these subjects expeditiously.

General Sanctions Enforcement

25) The Biden administration has emphasized the importance and strength of multilateral sanctions. What steps will you take to engage our partners in the European Union and elsewhere to harmonize sanctions regimes?

Answer: If confirmed, I commit to prioritizing the Administration’s efforts to work with our allies and partners, including through the issuance of coordinated sanctions actions with our allies as multilateral actions in order to amplify the financial and diplomatic impact of our economic authorities. In addition, this type of close coordination can help ensure our sanctions are calibrated to avoid unintended consequences on our allies and partners. As we have seen in recent months, the EU, United States, and other partners have taken multiple coordinated sanctions actions in relation to Belarus, most recently on June 21, 2021. If confirmed, I would also seek to increase our coordination across other programs. I would plan to prioritize the sharing of information as early as possible with allies and partners to help coordinate actions. In addition to working with the EU, I also

¹¹ “ZAO ‘MORTTRANSSERVIS’.” Comfex, 2021. <https://comfex.ru/1027700360522>; “JSC ‘SOVMORTTRANS’.” Comfex, 2021. <https://comfex.ru/1027739349076>; “Kompanii grupiy,” Sovfrakht. Accessed May 2021. <http://www.sovfracht.ru/group-companies/>; “Gruppa Kompaniy ‘Sovfrakht-Sovmortrans’ prinyala uchastiye v TransRossi 2012” *Argumenti I Fakti*, May 2, 2012. <https://pskov.aif.ru/money/realty/767137>.

¹² “SOVFRACHT-SOVMORTTRANS GROUP.” *Specially Designated Nationals and Blocked Persons List*, U.S. Department of the Treasury, Office of Foreign Assets Control, May 20, 2021. <https://sanctionssearch.ofac.treas.gov/Details.aspx?id=20288>; “Treasury Sanctions Individuals and Entities for Sanctions Evasion and Activities Related to the Conflict in Ukraine.” U.S. Department of the Treasury, September 1, 2016. <https://www.treasury.gov/press-center/press-releases/pages/j15048.aspx>.

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look forward to working closely with strong allies like the United Kingdom, Canada, and Australia.

Sanctions on Hamas and Palestinian Terror Groups

26) If confirmed, what steps will you take to identify and sanction material supporters of Hamas, Hezbollah, and Palestinian Islamic Jihad, which are all U.S. designated terrorist groups?

Answer: If confirmed, I commit to using Treasury’s counterterrorism sanctions and enforcement authorities to identify and dismantle the financial networks of terrorists and their supporters as well as others who seek to perpetrate harm against the United States and its allies.

27) In 2018, Congress unanimously passed the Sanctioning the Use of Civilians as Defenseless Shields Act in 2018 (Shields Act) (P.L.115-348). The law mandates sanctions on members of Hamas and Hezbollah that order, control, or otherwise direct the use of civilians to shield military objectives from attack. No sanctions have been applied pursuant to this law despite compelling evidence of the use of human-shields by both Hezbollah and Hamas.¹³ Will you commit to prioritize implementation of the Shields Act?

Answer: I categorically denounce the use of civilians to shield military objectives. If confirmed, I commit to reviewing Treasury’s use of its sanctions authorities, including the Shields Act, to address this human rights violation.

Cryptocurrency

28) There has been a surge in cryptocurrency donations to Hamas since the start of its armed conflict with Israel in May 2021.¹⁴ Other terrorist groups and sanctioned actors are using digital currencies to circumvent sanctions and the international banking system. If confirmed, what will you do to ensure Treasury utilizes emerging technologies to combat the use of digital currencies to evade sanctions?

Answer: Malign actors cannot be permitted to utilize cryptocurrency or digital assets as a means to evade sanctions and violate U.S. law. If confirmed, I will examine Treasury’s tools and authorities to combat this illicit activity and to ensure that Treasury staff, including sanctions investigators, are fully equipped to deal with the challenges posed by the use of cryptocurrency and digital assets to evade sanctions and finance terrorism.

¹³ Orde Kittrie, Time to Act on Human Shields, FOUNDATION FOR DEFENSE OF DEMOCRACIES (October 15, 2020), <https://www.fdd.org/2020/10/15/time-to-act-on-human-shields/>.

¹⁴ Benoit Faucon, Ian Talley, and Summer Said, *Israel-Gaza Conflict Spurs Bitcoin Donations to Hamas*, THE WALL STREET JOURNAL (June 2, 2021), <https://www.wsj.com/articles/israel-gaza-conflict-spurs-bitcoin-donations-to-hamas-11622633400>.

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29) Recent FATF guidance could require entities that never take custody of or control another person's digital assets (that is, non-custodial entities) to register as Virtual Asset Service Providers (VASPs). In the United States, this would mean a non-custodial entity would have to register as a money service business (MSB). Contrary to FATF's guidance, Financial Crimes Enforcement Network (FinCEN) has standing guidance that non-custodial entities, such as cryptocurrency miners and software wallet providers, do not have to register as an MSB. Do you agree with standing FinCEN guidance, which states that certain non-custodial entities never having control over another person's digital assets are not required to register as an MSB?

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. I understand the FATF currently is updating the 2019 guidance and engaged in a public consultation in March to seek private sector input and feedback for purposes of issuing updated guidance later this year. If confirmed, I pledge to review the updated FATF guidance as well as FinCEN's guidance on this important topic.

Anti-Money Laundering (AML)

30) William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (P.L.116–283) Section 6403(d)(1)(C) of the Anti-Money Laundering Act of 2020 (AMLA), dictates that FinCEN should “reduce any burdens on financial institutions . . . that are, in light of the enactment of [the AMLA] and the amendments made by [the AMLA], unnecessary or duplicative.”¹⁵

- a. Do you commit to eliminate any Customer Due Diligence (CDD) requirements imposed on financial institutions that are now unnecessary or duplicative in light of the enactment of the AMLA?

Answer: The AMLA creates a new reporting regime that requires reporting companies to report beneficial ownership information directly to FinCEN, and that provides for disclosure of this reported information to financial institutions to assist them in performing their required due diligence. The AMLA further directs Treasury to revise the existing CDD rule to bring the rule into conformance with the AMLA, account for the access of financial institutions to beneficial ownership information under the new reporting regime, and reduce unnecessary or duplicative burdens. I understand that Treasury personnel, to include FinCEN, are hard at work on the thoughtful implementation of these and other provisions of the AMLA. If confirmed, I will ensure that Treasury's AMLA implementation pays careful attention to the directions Congress provided in the AMLA, including the direction to reduce unnecessary or duplicative burdens.

¹⁵ H.R.6395 - William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (P.L.116–283).

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- b. What existing requirements on financial institutions can be reduced because they are unnecessary or duplicative in light of the enactment of the AMLA?

Answer: Treasury, including FinCEN, is at the beginning of the process of developing the regulatory framework to implement the AMLA’s reporting regime. As noted above, implementation of the AMLA will ultimately include a consideration of existing requirements in the CDD rule, with a focus on reducing unnecessary or duplicative burdens on financial institutions.

31) Under the AMLA, businesses are now required to report beneficial ownership information directly to FinCEN.

- a. As a result, should financial institutions still be required to continue to collect and report to FinCEN beneficial information on businesses?

Answer: Financial institutions collect beneficial ownership information as part of satisfying their customer due diligence obligations; my understanding is that they do not currently report beneficial ownership information to FinCEN. As noted above, implementation of the AMLA will ultimately include a consideration of existing requirements in the CDD rule, with a focus on reducing unnecessary or duplicative burdens on financial institutions.

- b. If FinCEN continues to require financial institutions to collect and report to FinCEN beneficial ownership information on businesses, should the CDD rule be replaced with a risk-based collection standard?

Answer: As noted above, implementation of the AMLA will ultimately include a consideration of existing requirements in the CDD rule. I anticipate that such a review could consider modifications or alternatives to the current rule.

- c. Will you commit to review whether the CDD rule is still necessary given that businesses are now required to report beneficial ownership information directly to FinCEN?

Answer: Yes. As noted above, the AMLA directs Treasury to revise the existing CDD rule to bring the rule into conformance with the AMLA, account for the access of financial institutions to beneficial ownership information under the new reporting regime, and reduce unnecessary or duplicative burdens. I intend to carry out this obligation.

32) AMLA exempts from beneficial ownership information reporting by non-profit organizations (non-profits) along with dozens of other exemptions from reporting requirement. Previous iterations of proposed—but not enacted—beneficial ownership legislation required exempt entities to provide some identifying information as a condition of receiving an exemption from reporting requirements. However, AMLA, as enacted, contains no such requirement. In fact, AMLA’s exemptions are self-executing and do not require exempt entities to provide any information to receive an exemption.

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FinCEN's Advance Notice of Proposed Rulemaking (ANPRM)¹⁶ implementing AMLA asks for public comment on what information non-profits should be required to file to receive an exemption from AMLA's beneficial ownership reporting requirements. This question suggests that FinCEN is considering issuing a rule that requires non-profits to provide information to receive an exemption, which is inconsistent with the legislative text and history of AMLA. The concerns that animated many members of Congress to oppose any requirement for exempt entities to provide identifying information related to the potential for confidential information to be leaked or otherwise made public. Unfortunately, such concerns have been validated by the recent unlawful leaks of confidential taxpayer information from the IRS. Notably, the IRS is required to use privacy safeguards more stringent than those AMLA requires of FinCEN for data related to beneficial ownership.

- a. In light of AMLA's text and legislative history and Treasury's repeated inability to safeguard Americans' confidential information, will you ensure that FinCEN's AMLA rule does not require non-profits to provide information to FinCEN in order to receive an exemption from beneficial ownership information reporting requirements?

Answer: I understand that the ANPRM sought comment from the public on numerous preliminary questions regarding implementation of the beneficial ownership reporting requirements. If confirmed, I commit to carefully considering the public comments, and to ensuring that any collection of information is consistent with applicable law. I also appreciate the importance of safeguarding confidential information and will ensure that privacy and information security are considered throughout Treasury's implementation of the AMLA.

¹⁶ Beneficial Ownership Information Reporting Requirements, 86 Fed. Reg. 17557.

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Questions for Mr. Brian Eddie Nelson, of California, to be Under Secretary for Terrorism and Financial Crimes, Department of the Treasury, from Senator Catherine Cortez Masto:

1) We only recently begun to develop machine learning technologies. What have you learned about machine learning and artificial intelligence's abilities and limitations to contribute to financial regulatory enforcement?

Answer: I believe it is essential for TFI to evaluate and where appropriate, incorporate new technologies, including machine learning technologies, into its financial regulatory enforcement mission. For example, machine learning could help address the challenge of digesting and analyzing large amounts of information. The Secretary recently discussed machine learning and artificial intelligence during a Treasury organized and hosted Financial Innovation Roundtable in February 2021, and I share her view of the importance of responsible innovation, both in the private and public sector.

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Questions for Mr. Brian Eddie Nelson, of California, to be Under Secretary for Terrorism and Financial Crimes, Department of the Treasury, from Senator Robert Menendez:

1) 1. In recent months, the Miami Herald has published investigations on how the Cuban regime has used a wide range shell companies in Europe and Asia to circumvent U.S. sanctions. I have written to the Secretary asking for the Treasury Department to investigate the Cuban regime's sanctions evasion maneuvers, as they also have implications for the efficacy of all of our sanctions frameworks.

a. How will you address these actions by the Cuban regime?

Answer: I share your concern with these reports of sanctions evasion by Cuban state actors, and the possible use of shell companies abroad to circumvent U.S. sanctions. If confirmed, I commit to looking into these reports and pledge to work with Treasury staff to effectively enforce violations of our sanctions programs, and to continue working with Congress to support the Cuban people.

2) In the last month, Nicaragua's Ortega regime has arrested four presidential candidates and over a dozen prominent leaders from the private sector and civil society. We have not seen an authoritarian crackdown of this nature in our hemisphere in decades. My RENACER Act requires a more strategic use of U.S. sanctions to address Ortega's dismantling of democracy and calls for the U.S. to use its financial tools to investigate the kleptocracy perpetrated by Ortega and his family.

a. If confirmed, what specific steps would you take to address the situation in Nicaragua?

Answer: I condemn authoritarian actions, including human rights violations. If confirmed, I pledge to work in close coordination with the State Department to hold Daniel Ortega and his allies accountable, and to promote a return to democratic processes in Nicaragua.

3) Where do you assess the US has leverage to impose sanctions on Burma that can actually move the needle of the juntas calculations?

a. How critical is it that we have cooperation from regional partners, including Singapore and Thailand, for success?

Answer: As President Biden stated when signing a new Executive Order in response to the February coup in Burma, the assault on Burma's transition to democracy remains an issue of deep bipartisan concern, and the United States has been in close contact with our allies and partners around the world, particularly in the Indo-Pacific region, driving vigorous diplomatic outreach to help coordinate an international response. If confirmed, I will vigorously enforce U.S. sanctions to ensure Burma's military junta is held accountable for its actions while avoiding unintended impacts to the people of Burma.

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4) In 2018, the Treasury Department for the first time identified and published digital currency addresses associated with two sanctioned individuals based in Iran who helped exchange Bitcoin for Iranian cybercriminals that used ransomware to extort millions of dollars from over 200 victims.

- a. How do you assess the impact of the growth of cryptocurrencies on our sanctions regimes? How do we make sure increased use of cryptocurrencies don't undermine our use of sanctions to affect foreign policy goals?

Answer: Malign actors and rogue regimes cannot be permitted to utilize cryptocurrency or digital assets as a means to evade sanctions and violate U.S. law. OFAC has imposed sanctions on a wide range of entities and individuals known to abuse cryptocurrencies, including ransomware perpetrators and facilitators, Chinese fentanyl vendors, Chinese crypto launderers, North Korean state actors, Russian nationals stealing digital currency from U.S. and international victims, as well as Russian state actors abusing cryptocurrency to benefit a Russian troll farm. Where appropriate and available, OFAC will continue to list digital currency addresses on its Specially Designated Nationals and Blocked Persons List, or "SDN List." Inclusion of these identifiers enables the private sector to, among other things, more easily screen for and prevent digital currency payments associated with sanctioned persons.

If confirmed, I will examine Treasury's tools and authorities to combat this illicit activity and to ensure that Treasury staff, including sanctions investigators, are fully equipped to deal with the challenges posed by cryptocurrency and digital assets to evade sanctions and finance terrorism. Further, I will work closely with Secretary Yellen, the Federal Reserve Board, and other federal banking and securities regulators, including the Securities and Exchange Commission and the Commodities Futures Trading Commission, as well as Congress, on how to implement an effective regulatory framework for these and other innovations in financial technology.

5) Given China's growing power in international financial markets, what adjustments do you think are needed to how we think about sanctions with regards to the PRC so that we don't end up reading short term sanctions success for China's creation of alternate international financial architecture that render the sanctions toolkit ineffective over the longer term?

Answer: As Deputy Secretary Adeyemo has noted, competition with China and Chinese statecraft is one of the central challenges that the United States and its allies and partners face in the 21st century. If confirmed, I will commit to ensuring that Treasury's sanctions policies are aligned to promote U.S. economic and financial preeminence and the attendant power of U.S. sanctions.

When addressing major foreign policy and national security challenges such as these, we must leverage a broad range of tools. Increasingly prominent among these tools are economic sanctions, the aggressive use of which has resulted in notable successes, but has

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also created anticipated and unanticipated challenges. I believe the United States must be judicious in the use of its sanctions to limit and mitigate unintended consequences. To do this, we must thoroughly analyze not only the ramifications of individual actions, but also these actions' collective impact on the continued effectiveness of the sanctions tool, including to the U.S. dollar's status as the reserve currency of choice. If confirmed, I will work with experts across Treasury as part of the ongoing sanctions review process to identify potential areas for improvement in the deployment of our sanctions and to mitigate against the creation of alternative international financial architectures that could erode the effectiveness of our sanctions.

6) CAATSA section 228 requires secondary sanctions on any entity that does business with a Specially Designated National.

- a. Do I have your commitment that you will work to fully implement this provision?

Answer: Yes, if confirmed, I commit to working to implement Section 228 of the Countering America's Adversaries Through Sanctions Act (CAATSA) (P.L. 115-44).

7) A sanctions regime is intended as a tool, not end-point, for broader policy objectives.

- a. Given that the Biden Administration's North Korea policy review suggests a different approach to dealing with the DPRK than the Trump administration's feckless and failed effort, are there changes to the sanctions regime - tighter or looser or simply different - that you'd recommend so that sanctions and diplomacy are fully complimentary?

Answer: I am deeply concerned by reports of North Korea's nuclear and ballistic missile capabilities, along with widespread systemic human rights abuses. If confirmed, I will carefully review available options to address these threats, including diplomacy and pressure options, and will not hesitate to use Treasury authorities to target malign actors and address sanctions evasion wherever appropriate. We will continue to work closely with regional partners to address these threats.

8) Venezuela's Maduro regime is involved in a wide range of criminal activities: from alleged crimes against humanity to drug trafficking to a massive campaign of corruption and kleptocracy. The U.S. has responded with a range of reciprocal actions to deter Maduro's actions.

- a. If confirmed, how will you advocate that the U.S. use its sanctions as leverage in order to curb the Maduro regime's criminal activities and forge a diplomatic breakthrough that leads to new elections in Venezuela?

Answer: The power and integrity of the U.S. government's sanctions derive not only from the ability to sanction actors when appropriate, but to lift sanctions in a manner

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consistent with the law when a program’s goals are met. If confirmed, I will ensure that Treasury will be prepared to implement sanctions consistent with the Administration’s foreign policy goals to restore core democratic processes and institutions in Venezuela. If confirmed, I will not hesitate to explore additional targeted actions should the regime demonstrate that it is not acting in good faith.

9) The Maduro regime has facilitated a massive expansion of illicit gold mining in Venezuela, which includes trafficking routes to Turkey and the Middle East, and has led to widespread environmental devastation in Venezuela.

a. What steps will you take to address Maduro’s illicit gold trade?

Answer: I am very concerned regarding reports of human rights abuses, widespread environmental devastation, and other security threats stemming from illicit gold mining in Venezuela. If confirmed, I will work with our interagency partners to investigate reports of illicit gold mining activities, and to explore sanctions and using the full suite of our economic authorities and diplomatic leverage should the evidence indicate that such actions will be both feasible and impactful. Under E.O. 13850, Treasury has the ability to sanction any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to operate in the gold sector of the Venezuelan economy.

10) New Jersey and 47 other states have passed legislation authorizing some form of cannabis for regulated medical or adult-use purposes. But we all know that businesses that serve this market have found themselves shut out of the banking system and forced to operate exclusively in cash, often depriving them of banking products and creating serious public safety risks in our communities.

The SAFE Banking Act, which I cosponsored, would fix this problem by allowing banks to provide financial services to cannabis businesses. I also introduced the CLAIM Act, which would ensure that legal marijuana and related businesses have access to comprehensive and affordable insurance coverage.

a. Would allowing state-regulated marijuana businesses to access financial services reduce the public safety risk and allow these legal businesses to operate like other businesses?

Answer: This is an important and complex issue, given the current treatment of marijuana under federal law. If confirmed, I commit to evaluating information regarding the operation of state-regulated marijuana-related businesses (MRBs), and working with Congress to address this issue in a way that helps to ensure public safety and equitable access to financial services.

b. Is congressional action needed so that businesses that serve state-regulated marijuana markets can have access to financial services?

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Answer: Given the current treatment of marijuana under federal law, the decision to provide services to an MRB is a risk-based decision that each financial institution must independently assess under its risk-based approach to Bank Secrecy Act compliance.

11) In 2013, the Obama Administration authorized U.S. companies to apply for Treasury Department licenses to engage in the agriculture, telecommunications, and energy sectors in areas of Syria outside of President Bashar al-Assad’s control. Just last month, Treasury’s Office of Foreign Assets Control revoked the license of U.S. company Delta Crescent Energy, who had been working with the Autonomous Administration of North and East Syria (AANES) to refine and secure oil export contracts. State Department officials stated this decision was undertaken because the United States is in Syria, “for the people, not for the oil.” However, in the absence of this partnership, it seems likely that oil generated in Northeast Syria will ultimately benefit the Syrian regime and its external backers (Russia), undermining the broader intent of the U.S. Syria sanctions regime.

- a. Please clarify the rationale behind this decision within the context of broader U.S. Syria policy.
- b. How will the Administration ensure that the product of Syria’s oil fields benefit neither ISIS, Russia, nor the Assad regime (including through sales to middlemen who sell back to the regime), and that the AANES has a means of self-sustainment that does not benefit the regime?

Answer: I support the Administration’s foreign policy priorities in Syria. If confirmed, I will work to ensure vigorous enforcement of Treasury’s Syria-related sanctions authorities, including those that prevent the flow of funds to the Assad regime.

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Questions for Mr. Brian Eddie Nelson, of California, to be Under Secretary for Terrorism and Financial Crimes, Department of the Treasury, from Senator Chris Van Hollen:

1) From the Microsoft hack, to Solar Winds, Colonial Pipeline, JBS (the world's largest meat supplier), and many others, it's clear that malicious cyberattacks are on the rise and have no signs of abating. Some of these may be profit-motivated economic espionage or theft, while others have a national security or intelligence gathering purpose.

- a. Given this landscape, what role should sanctions play in imposing consequences on cybercriminals, and should the US government increase the use of sanctions on these criminals?

Answer: Malicious cyber-attacks are a threat to our national security. Sanctions are a very powerful tool to respond to unusual and extraordinary threats to the national security, foreign policy, or economy of the United States that originate in whole or in substantial part outside the U.S. Depending on facts and circumstances, sanctions can be one of several tools that the U.S. government can use with the goal of imposing costs on those engaged in malicious cyber activity and deterring this malign behavior. Treasury has designated numerous malicious cyber actors under its cyber-related sanctions program and other sanctions programs, including perpetrators of ransomware attacks and those who facilitate ransomware transactions. If confirmed, I commit to continuing to find effective ways to use all appropriate tools, including sanctions, to take impactful action against cyber criminals.

- b. Do you believe sanctions for malicious cyberattacks might have real deterrence value? If not, what benefit might they provide?

Answer: Sanctions can be powerful tools to place restrictions on designated persons and entities and deter malign behavior. Sanctions are particularly effective when deployed in coordination with other U.S. government efforts and in coordination with sanctions and non-sanctions actions by allied and partner governments. For instance, in September 2020, Treasury targeted cybercriminals that used sophisticated schemes to steal account holders' passwords and steal the balances of the victims' virtual currency accounts. Simultaneously with the imposition of sanctions by Treasury, DOJ unsealed an indictment against the targeted cybercriminals, sought the civil and criminal forfeiture of assets traceable to the alleged crimes, and the United States Secret Service seized millions of dollars in stolen virtual currency and U.S. dollars. Multipronged actions like this send a clear message to all cybercriminals that the U.S. government will take aggressive action to disrupt their malicious cyber activities, to hold them accountable, and to protect the international financial system.

- c. Do difficulties in attributing the activities of individuals to nation-states make cyber sanctions less effective? Are there ways to overcome this evidentiary hurdle?

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Answer: Treasury’s sanctions programs targeting significant malicious cyber-enabled activities, whether by individuals or state actors, is an important and valuable tool. If confirmed, I commit to continuing Treasury’s close collaboration with law enforcement, the intelligence community, and others to ensure that OFAC continues to have access to relevant, available information to assess opportunities for action. Treasury has an important role to play in the whole of government effort against malicious cyber activities and protecting our financial system from such threats.

- d. How might cyber sanctions be coupled with other actions, including other forms of economic pressure, in order to develop a comprehensive and cohesive strategy toward the nation-states and/or organizations being targeted?

Answer: The growing threats posed by malicious cyber activity call for a whole-of-government effort to respond to such threats, including raising awareness about cybersecurity and resilience measures for the private sector. Where appropriate, sanctions should be considered, in addition to other authorities granted to Treasury. In certain cases, bilateral engagement may be an effective step in persuading allied and partner governments to take action against cyber criminals or their associated networks of supporters and facilitators. The whole-of-government response to the SolarWinds incident was a compelling example of the U.S. government using a wide range of tools, including imposing new sanctions against Russian entities to impose costs on the Russian government for its actions against U.S. interests.

2) Relatedly, many cyberattacks today come in the form of ransomware and other cyber-attacks involving the use of cryptocurrency. North Korea, for example, has engaged in cybercrime to launder and steal billions in cryptocurrency in an effort to generate income (and evade sanctions) in ways that are harder to trace and subject to less government oversight than the traditional banking sector.

- a. One important aspect of combatting illicit financing threats is transparency, and ensuring we have the information that we need to go over bad actors. The ability for criminals to engage in regulatory arbitrage by using foreign cryptocurrency exchanges that are not subject to the same anti-money laundering obligations as those in the US is troubling. Are there ways that we might be able to reduce this type of regulatory arbitrage?

Answer: I appreciate this concern. I recognize that the potential to send virtual assets nearly instantaneously and irrevocably across borders can increase illicit finance risks. For this reason, under the U.S. Presidency of the FATF, the FATF in June 2019 amended 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.

Many jurisdictions continue to make progress in implementing these requirements, but gaps in global implementation exist, which enable the continued misuse of virtual assets

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through jurisdictional arbitrage. More remains to be done to address this concern, and if confirmed, I look forward to continuing this important work.

If confirmed, I will ensure that Treasury actively encourages all jurisdictions to implement the FATF standards and work with the private sector to promote compliance with the international requirements. Treasury will also work with like-minded jurisdictions to ensure this is a multilateral push for global implementation.

- b. Do you think our current sanctions and AML regimes broad enough to effectively target bad actors when they engage in illicit activities through cryptocurrency? Are there ways that we might want to modernize our regimes to fully encompass these types of transactions?

Answer: The U.S. sanctions regime prohibits certain transactions involving property in which any foreign country or a national thereof has any interest. Such transactions subject to regulation may include convertible virtual currency, such as a cryptocurrency, in addition to those in traditional fiat currency. Similarly, Treasury administers a technology-neutral AML regulatory framework. If confirmed, I look forward to continuing this important work to deter illicit activities involving cryptocurrency.

As you know, cryptocurrencies can allow greater anonymity and pseudonymity than the traditional financial system in holding and transacting funds, and they simultaneously can enable the transfer of large amounts of value cross-border irrevocably and almost instantly. Cryptocurrencies can also permit the transmission of value by users without reliance on a financial intermediary on which AML/CFT obligations are placed. These features can present novel challenges. For example, bad actors can use different methods to obscure the traceability on such public blockchains, and the underlying protocols supporting such blockchains may change over time. Furthermore, there are certain cryptocurrencies that by their design are not transparent.

Thoughtful regulation requires a balancing between benefits and risks. If confirmed, I will continue Treasury's important work to continue to refine the sanctions and AML regimes to keep pace with new threats, including illicit typologies associated with cryptocurrencies and other emerging financial technology. If confirmed, I would work closely with this Committee and TFI personnel to ensure that evolution carefully balances risk mitigation against the costs and other burdens imposed on industry and innovation.

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Supplemental Questions for the Record from Ranking Member Toomey

**for Brian Eddie Nelson, to be Under Secretary For Terrorism And Financial Crimes,
Department of the Treasury**

**June 22, 2021 Nomination Hearing
before the Senate Committee on Banking, Housing, and Urban Affairs**

1. Enacted in July 2020 with unanimous bipartisan support, the Hong Kong Autonomy Act (HKAA) (P.L. 116-49) is an essential tool in holding individuals and foreign banks accountable when they assist Beijing in violating China's obligations to Hong Kong under the Joint Declaration and Basic Law. HKAA requires sanctions on entities that materially contribute to the erosion of Hong Kong's autonomy, and foreign banks conducting significant transactions with those entities. On March 16, 2021, the Biden administration identified 24 previously sanctioned officials undermining Hong Kong's freedoms pursuant to Section 5(a) of the HKAA, yet it failed to identify any foreign financial institutions (FFIs) doing business with persons identified under Section 5(a).
 - a. If confirmed, will you commit to prioritizing the investigation of foreign financial institutions (FFIs) doing business with the individuals sanctioned under HKAA?

Answer: Yes, if confirmed, I will commit to identifying FFIs who may be doing business with individuals sanctioned under the HKAA.

- b. If confirmed, will you commit to notifying me in writing, within thirty days of your confirmation, why no foreign financial institutions that have been doing business with persons identified under Section 5(a) have been identified thus far?

Answer: If confirmed, I will commit to looking into why no foreign financial institutions that have been doing business with persons identified under Section 5(a) have been identified thus far. I will also commit to keeping Congress informed of Treasury's actions in a timely manner.

2. On June 24, Senator Chris Van Hollen (D-MD) and I sent a letter to President Biden urging his administration to use the HKAA to identify and sanction entities materially contributing to the Chinese Communist Party's assault on *Apple Daily*, the last pro-democracy newspaper in Hong Kong, and its founder Jimmy Lai.¹⁷ Last month, *Reuters* reported that Hong Kong Security Secretary John Lee ordered HSBC and Citibank's respective Hong Kong branches to freeze Jimmy Lai's accounts—they appear to have

¹⁷ Senator Pat Toomey, Letter to President Joseph R. Biden Concerning *Apple Daily* Closure, 24 June 2021, https://www.banking.senate.gov/imo/media/doc/toomey_van_hollen_letter_to_pres.biden.pdf.

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complied.¹⁸ After 500 policemen raided *Apple Daily*'s offices in June,¹⁹ Hong Kong's Security Bureau ordered banks to freeze the newspaper's assets, leading to its closure.²⁰ Section 5 of the HKAA requires the administration to identify foreign entities that are "materially contributing" to the "inability of the people of Hong Kong to enjoy the freedom of assembly, speech, press, or independent rule of law." It seems very likely that the breathtaking crackdown on Jimmy Lai and *Apple Daily* involves numerous foreign persons to whom Section 5 of the HKAA applies.

- a. If confirmed, will you commit to investigating and identifying any entities to whom Section 5 of the HKAA applies, specifically those involved in the suppression of *Apple Daily* and Jimmy Lai?

Answer: Yes, if confirmed I will commit to looking into the crackdown on Jimmy Lai and *Apple Daily* and fulfilling Treasury's responsibilities under Section 5 of the HKAA.

- b. It is our understanding that the orders to the aforementioned banks were issued in an extrajudicial manner, by a single official outside of the court system, and without any criminal charges or subpoenas. In light of the clampdown on *Apple Daily*, and the events that have unfolded in the year since China imposed a national security law on Hong Kong, do you believe the rule of law still exists in Hong Kong?

Answer: I am deeply concerned by reports of recent events including the clampdown on *Apple Daily*, as well as the events over the past year to erode the autonomy of Hong Kong and repress its people. I believe China should abide by the rule of law and support freedoms enshrined in the Basic Law of Hong Kong.

¹⁸ "Exclusive: Hong Kong Security Secretary Threatened Bank Not to Conduct Account Transactions with Li Zhiying by Going to Jail (Translated via Google)." *Reuters* (China), 27 May 2021, <https://cn.reuters.com/article/exclusive-hk-0527-thur-idCNKCS2D80P8>.

¹⁹ Munroe, Tony. "HK's Apple Daily Raided by 500 Officers over National Security Law." *Reuters*, 17 June 2021, www.reuters.com/world/asia-pacific/hong-kongs-apple-daily-newspaper-says-police-arrest-five-directors-2021-06-16/.

²⁰ Ho, Kelly. "Hong Kong's Apple Daily May Halt Publication This Sat, Pending Fri Board Meeting." Hong Kong Free Press, 21 June 2021, <https://hongkongfp.com/2021/06/21/breaking-hong-kongs-apple-daily-may-haltpublication-this-sat-pending-fri-board-meeting/>.