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Questions for Treasury Secretary Nominee Lew

The Constitution requires the Senate consent to many senior executive branch nominations, which provides the Senate a fixed and critical point to review the President's policies. Nominee Jack Lew has served as White House Chief of Staff and Office of Management and Budget Director in the Obama Administration. The Administration's budget failures are well known. Here are a set of questions related to how Jack Lew, if confirmed as Secretary of the Treasury, might advise the President and implement policies on critical fiscal issues.

Medicare Trigger

Current law requires the Administration to send legislation to Congress whenever the Medicare Trustee's Report includes an "excess general revenue Medicare funding" warning. This means the Medicare program will rely on money from the Treasury's general revenues to cover more than 45 percent of its expenses in a given year. By law, when Medicare gets into that situation the President must submit, within 15 days of his next budget, a detailed legislative proposal to stem the crisis. The trustees have issued such a warning every year since 2007. The Bush Administration followed the law and submitted legislation that would have resolved immediate trust fund issues. The Obama Administration has yet to submit legislation even though this funding warning has been issued every year President Obama has been in office. Republicans have urged the Administration to comply with the law to no avail.

- The Treasury Secretary is the head trustee, and as OMB director you ignored the Trustees' warning. If confirmed, would you issue this warning, and would you advise the President to comply with the law?

Health Care Law's Medicare Budget Gimmick

Rather than confronting the looming entitlement crisis, President Obama's health care law raided more than $700 billion dollars from the Medicare program – not to save Medicare, but to start a brand new program. The President claims these Medicare cuts make the program more solvent. At the same time, the President also claims these Medicare cuts will pay for the cost of his new health insurance entitlement.

As the Medicare actuary pointed out, "In practice, the improved [hospital insurance] financing cannot be simultaneously used to finance other Federal outlays (such as coverage expansions under the [health care law]) and to extend the trust fund, despite the appearance of this result from the respective accounting conventions."

The Congressional Budget Office reiterated this conclusion saying: "the majority of the HI trust fund savings under [the health care law] would be used to pay for other spending and therefore would not enhance the ability of the government to pay for future Medicare benefits. To describe the full amount of [Medicare] trust fund savings as both improving the government's ability to pay future Medicare benefits and financing new spending outside of Medicare would essentially double-count a large share of those savings and thus overstate the improvement in the government's fiscal position."

- The health care law's Medicare cuts cannot extend the program's long-term solvency at the same time those dollars are being spent on President Obama's new health insurance program. As a future trustee, do you disavow the Administration's false statements that the Medicare cuts can serve both functions without adding to the deficit?

Budget

The President's budgets have been voted down unanimously in Congress. They have added record amounts to our national debt. Yet as OMB Director, you said, "Our budget will get us, over the next several years, to the point where we can look the American people in the eye and say we're not adding to the debt anymore."

- The last White House budget saw deficits shrink modestly in the first few years, and then increase again. The long-term picture is even worse: OMB's own numbers showed deficits skyrocketing – deficits go from 2.8 percent of GDP in 2020 to nine percent of GDP in 2085. These deficits are driven primarily by entitlement and health costs. Why has the Administration not proposed structural reforms that will give us long-term stability?

If confirmed, you would be the managing trustee for two programs – Social Security and Medicare – that will go bankrupt without reform. With regard to Social Security, without reform beneficiaries will have their payments automatically and permanently cut by 25 percent in 2033. This means that Americans turning 47 this year will never see full Social Security benefits at retirement.

- Would you advise the President to propose reforms to entitlement programs to prevent these drastic cuts?
- The fiscal condition of Social Security is the worst this nation has seen since before the 1983 reforms. Those reforms were precipitated by the 1981 appointment of the Greenspan Commission by Congress and President Reagan. Why have you and the President not made an effort to improve Social Security's finances, and why did you turn your backs on the Simpson-Bowles Social Security reforms?

When you said that the Obama budget would get us to a point where "we can look the American people in the eye and say we're not adding to the debt anymore," you seem to have been referring to the concept of "primary balance," where revenues equal spending other than interest payments on the debt.

- Any deficit does – by definition – "add to the debt" does it not?

The entire idea of primary balance does not restrain our budget deficit. If interest rates rise, then our interest costs skyrocket, then our deficit skyrockets, but technically we would still be in primary balance. This would be a vicious cycle, because under this idea that primary balance is the best goal we should strive for, the interest rate on Treasuries determines the fiscal health of our country. If the market one day decides that they won't loan to us except under higher interest rates, our deficit will go up. This leads to more debt, more need for borrowing, and even higher interest rates.

- Why should we only strive for primary balance, given the inherent fiscal uncertainty that such an uninspiring goal would give us?
- Would you prefer a proposal that gets us closer to real balance?

Cayman Islands

You invested $56,000 of personal funds in a Citigroup venture capital fund that was based at Ugland House in the Cayman Islands. This address has been a favorite punching bag of Democrats – including President Obama – for being the legal home of nearly 19,000 companies. This investment by you -- though perfectly legal -- does raise concerns, given the President's position on multinational corporations.

- When working for Citigroup, did you ever raise concerns with the practice of making the Cayman Islands the legal home of Citigroup investment funds?
- Did you know that this fund was based in the Cayman Islands when you invested? If not, when did it come to your attention?
- Do you agree with President Obama's 2008 statement that basing corporations in Ugland House is "the biggest tax scam on record?"
- If confirmed, in light of your experience with Cayman investments, how would you advise the President on international tax issues?

Housing

Recovery of the housing markets is critical for economic recovery for our nation. Federal Reserve Chairman Ben Bernanke has said: "the housing revival still faces significant obstacles, and the benefits of that revival remain quite uneven. Strengthening and broadening the housing recovery remain a critical challenge for policymakers, lenders, and community leaders. The degree to which that challenge is met will help determine the strength and sustainability of the economic recovery and the extent to which its benefits are broadly felt."

- Between FHA, VA, the GSEs and other programs, the federal government is subsidizing virtually all mortgages that are being made today. Former Treasury Secretary Geithner said for years that it is important to reduce the government's role in the housing market. He issued a white paper well over a year ago with a number of high-level options but with no plan for housing finance reform. When is the Administration going to tell us what it thinks needs to be done to ensure that taxpayers aren't taking responsibility for every mortgage that is made across the country?

- Secretary Geithner also has said that getting private capital back into the housing market is key to ensuring that we have a sustainable economic recovery. But the fact that Dodd-Frank rules relating to risk retention and other issues remain incomplete has left lenders and investors guessing about the rules of the road in the mortgage market and other sectors of the economy. When do you anticipate the risk retention/QRM rules to be finalized, and how will you ensure that these rules do not continue to inhibit the flow of private capital into the economy?

Banking

As the Secretary of the Treasury, you will have the role of Chairman of the Financial Stability Oversight Council, created by the Dodd-Frank Act to identify and mitigate threats to the stability of the U.S. financial system. The tools given to the council can have a tremendous impact to the financial systems with lasting and irreversible consequences. Accordingly, it is important that the council exercise discretion and use these tools only when all other alternatives have been exhausted.

- Dodd-Frank provides the council the authority to “designate” non-bank financial companies as Systemically Important Financial Institutions (SIFI) subject to enhanced prudential standards and heightened supervision by the Federal Reserve. In rulemaking last year, the council issued guidance on the process it intends to follow for designation. However, final rules have yet to be issued on the definition of “predominantly engaged in financial activities” and the enhanced prudential standards. If it has not yet been determined who is eligible to be designated and what the consequences of designation are, how would you propose addressing SIFI designations of non-bank financial companies?

- There has been an increasing debate from industry observers about the need for additional measures to address too big to fail. FDIC Vice Chairman Tom Hoenig and Richard Fisher, president of the Dallas Federal Reserve, have surmised that Dodd-Frank did not end “too big to fail.” They have said that efforts should be made to segregate banking from commerce, and eliminate the government safety net for banks that engage in both activities. What are your thoughts about the necessity of breaking up the big banks?

Corporate end users, those who hedge underlying commercial risk using derivatives, have a number of concerns about how the implementation of the Dodd-Frank Act is unfolding. Despite the very clear intent of Congress to create this exemption in Dodd-Frank, it has been said that the statue is ambiguous because the CFTC and the Fed have taken very different approaches to implementation.

- Do you agree with Chairman Bernanke that end user swaps used to hedge risk do not pose any appreciable risk to the financial system? If so, do you support legislation to create a clear end user exemption from regulatory margin requirements?