The United States Senate
COMMITTEE on FINANCE
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Wyden Remarks on Mnuchin Nomination for Treasury Secretary

As Prepared for Delivery

Aside from the president, there may be no individual with a tighter grasp on the levers of this country's economy than the Secretary of the Treasury. That's been true since the days of Alexander Hamilton.

When you read about the nominee for Treasury Secretary, given all the power that position holds, you hope not to see phrases like "foreclosure machine," "redlining," "offshore funds," and "predatory lending."

I'm sure today's hearing will cover a wide range of matters, whether it's Mr. Mnuchin's background and qualifications or the incoming administration's policy agenda. I'll start with a topic that cuts across all those matters: the truly disgusting inequity and abuse of America's tax laws.

The tax code today is a tale of two systems. For wage earners like cops and nurses, there are no special tax dodging strategies or loopholes. The rules that apply to them are firm and involuntary. Once or twice a month, their taxes come straight out of their paychecks, no cutting corners.

The rules are different for the powerful and well-connected. They have armies of lawyers and accountants at their disposal. With the right advice, the most fortunate individuals in this country can decide how much tax to pay and when to pay it.

Let's look at Mr. Mnuchin's history. There's no clearer example than Mr. Mnuchin's hedge fund setting up outposts in Anguilla and the Cayman Islands, an action that can be explained only by the islands' zero percent tax rate. It certainly wasn't for ease of commute or the infrastructure. In Mr. Mnuchin's case, millions of dollars in profits from Hollywood exports like the movie Avatar were funneled to an offshore web of entities and investors.

When Mr. Mnuchin's bank was up for a merger that had the potential to deliver a huge financial gain, a foundation he chaired reportedly used tax-exempt dollars to fund an astroturfing campaign pushing for the deal's approval. In the public comment period of a potential merger, this is the equivalent of stuffing the ballot box.

Mr. Mnuchin also operates seven personal trusts, including one known as a "dynasty trust" that will shield tens of millions of dollars from taxes. In my view, if you look back in our history, this nation was founded to reward merit, not to perpetuate dynasties.

Now, as a nominee for a cabinet position, Mr. Mnuchin could be in line for a special, elective, federal tax deferral on money made by selling stocks and bonds. That is the very definition of getting to pay what you want, when you want.

There's a common answer when these kinds of tax tricks come under a spotlight. It's said that the people who use them are just following the laws on the books, and that might be true.

The outrage in tax law is what's legal, and that every member of the Senate has allowed it to stay legal. In my view, this outrage will only change when taxpayers are no longer divided into two very different sets of tax rules.

That provides a segue into important policy questions. Setting aside Mr. Mnuchin's finances and background, the tax reform agenda already being advanced by the incoming administration would perpetuate – and in fact worsen – the unfairness in the tax code on the books today.

On the campaign trail, the president-elect delivered lots of tough talk about fixing the tax system. He said he alone could fix it because he'd spent a career using the system to his advantage. As for the details, the few tax reform position papers the president-elect's team put forward didn't get much attention outside the business pages.

But just after Mr. Mnuchin's nomination was announced, he laid down a clear and specific marker. I'll quote Mr. Mnuchin directly: "Any reductions we have in upper income taxes would be offset by less deductions, so there would be no absolute tax cut for the upper class..."

I'll repeat that last part, and for the sake of brevity, I'm going to start calling it the Mnuchin Rule: "...no absolute tax cut for the upper class..."

Let's take stock of what's already happening on Capitol Hill, even before inauguration day. The first major act of the unified Republican government, repealing the Affordable Care Act, would immediately violate the pledge of no tax cuts for the wealthy. Bottom line, the ACA repeal scheme that kicked off last week is a Trojan horse of tax breaks for the most fortunate. It's paid for by taking tax benefits for health insurance away from millions of working people.

Then it's back for round two later in the year, under an emerging Republican plan to fast-track an even bigger tax break for the wealthy. In my view, this is proof that the campaign promises about fixing the tax system were just an elaborate head fake. For example, the president-elect said he'd close the carried interest loophole, a favorite of investment fund managers, but his plan actually gives them a 25 percent tax cut. In fact, it slashes tax rates for corporations and the wealthy across the board at a cost of trillions of dollars. So it sounds like the Mnuchin Rule is already on the ropes.

What would the new administration's tax plan do for people of more modest incomes? Millions of working Americans, mostly single parents, would get hit with tax increases because they'd lose head of household status when they file.

If you wanted to write a tax plan that would push even more Americans out of the economic winner's circle, this is how you'd do it.

Given how central tax policy is to our jurisdiction, I hope the committee is able to discuss those issues today. But of course the Treasury Secretary and this committee handle a lot more than taxes, so there are other concerns that need to be raised. On a broad level, it's my view that Senators will have to make a judgement call about the sort of individual they believe should lead the Treasury Department.

Mr. Mnuchin's career began in trading the financial products that brought on the housing crash and the Great Recession. After nearly two decades at Goldman Sachs, he left in 2002 and joined a hedge fund. In 2004, he spun off a hedge fund of his own, Dune Capital. It was only a few lackluster years before Dune began to wind down its investments in 2008.

In early 2009, Mr. Mnuchin led a group of investors that purchased a bank called IndyMac, renaming it OneWest. OneWest was truly unique. While Mr. Mnuchin was CEO, the bank proved it could put more vulnerable people on the street faster than just about anybody else around.

While he was CEO, a OneWest vice president admitted in a court proceeding to "robo-signing" upward of 750 foreclosure documents a week. She spent less than 30 seconds on each, and in fact, she had shortened her signature to speed the process along. Investigations found that the bank frequently mishandled documents and skipped over reviewing them. All it took to plunge families into the nightmare of potentially losing their homes was 30 seconds of sloppy paperwork and a few haphazard signatures.

These kinds of tactics were in use between 2009 and 2014, a period during which the bank foreclosed on more than 35,000 homes. "Widow foreclosures" on reverse mortgages – OneWest did more of those than anybody else. The bank defends its record on loan modifications, but it was found guilty of an illegal practice known as "dual tracking." One bank department tells homeowners to stop making payments so they can pursue modification, while another department presses on and hurtles them into foreclosure anyway.

OneWest made only two loans to African American borrowers in 2014 and 2015, according to an analysis of federal data by the California Reinvestment Coalition. Just a fraction of its branches occupied storefronts in minority communities, and none were in predominantly African-American communities. But minorities still represented a disproportionately large share of the people booted out of their homes.

Under Mr. Mnuchin, OneWest churned out foreclosures like Chinese factories churned out Trump suits and ties. And with the combination of extreme foreclosure tactics and a bailout from the FDIC, OneWest became a rainmaker for Mr. Mnuchin and his fellow investors. At precisely the same time the foreclosure machine was running, OneWest funds were poured into glamorous investments in Hollywood.

In 2012, OneWest struck an agreement to loan hundreds of millions of dollars to a movie studio called Relativity Media. In 2014, while he was the CEO of OneWest's holding company, Mr. Mnuchin bought his own stake in Relativity. He took a seat in the boardroom and was appointed co-chairman. He even bought a private jet with Relativity's co-founder.

But the company quickly tanked. OneWest pulled out 50 million dollars, emptying several Relativity accounts, including one earmarked for guild expenses that included wages for contractors and tradesmen. Mr. Mnuchin bailed out just before the studio declared bankruptcy.

There have been press reports that the FBI has denied a Freedom of Information Act request concerning Relativity Media, on the ground that disclosure is likely to interfere with a pending law enforcement proceeding. I have read the FBI background report on Mr. Mnuchin, and I saw no discussion of any such enforcement action in the report. That may be entirely appropriate, but I would like to continue to work with the Chairman to find out what the enforcement proceedings cited in the FOIA denial are and how they relate to the nominee, if at all.

For Mr. Mnuchin, Relativity's failure wasn't much of a setback, considering the profits that OneWest's foreclosure machine was still pulling in. The purchase price of the bank in 2009 was less than 1.6 billion dollars. After five years of foreclosures and profits, it sold for 3.4 billion dollars to CIT Group.

Outside OneWest and Relativity, Mr. Mnuchin spent years as a director of the holding company that owned Sears, an iconic American brand. He served on the committee that watchdogged the Sears' employee pension fund. The record shows the plan was routinely mismanaged and underfunded.

Retirees recently saw their pensions cut, losing a monthly health care stipend that was enough to offset roughly a third of the premiums seniors pay for Medicare Part B. Sears has also shuttered hundreds of stores nationwide over the last few years, and recently announced another round of closures.

Once again showing his impressive capacity to advantage himself while others fell behind, Mr. Mnuchin joined a small group of investors that spun off the company's real estate into a separate trust. It was arguably the most valuable asset Sears had left. So as retirees watch their pensions shrink and Sears' remaining workers worry face an uncertain future, this small number of powerful individuals made out fine.

As I wrap up, I want to step back for just a moment to talk about the role of Secretary of the Treasury. The person who leads the Treasury Department has influence over Americans' paychecks and mortgages, the caliber of job opportunities they face, the safety and stability of the financial system that holds and invests their hard-earned dollars, and much more. They have the power to help reverse decades of yawning inequality that have hollowed out the middle class, dimmed the hopes of younger generations and left millions buried in debt.

The Treasury Secretary ought to be somebody who works on behalf of all Americans, including those who are still waiting for the economic recovery to show up in their communities. When I look at Mr. Mnuchin's background, it's a stretch to find evidence he'd be that kind of Treasury Secretary.

That said, Mr. Mnuchin, I appreciate your willingness to serve and answer questions before this committee, and I look forward to your testimony.

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