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United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

March 21, 2022

The Honorable Janet Yellen
Managing Trustee; Social Security and Medicare Trust Funds
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Secretary Yellen,

The Social Security Act requires that reports analyzing the current and projected financial status of both the Social Security and Medicare trust funds be issued annually, and no later than April 1 of each calendar year.¹ According to the U.S. Government Accountability Office (GAO), the trustees have consistently failed to release these mandated reports to Congress on time. In 2019, GAO stated that the trustees had missed their statutory deadline in 17 of the preceding 25 years.² The 2021 trustees report was released 152 days late, with little-to-no information provided to the public and to Congress explaining the reasons for, and the expected duration of, the delay.

Regrettably, 2008 was the last year in which the statutory reporting deadline had been satisfied. Congress continues to make key decisions regarding fiscal spending and long term outlays through the current budgetary window (2022-2031). Either through reconciliation or regular order, there is every expectation that Congress will consider additional health care related legislation this year. Before Congress debates any further legislation that impacts either the Medicare or Social Security programs, it is imperative that policymakers have accurate and timely information regarding the financial operations of these critical safety-net programs. Exacerbating this problem further, since 2016, there have been no public trustees confirmed to serve as public voices in communicating the state of the trust funds to the American public. Denying participation of public trustees in the report development process effectively denies the American people a voice when it comes to Social Security and Medicare.

¹ The relevant trust funds are the federal: old-age and survivors insurance (OASI) trust fund; disability insurance (DI) trust fund; hospital insurance (HI) trust fund; and supplementary medical insurance (SMI) trust fund.

² “Social Security and Medicare, Improved Schedule Management Needed for More Timely Trust Fund Reports,” United States Government Accountability Office, Report to the Ranking Member, Subcommittee on Social Security, Committee on Ways and Means, House of Representatives, July 2019. <https://www.gao.gov/assets/710/700765.pdf>.

Seeking to amend this broken reporting process, Republicans in Congress asked GAO to review the trustees report development process and provide recommendations to improve or modify it.³ In 2019, GAO submitted two suggestions for executive action to address the late issuance of reports:

- 1) The Treasury Secretary, as Chair of the Boards of Trustees, should work with the other trustees to take steps that improve the management of the report development schedule in order to provide trustees reports to Congress by the statutory deadline.
- 2) The Treasury Secretary, as Chair of the Boards of Trustees, should work with the other trustees to establish a policy of informing congressional committees of jurisdiction when the reports are expected to miss the deadline, including the factors contributing to the delays and the expected issuance dates.⁴

A subsequent September 30, 2021 GAO report noted that Treasury had taken relatively minor steps to improve report management, but that overall the suggested recommendations have not been fully implemented. On the first recommendation, GAO observed, “Other than tracking the planned and actual dates of each reporting cycle, Treasury has not told [GAO] about any other steps it took to manage the report development schedule...”⁵

On the second recommendation, GAO noted that agency officials representing the trustees and overseeing the development of the reports indicated that a policy had been established to notify Congress if the trustees anticipated issuing the reports after the April 1 statutory deadline. According to GAO, that new policy states that “the chairperson of the working group will ‘assess the need to notify Congress of the reports’ timing.” GAO continued, “The policy does not specify how the trustees would make that assessment, nor does it mention including the reasons for the delay in this communication to Congress.” A Treasury official acknowledged that they did not interpret GAO’s recommendation to mean that the policy itself had to address communicating the reasons for the delayed report. Consequently, GAO deemed the Treasury response inadequate, saying, “This policy does not fully address our recommendation because it implies that notifying Congress should be discretionary and does not call for any explanation for the delays and updated time frames. The policy should serve as a prompt for subsequent working groups to provide timely updates and address all of the information we recommended communicating to Congress.”⁶

Although GAO observed that agency officials had informed congressional staff via an email in March 2021 that Treasury anticipated missing the statutory reporting deadline by “at least eight weeks,” GAO also noted that Treasury officials failed to follow-up with congressional staff until

³ The Honorable Mike Crapo, United States Senator (R-ID) to The Honorable Gene Dodaro, Comptroller General, U.S. Government Accountability Office, August 26, 2021. <https://www.finance.senate.gov/ranking-members-news/crapo-urges-gao-to-call-for-improved-medicare-and-social-security-trust-fund-reporting>.

⁴ “Social Security and Medicare, Improved Schedule Management Needed for More Timely Trust Fund Reports,” United States Government Accountability Office, Report to the Ranking Member, Subcommittee on Social Security, Committee on Ways and Means, House of Representatives, July 2019. <https://www.gao.gov/assets/710/700765.pdf>.

⁵ “Social Security and Medicare: Improving the Timeliness of Trust Fund Reports,” United States Government Accountability Office, Report to the Ranking Member, Committee on Finance, United States Senate, September 30, 2021. <https://www.gao.gov/assets/gao-21-105413.pdf>.

⁶ Ibid.

the reports were publicly issued on August 31, 2021. GAO further reported that Treasury stated its intention to have provided an additional update in May, but that this communication had not occurred “due to an internal miscommunication.”⁷

While the COVID-19 pandemic affected every part of society in 2020 and 2021, the delayed issuance of the trustees reports in those years remained consistent with the long-term trend of administrations evading, or at the very least, failing to uphold, their statutorily-defined duties. The specific lack of responsiveness exhibited by Treasury staff last year, which Senator Crapo detailed in his previous letter to you of August 5, 2021, indicates that proactive outreach by Congress continues to be met with no substantive actions to improve matters.

Furthermore, the leadership void at the Social Security Administration created by the politicized firing of Commissioner Saul and Deputy Commissioner Black, and the continuing vacancies of the public trustee positions for both Social Security and Medicare, cannot excuse the remaining members of the boards for their noncompliance. This Administration has made itself and one political party solely responsible for the management of Social Security and Medicare, and it now bears the duty to provide a comprehensive update on its management to the congressional committees of jurisdiction.

We therefore urge you, as Managing Trustee, to fully incorporate GAO’s 2019 recommendations, including these examples of actions GAO listed in their 2021 report:

- Prioritizing meeting the statutory deadline;
- Reviewing progress;
- Obtaining buy-in on timeliness goals from key officials;
- Learning from past reporting cycles; and
- Informing Congress.⁸

Our understanding is that Treasury received an advanced draft of GAO’s 2021 report, and that Treasury is committed to improving the reports’ timeliness, as well as “...to communicating with Congress on these issues, [including to] track and log working group notifications to Congress on report timing going forward to promote the delivery of prompt updates.”⁹

For Congress and the public to provide effective oversight of the Social Security and Medicare programs and trust funds, your role as Managing Trustee of the boards of trustees for Social Security and Medicare requires by law that you provide timely information.

As we now approach the April 1 deadline, we request that you provide:

- 1) An update on the status of the 2022 report and when you expect to release the report.
- 2) The log of working group notifications to Congress on report timing over the past year that Treasury committed to GAO that it would track.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

- 3) An exposition of if – and, if so, how – you intend to change internal processes and possibly Board bylaws to institute protocols that ensure timely and regular notification to Congress and the public, as well as a timeline for completion of such changes.

Neither we nor our staffs have received any communications regarding the development of the 2022 trustees reports, causing concern about their status.

We respectfully request that you, as Managing Trustee, commit to developing better policies, more in line with GAO’s recommendations, to keep the congressional committees of jurisdiction and the public regularly informed of the anticipated report delivery dates when trustees anticipate missing the statutory deadline of April 1. Doing so will ensure that the management of these important programs will remain accountable to the American people under both Republican and Democratic administrations.

Sincerely,



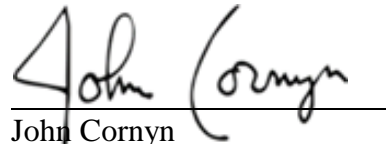
Mike Crapo
United States Senator
Ranking Member, Committee on Finance



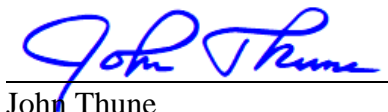
Todd Young
United States Senator
Ranking Member, Subcommittee on
Social Security, Pensions, and
Family Policy



Charles E. Grassley
United States Senator



John Cornyn
United States Senator



John Thune
United States Senator



Richard Burr
United States Senator



Rob Portman
United States Senator



Pat Toomey
United States Senator



Tim Scott
United States Senator



Bill Cassidy, M.D.
United States Senator



James Lankford
United States Senator



Steve Daines
United States Senator



Ben Sasse
United States Senator



John Barrasso, M.D.
United States Senator