

**NOMINATIONS OF ARUN VENKATARAMAN AND
DAMON Y. SMITH**

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SEVENTEENTH CONGRESS
FIRST SESSION

ON

NOMINATIONS OF:

ARUN VENKATARAMAN, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT
SECRETARY OF COMMERCE AND DIRECTOR GENERAL OF THE UNITED STATES
AND FOREIGN COMMERCIAL SERVICE

DAMON Y. SMITH, OF MARYLAND, TO BE GENERAL COUNSEL, DEPARTMENT
OF HOUSING AND URBAN DEVELOPMENT

JULY 13, 2021

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NOMINATIONS OF ARUN VENKATARAMAN AND DAMON Y. SMITH

TUESDAY, JULY 13, 2021

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:03 a.m., in room 538, Dirksen Senate Office Building, Hon. Sherrod Brown, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN SHERROD BROWN

Chairman BROWN. The Senate Committee on Banking, Housing, and Urban Affairs will come to order. Today, we will consider two nominations for the Commerce Department's U.S. and Foreign Commercial Service and the Department of Housing and Urban Development.

The President's nominee to serve as Director General of the U.S. and Foreign Commercial Service is Arun Venkataraman. For over two decades, Mr. Venkataraman has worked on matters of international trade both in the public and private sectors. He currently serves as Counselor to the Secretary of Commerce, advising the Department on trade and other international economic matters. In the Obama-Biden administration he served in the Commerce Department's International Trade Administration.

He holds a J.D. from Columbia Law School, a Master of Arts in Law and Diplomacy from the Fletcher School of Law and Diplomacy, and a B.A. from Tufts University.

The agency he has been nominated to lead exists to create American opportunity abroad, because we assume it will grow American jobs at home. But, in the past, too often it has meant creating corporate opportunity abroad and loss of jobs, especially union jobs, in places like my State and the Ranking Member's home State.

We welcome you to the Committee. Thank you for joining us.

We will also consider the nomination of a key housing expert today to join the senior leadership of HUD. Damon Smith, the President's nominee to serve as General Counsel of Housing and Urban Development, currently serves as a Senior Advisor to Secretary Fudge.

Mr. Smith is the grandson of a Tuskegee Airman and we are proud to claim him as Athens, Ohio's, own. In addition to his wife, Janine, he is joined today by his parents, Bill and Charlene, who still live in Athens and who worked and retired from Ohio University. And I know that both of you will want to introduce your family members when it is your time to speak.

Mr. Smith joined the Administration after serving as Senior Director of Advocacy and Counsel at the Credit Union National Association. He previously served as the Senior Counsel and Acting General Counsel at HUD during the Obama administration, providing legal and policy guidance, and setting the Department's litigation strategy and regulatory agenda. Before his Government service, he was a law professor at Rutgers and at American Universities. He has also served as an urban planner in East St. Louis, Illinois, and in St. Louis, Missouri.

Mr. Smith is a graduate of Harvard Law School and holds a bachelor's degree in English and a master's degree in urban planning from the University of Illinois at Urbana-Champaign.

I look forward to the testimony from both of you today.

Ranking Member Toomey.

OPENING STATEMENT OF SENATOR PATRICK J. TOOMEY

Senator TOOMEY. Thank you, Mr. Chairman. Mr. Venkataraman and Mr. Smith, welcome to both of you and thank you for your willingness to serve. I want to comment about your roles, but briefly, let me just observe, we just recently saw the latest Consumer Price Index numbers that came out at 8:30 this morning. Quite high, surprisingly higher than expectations. The core CPI for the 12 months ending just last month, June 21, is the highest reading in almost 30 years, and at some point I think we need to acknowledge that inflation is with us, and it is more severe than most of us had expected, than most people had expected, and the Fed has assured us that it is all transitory, it is all going to go away. And I sure hope they are right, but I remain concerned that they put themselves in a position of being behind the curve if they are wrong, and it is already clear that it is more severe than they had expected.

Having said that, the topic at hand are the nominees to two very important leadership positions at the Commerce Department and at HUD.

At Commerce, the Director General of the U.S. and Foreign Commercial Service and Assistant Secretary for Global Markets needs to stand up for the interests of U.S. exporters overseas. And that includes addressing barriers to entry in foreign markets and attracting foreign direct investment, which we call FDI, into the U.S. There are a lot of U.S. businesses and jobs that depend upon exports. And the position is critically important right now as COVID-19 led to the imposition of new trade barriers and a sharp decline in global FDI.

The Assistant Secretary will face a host of challenges right off the bat. The previous Administration's trade wars contributed to alienating a number of our allies. For instance, many of them imposed retaliatory tariffs on U.S. exports after Section 232 tariffs labeled their steel and aluminum exports a "national security threat."

"Buy American" policies that seek to limit foreign access to U.S. Government procurement contracts have caused our trading partners to threaten or actually do the same, and that potentially takes away a major export market for U.S. businesses and employees and workers. Foreign countries also frequently impose nontariff tech-

nical barriers to trade to limit U.S. entry and protect their domestic industries. The Assistant Secretary must oversee efforts to convince foreign Governments to overcome these concerns, remove these obstacles, and allow our businesses market access.

Another major responsibility of the Assistant Secretary is to oversee U.S. Government efforts to attract foreign direct investment into the United States. The U.S. has long been a magnet for FDI, due to our combination of a skilled workforce, deep, broad capital markets, strong legal protections for investors, and, of course, the strongest economy in the world. But FDI has faced challenges. In 2020, global foreign direct investment fell 42 percent, according to U.N. Conference on Trade and Development.

And I am concerned that the Biden administration is making attracting foreign direct investment more difficult. The Administration has proposed burdensome regulations and corporate taxes that would make it less desirable to invest in the United States. And the Administration's recent support for a waiver of intellectual property protections for vaccines sends a very disturbing signal to investors in any kind of intellectual property-intensive industries.

So if confirmed, I hope you to use your position to promote policies that will achieve the mission entrusted to you, and that means giving a voice to U.S. exporters in the Administration's policy decisions and advocating for policies that make the U.S. an attractive destination for foreign direct investment.

Now let me turn to HUD. The HUD's General Counsel plays a really important role advising the agency on what it can and cannot do. HUD needs a General Counsel who will help ensure effective oversight of Federal tax dollars that HUD spends. That includes rooting out waste, fraud, and abuse, and it is critically important given the \$60 billion given to HUD this past year and the \$68 billion requested for the next fiscal year.

And unfortunately, HUD is already making poor choices on this front. For example, the agency has made it easier for illegal immigrants to get emergency housing vouchers by waiving regulations that require verification of citizenship or legal immigration status. In addition, HUD has removed sensible restrictions on Puerto Rico's use of disaster recovery funds.

The General Counsel must ensure that HUD is complying with the law, despite whatever political pressures may come to bear. In other words, he cannot be a "yes" man.

In fact, the General Counsel needs to be willing to push back on policies that are inconsistent with the law. Unfortunately, we have seen HUD ignore certain laws recently. For example, Congress has explicitly prevented any part of a borrower's downpayment for an FHA loan from being financed by an entity benefiting from the mortgage transaction. But, as I noted in a recent letter to HUD, the agency continues to turn a blind eye to circular funding schemes where FHA borrowers finance their own downpayment assistance in contravention of the law.

Second, the General Counsel needs to ensure that all legal requirements with respect to rulemaking and guidance are followed. That means meaningfully considering all input from stakeholders, preparing all supporting materials to accompany significant policy

guidance, and completing regulatory impact analyses which describe the economic burdens on stakeholders.

Third, the General Counsel needs to be readily available and work with Congress to ensure laws are, in fact, faithfully implemented, especially including Members of this Committee.

Let me close by saying, Mr. Venkataraman, I look forward to hearing how you plan to effectively support U.S. exporters overseas and attract foreign investment to the U.S. And Mr. Smith, I look forward to hearing how you will ensure that HUD faithfully complies with the law and conducts thorough oversight of how it spends taxpayer dollars. If confirmed, you both will have really important missions to fulfill.

Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Toomey.

For administration of the oath, would Mr. Venkataraman and Mr. Smith rise please. Raise your right hands.

Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. VENKATARAMAN. I do.

Mr. SMITH. I do.

Chairman BROWN. Do you agree to appear and testify before any duly constituted Committee of the Senate?

Mr. VENKATARAMAN. I do.

Mr. SMITH. I do.

Chairman BROWN. Thank you. You may take your seats.

Mr. Venkataraman, would you begin your testimony.

STATEMENT OF ARUN VENKATARAMAN, TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL DESIGNATE, UNITED STATES AND FOREIGN COMMERCIAL SERVICE

Mr. VENKATARAMAN. Thank you, Senator. Chairman Brown, Ranking Member Toomey, Members of the Committee, thank you for the opportunity to appear before you today. I am honored to be nominated by President Biden to be the Assistant Secretary of Commerce for Global Markets and the Director General of the U.S. and Foreign Commercial Service. I want to thank Secretary Raimondo for her support of my nomination. I also want to thank the Committee for the opportunity to meet with members of your staff this past week.

I feel the deepest sense of gratitude and humility in being considered for this position. When my parents brought me to this country 45 years ago, we could not appreciate that we were part of a proud lineage of immigrants that came through New York, like us, in search of better opportunities. And, my parents certainly could never have imagined that those opportunities would lead to my being here today to be considered for this position by the Committee.

I remain grateful to my parents for making all this possible because of their bold decision to move 8,000 miles away from everything they ever knew to start a new life for us here in America. Their support for everything that I do has been unwavering, and

I am glad to have them here today to share this experience with me.

I have had the privilege of spending much of my career in public service, working on a wide range of international trade issues on behalf of the American people. I have negotiated with some of our most challenging trading partners on issues like subsidies and tech policy, and held them accountable to their commitments under our trade agreements. I have collaborated with foreign Governments to address shared challenges in third-country markets. I have also helped defend the legitimate policy tools we have to protect American companies and workers from unfair State-backed competition from countries like China. And in these and other areas, I have worked extensively across the multiple agencies and with various stakeholders to build a unified position for the Government.

From working and leading teams in highly matrixed organizations, both in and out of Government, I fully understand that no one of us has a monopoly on solutions to the types of trade problems we are being called on to address at this time in our history. We increasingly need to look beyond our silos to bring to bear the right perspectives and knowledge to any challenge. That is why I am committed to working together with my colleagues across the Commerce Department and across the Administration, and with Congress, and with all stakeholders, to meet those challenges head-on.

In over 20 years working on international trade, my career has allowed me to see how trade works from different vantage points—from the judicial branch, from an international organization, from the private sector, and from the public sector. I believe that Global Markets is uniquely situated to make trade work for American firms and their workers. This team works with foreign Governments to make sure American firms get the fair access they deserve to foreign markets. Global Markets also helps small and medium-sized enterprises become new exporters and take advantage of the commercial opportunities created by trade agreements.

Finally, Global Markets leverages the inherent attractiveness of the United States as an investment destination to bring foreign companies to America and create jobs. Through these core activities, Global Markets brings to life the potential that trade and investment offer the American people, and I am committed to seeing that mission through to its fullest, if confirmed.

One last point I would note for the Committee. I fully appreciate the privilege I would have if I were confirmed to this position. I have had the fortune of working closely with Global Markets through much of my Government career, most recently as the International Trade Administration's Director of Policy in the Obama administration. I know firsthand the high caliber of staff and the deep commitment of the Global Markets team to creating opportunities and bringing the benefits of trade to the American people. If confirmed, I commit to you to be worthy of leading this high-performing team to do what it does best and drive the Administration's efforts to strengthen precisely that connection between trade and the American people.

Thank you again for this opportunity to be considered for this position and to appear before you today. I look forward to your questions.

Chairman BROWN. Thank you, Mr. Venkataraman. Mr. Smith, you are recognized for 5 minutes.

**STATEMENT OF DAMON Y. SMITH, TO BE GENERAL COUNSEL
DESIGNATE, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Mr. SMITH. Thank you, Mr. Chairman. Chairman Brown, Ranking Member Toomey, and distinguished Members of the Committee, I am honored and humbled to be before you today as the nominee for General Counsel of the Department of Housing and Urban Development.

I would like to first take this opportunity to thank President Biden for this nomination and Secretary Fudge for her leadership and support. I also want to thank my family, especially my mother and father, who are here with me today. The lessons that they have taught and the values that they instilled in me are integral to who I am as a husband, a father, a professional and a public servant.

Finally, I want to thank my wife, Janine, who is also here with me. She served as a staffer here in the U.S. Senate and has passed along her great respect for this august institution. She has been a true partner and a blessing to me, our three children, and our entire family.

HUD's Office of General Counsel is a special place to me, filled as it is with able attorneys, analysts, and support staff of the highest caliber. I have had the pleasure of working with them and leading them in the past, in different capacities, but if confirmed, it would be a distinct honor to do so and work with them and all the incredible employees of HUD as their General Counsel.

There are several reasons why I find myself here today, and I would like to share just a few of them with you. My first lessons in housing and community came from my grandmother, who passed away this past March, just shy of her 100th birthday. She did not own a car, and she did not have much money, so she used to walk everywhere, often for many miles and often in high heels if headed to work. In the summers I got to tag along with her and regaled in the stories that she would tell me about the places that we were going and the people that we were seeing along the way. Everyone seemed to love her. They all waved and communicated with her in ways that were indicating to me that we were in a safe, friendly neighborhood, no matter where we were. I certainly recognize that although she did not have much in the way of formal education, she taught me quite a bit, invaluable lessons about the importance of safe and supportive communities.

My first lessons in public service probably came from my father and grandfather, who both served ably in the military. My father, who I just introduced moments ago, and my grandfather, Brigadier General Charles McGee, who you, Mr. Chairman, mentioned during my introductions. He started his career as a Tuskegee Airman, flew combat missions in three wars, served his country with great distinction, and certainly I learned valuable lessons from him and

my father, and other role models who served honorably, dedicating their lives, for them even after their military service was over, to empowering succeeding generations. They taught me that serving others in whatever way we can is incredibly rewarding and one of life's highest callings.

Those lessons were taught to me as I grew up, as you mentioned, Mr. Chairman, in Athens, Ohio, a small college town in southeastern Ohio, not too far from the West Virginia border. I recognized there the face of rural poverty and the impact that affordable housing, including manufactured housing, can have on keeping a community sustained. My career as a planner began in East St. Louis, Illinois, where I worked on development and housing issues in an urban setting.

The through line in my diverse experiences is a fundamental belief in our ability to improve communities, provide opportunity, and create better housing and development outcomes for everyone.

As a student and in my career as a planner and academic, I collaborated with low-income residents on housing and community development issues and learned incredibly valuable lessons in perspective and perseverance. As an attorney in private practice, I have worked on real estate and regulatory compliance issues with developers, building owners, and financial institutions, and I learned about the importance of clear guidelines, ethical leadership, and building and rewarding a culture of compliance. And as a public servant at the State and Federal levels, I have provided advice and counsel to policymakers and attorneys at all levels of Government, learning how to work collaboratively and manage people effectively to achieve better outcomes.

All these experiences have increased my knowledge and appreciation of the work done by a myriad of stakeholders to ensure that we can create strong, sustainable, inclusive communities and quality affordable homes for all. If confirmed, I will use the knowledge gleaned from these experiences to ensure the Secretary, Deputy Secretary, and their staffs are provided with timely and helpful counsel. And I will work hard to ensure that the Office of General Counsel and the entire Department operate effectively, efficiently, and ethically in delivering on our critical mission to the American people.

Thank you for the opportunity to testify today. I look forward to your questions.

Chairman BROWN. Thank you, Mr. Smith.

Mr. Venkataraman, I imagine you have seen the most recent findings from the International Trade Commission, telling us what the Ohioans I have talked to have known all long. In almost four decades of trade agreements under trade promotion authority we have seen barely any job creation in service sector jobs while hollowing out our manufacturing industries. We just had two deputy USTR nominees before the Finance Committee—three of us in that room sit on that Committee—who have acknowledged our country's terrible track record of understanding the effects of trade policy on American workers.

In the past, the job for which you have been nominated has been all about promoting American companies to the world, even at the expense of American workers. This Administration surely has a dif-

ferent view, and my question is what will you do to promote American workers and ensure that they are at the absolute center of American trade policy?

Mr. VENKATARAMAN. Thank you, Mr. Chairman. The first thing I would say is that when I think about Global Markets, workers are very much at the center of the mission. And why do I say that? That is because, first and foremost, the companies that Global Markets exist to support are the small and medium-sized businesses that employ many of the workers that you are talking about. So I want to work with those companies to ensure that they have the opportunities that all the big companies have all the time already. How can we make sure that the smallest of our companies, that the most vulnerable, have access to those opportunities so that they can produce the jobs at home and create employment opportunities for all people in the economy.

Second, I think it is important to note that when we advocate for policy changes in foreign Government we need to keep workers front of mind. And so what does that mean? In my view, that means not just advocating because companies benefit, but really understanding the impact some of these foreign Government policies have on the workers. And what does that mean? That means trying to understand how some of these foreign Government policies create unlevel playing fields that force companies to lay off workers here in the United States, and where the workers bear the brunt of those foreign Government policies.

So understanding the impact of those foreign Government policies will be critical to understanding which foreign policies we really need to address in our dialogs with foreign Governments. Thank you.

Chairman BROWN. Thank you. Mr. Smith, the General Counsel's Office plays an important role in making sure that all landlords live up to their obligations to provide the assisted families with a safe home. What role will you play in addressing existing problems that put residents at risk, and what will you do to ensure that maintenance problems are addressed before residents are, in fact, at risk?

Mr. SMITH. Thank you for that question, Mr. Chairman. I certainly recognize that one of the major roles that OGC plays within the Department is to make sure that FHA, Public and Indian Housing, and our other program offices are provided with the correct amount and efficient, effective legal advice that they need in order to oversee a number of these programs.

We also have program enforcement attorneys in the Departmental Enforcement Center that is under the Office of General Counsel that plays a critical role in holding accountable, as Ranking Member Toomey said, those who might try to commit waste, fraud, and abuse.

As it relates to the obligations that these landlords have to their residents, making sure that they abide by HUD's rules and regulations is an absolutely important part of what the Office of General Counsel is about, and I look forward to working with our Secretary and our FHA Commissioner, when that person is confirmed, to be able to make sure that we are making certain that they are abiding by their requirements.

Chairman BROWN. Thank you. Mr. Smith, more than two million homeowners are still in forbearance. Many more will be exiting that forbearance in the coming months. How will you work with FHA staff to ensure that no family experiences avoidable foreclosure?

Mr. SMITH. Thank you again for that question, Mr. Chairman. As you are aware, the FHA has a very robust waterfall of requirements that are necessary to prevent foreclosures from occurring. Not only are they disruptive to the families and the communities where those foreclosures take place, but they have a significant cost to the Mutual Mortgage Insurance Fund. So we have very robust requirements that servicers must follow prior to a foreclosure, and a number of methods to avoid it. And we will make sure that certainly they are abiding by those requirements, whenever possible, to make certain that people are given the opportunity to stay in their homes, and were given the opportunity to avoid additional costs to the fund.

Chairman BROWN. Thank you. Senator Toomey.

Senator TOOMEY. Thanks, Mr. Chairman. I will just start by pointing out that despite the occasional protectionist leaning of the previous Administrations, I think it is fair to say that prior to, say, the COVID pandemic hitting us, we were living in one of the freest trading, global trading environments in the last 100 years, and in that context we had achieved full employment, record low unemployment, very strong economic growth, and accelerating wage gains, accelerating most rapidly for the lowest-income workers, which suggests that terrific circumstances for workers is very much consistent with expanding trade.

Mr. Venkataraman—and I hope I am pronouncing that approximately correctly there—one of the things the previous Administration did is it imposed Section 232 tariffs on steel and aluminum imports, including from some of America's closest allies and best friends and nearest neighbors, and in response there was retaliation by these countries against American exports.

Now I fully acknowledge that in your role you will not have responsibility for deciding what happens with 232 tariffs, but I am wondering if you could comment on any observations you have about how the retaliation against those tariffs has affected American exporters.

Mr. VENKATARAMAN. Thank you, Senator Toomey. Absolutely. We have been meeting, at the Commerce Department, with a number of industries on the downstream side and others that are affected by the tariffs, and particularly the retaliatory tariffs that have been imposed, including by some of our allies, as you note. The Administration takes those concerns absolutely seriously and is committed to not only ensuring the long-term viability of our steel and aluminum industries, who are in this position through no fault of their own but because of a global excess capacity problem. But the Administration is equally committed to ensuring that industries do not bear the brunt of unfair retaliatory tariffs, and so we have begun, as you know, Senator, working with the European Union to figure out how to address the underlying problem of global excess capacity while encouraging them to remove those retaliatory tariffs.

Senator TOOMEY. Yeah. I think the imposition of the 232 tariffs really were not motivated by an excess capacity issue. I acknowledge the excess capacity issue but I think that was a separate matter. But I appreciate your answer.

Mr. Smith, As you know, Congress has a very important role in conducting oversight of HUD, and so I want to ask, if confirmed, will you commit to working with Members of this Committee to answer our questions about HUD's compliance with the law?

Mr. SMITH. Yes, Ranking Member Toomey, I do.

Senator TOOMEY. Great. So I should point out, I have an outstanding request to HUD, and to specifically the inspector general at HUD, for records about HUD's compliance with the law regarding downpayment assistance. HUD's IG has been providing records, and I appreciate that they have been working with my staff to work out a schedule by which we will get the documents we need. I would just like to ask, if you are confirmed, if you will commit to facilitating, to the extent it is appropriate and necessary, this ongoing response to my requests.

Mr. SMITH. Yes, Ranking Member Toomey, I can commit to working with your office constructively to make sure that you are provided with the information you are requesting.

Senator TOOMEY. Great. Thank you. The Biden administration, as I am sure you know, repealed the Trump-era AFFH rule. It is my understanding that HUD intends to issue a new AFFH rule to amend the Obama-era rule. This all gets a little bit confusing, but here is my concern. The Obama-era rule was enormously onerous, and required consultants to figure out how to even comply with these questionnaires that delved into areas that had nothing to do with housing, had nothing to do with even their own geography in some places. Even the now HUD Deputy Secretary but previous CEO of NAHRO advocated for a less-burdensome rule.

So my question is, in the development of this rule—and I know that you will not unilaterally write this rule, but you would be an influential voice in the process of its development—I hope we end up in a place where municipalities do not have to hire consultants just to comply with a Federal rulemaking in this regard, and they do not have to complete analyses that have to do with issues completely outside of the geography of their own municipality. Do you have any thoughts on the complexity of that rule?

Mr. SMITH. Thank you for the question, Ranking Member Toomey. I do want to say that because we are going to be engaging in notice and comment rulemaking on that issue I do not want to opine on where we ultimately will end. But I do recognize that the Deputy Secretary, and I believe the Administration, in several announcements associated with their recent pronouncements on AFFH, have acknowledged some of those concerns that you have described. We look forward to hearing about those in the comment period and certainly would look forward to the opportunity to address those concerns through that notice and comment rulemaking.

Senator TOOMEY. Thank you. Thank you, Mr. Chairman. I just hope we could agree that a sensible rule would probably not require highly paid outside consultants to fill out a questionnaire, but a thoughtful, sensible, competent person with that responsibility for a given municipality ought to be able to do it. Thank you.

Chairman BROWN. Thank you, Senator Toomey. Senator Warren from Massachusetts is recognized.

Senator WARREN. Thank you, Mr. Chairman. So Congress is preparing to make historic investments in our housing infrastructure. We have only one source of housing guaranteed to be affordable year after year for low-income families, and that is public housing. But because Congress has failed, year after year, to provide sufficient funding, we are losing an estimated 10,000 units of public housing every year, just to deterioration and disrepair.

That is why my bill, with Representative Velazquez, the Public Housing Emergency Response Act, calls for \$70 billion for the Public Housing Fund to wipe out this repair backlog and bring our public housing into good repair. But when we invest in public housing, there is actually another benefit. Under Federal law, when taxpayer dollars are invested in public housing construction and repair, some portion of that money must be spent in ways that provide jobs for public housing residents. That law, called Section 3, leverages every public housing dollar into economic opportunities for low-income families.

Mr. Smith, if confirmed, you would serve as one of the top lawyers at the Department of Housing and Urban Development, which administers public housing funding. Let me just ask you, do you believe that Section 3 is beneficial for families living in public housing?

Mr. SMITH. Thank you for that question, Senator. If confirmed, I would certainly look forward to the opportunity to work with our Fair Housing Equal Opportunity Office that administers Section 3 to make sure that we are providing those opportunities that are required under that law, to be sure that, whenever possible, public housing residents can benefit from the funding that goes to public housing agencies.

Senator WARREN. Well, you know, I appreciate that. Despite the promise of Section 3, its mandate has been chronically unmet and underenforced. So just look at what happened after the last financial crisis. Congress invested \$4 billion in public housing, helping to build more than 1,600 new housing units and tens of thousands additional energy-efficient units. But the HUD inspector general found that HUD did not enforce Section 3 requirements. And what that meant is that families living in public housing missed out on good jobs that could have helped them recover from the crash.

President Biden has now called for an investment in public housing that is ten times bigger than what the Federal Government did after the financial crash. So let me ask it this way, Mr. Smith. If confirmed, will you review and evaluate HUD's Section 3 enforcement practices to ensure that low-income residents have access to the jobs that they have been promised by Federal law?

Mr. SMITH. Thank you, Senator, for the opportunity to address the question in that manner as well. I certainly can confirm that if I have the opportunity to serve as General Counsel at HUD we will conduct such a review to make sure that we are abiding by the law and that the public housing agencies that we work with are as well.

Senator WARREN. Well, enforcement matters, and I look forward to following up with your office on that.

Enforcement is a critical tool, but it is only as good as the underlying rules. We need to make sure that Section 3 is set up in a way that makes it easier to deliver jobs and harder to evade. So, Mr. Smith, let me just ask you. How can HUD strengthen Section 3?

Mr. SMITH. Senator Warren, I believe that certainly there are a number of opportunities that HUD should have to strengthen Section 3. One, as you described, is to conduct a review to make sure that under our existing rules in the known——

Senator WARREN. Right. But I am asking about improving the rules.

Mr. SMITH. I certainly think that we can, in conjunction with the Secretary and the Assistant Secretary for FHEO, devise a more effective way to deliver Section 3 benefits as required.

Senator WARREN. Can you put a little more meat on the bone on that, about what you have in mind? Give me some ideas about what you would do to strengthen it.

Mr. SMITH. Senator Warren, I do not want to get ahead of certainly my policymakers at the agency in terms of some things that we can do, but within my purview, you mentioned one of them when you talked about enforcement, and making sure that we let program recipients, funding recipients know what expectations are very clearly and that we provide technical assistance to make sure that they understand how they can comply.

Senator WARREN. Well, I appreciate it. Enforcement is obviously very important, but we need better underlying rules too. You know, Section 3 is a win-win for housing investments. It helps us address the affordable housing crisis and it helps us create good jobs for people who need them. It would bolster the recovery and help produce lasting benefits for public housing residents. But we have to meet that mandate. It is not enough just to have it on the books.

So I look forward to working with you during this public housing crisis and doing all we can to end it. Thank you.

Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Warren. Senator Cortez Masto from Nevada is recognized.

Senator CORTEZ MASTO. Thank you, Mr. Chairman. Gentlemen, welcome. Congratulations on your nominations. Welcome to your family members as well. I am looking at your parents right now. The fathers have not smiled yet, but I assume they will when this process is over, and you are doing very well.

So let me just start, Mr. Venkataraman. Let me start with you. Senator Toomey talked a little bit about Section 232 tariffs. I also sit on Senate Finance. I will tell you I have raised this issue with the USTR. I am hearing from many of my businesses in my home State of Nevada about the impact of these tariffs.

And so let me just, because of your background, and I think it is an important role now that you are going to have in Commerce, let me ask you this. What do you see as the path forward for Section 232 tariffs, and how can you work with them now in your new role with the USTR to ensure a process for relief?

Mr. VENKATARAMAN. Thank you, Senator Cortez Masto. So in the role that I hope to be confirmed for, there is a unique opportunity to work with our trading partners. As Senator Toomey noted, a number of our trading partners have raised concerns about the ap-

plication of Section 232 tariffs. The position that I hope to be confirmed for affords me an opportunity to engage those countries and work with my colleagues across the Commerce Department and with USTR to ensure that we are hearing those concerns and finding paths forward that both ensure the long-term viability of our steel and aluminum industries while mitigating the concerns for the sectors that you have talked about, in terms of the concerns you have heard from your industries.

Senator CORTEZ MASTO. And I know you cannot put a timeframe on it, but what would you give to me to tell my businesses, who are really paying attention to this and being harmed because of it?

Mr. VENKATARAMAN. Sure. Senator, I would encourage you to let your businesses know that we are hearing them and we welcome continuing hearing from them about those concerns, because the more we understand those concerns, the more granularly we understand those concerns, the better we are in a position to be responsive. And having heard those concerns, those concerns are very much front of mind as we chart our path forward. And so we are hearing them and we are working to address those concerns as best we can.

Senator CORTEZ MASTO. Thank you. I appreciate that. Mr. Smith, in fiscal year 2020 appropriations it included a requirement that HUD issue guidance for the inclusion of manufactured housing in States' and local governments' consolidated plans. I, along with my colleague, sent letter to then-HUD Secretary Carson and Secretary Fudge, urging them to issue guidance that would allow for manufactured housing to be considered in consolidated plans.

As of today, this rulemaking has still not been implemented. So my question to you is, if confirmed, what steps would you take to ensure that HUD follows through on this rulemaking, to make sure the 20 million people who live in manufactured homes are considered in housing plans?

Mr. SMITH. Thank you for that question, Senator Cortez Masto. I certainly can tell you that, if confirmed, I would work very closely with our FHA Commissioner and our manufacturing housing offices to make sure that we are complying not only with the legal requirements but that we are doing what we can to address the affordable housing crisis that we have by providing that type of regulatory framework for manufactured housing, where necessary, and where that would be effective and helpful in making sure that that gets to people who need it.

Senator CORTEZ MASTO. Thank you. Let me talk a little bit about Tribal housing. I appreciate this Committee and many of my colleagues for their focus on Tribal housing and improving affordable rental housing and home ownership opportunities for Native American communities. This is something I focus on, as well as with some of my colleagues, on the Indian Affairs Committee as well.

If confirmed, how would you use your role to support Tribal housing?

Mr. SMITH. Again, thank you for that question, Senator. I had the opportunity, in this Administration, to sit in on a Tribal consultation on issues of Tribal housing, and to say that it was eye-opening is probably to do too little to really describe how these Tribal leaders and housing leaders in Tribal communities were able

to articulate some of the many different concerns that they have. Certainly this Administration has agreed to engage in meaningful consultations on these issues, and will continue to do so.

The Office of General Counsel plays a critical role in that, as we support our Office of Public and Indian Housing and their efforts to provide housing assistance to Tribes. And certainly we will look forward to the opportunity to be able to engage more heavily in that than I have in the past. It is not an issue that I was engaged in, in my previous service, but one that I recognize is a critical path to what we are trying to achieve today.

Senator CORTEZ MASTO. Thank you, and I would invite you to really engage with our Tribal communities across the country, in consultation, and to really focus on this issue as well. I would probably think it would be the first conversation they would have with anybody from HUD on this particular issue, so I look forward to that as well.

Again, thank you for your willingness to serve, and congratulations.

Chairman BROWN. Thank you, Senator Cortez Masto. A number of other Senators, we think, are on their way here. I have one question in the meantime. I think Senator Daines is trying to come back, and Senators Ossoff and Van Hollen. But let me do one more question, and certainly Senator Toomey is free to do what he wants to do too.

Mr. Venkataraman, as you know, American small businesses are operating in markets where foreign companies often try to circumvent our trade laws. Our bipartisan bill with Senator Portman, the other Ohio Senator, and a number of us, have worked on, Leveling the Playing Field 2.0, it would give Commerce new tools to go after trade cheats in more effective ways. Please describe for us briefly, if you would, what steps you intend to take to help ensure American small and medium-sized businesses and minority-owned business, from places like Canton, Ohio, or Scranton, Pennsylvania, can compete on a more level playing field?

Mr. VENKATARAMAN. Thank you, Senator. Well, in my position that I hope to be confirmed for, as Assistant Secretary for Global Markets, my focus would be on helping ensure that level playing field, in terms of opportunities those businesses can face in reaching foreign markets. I would welcome the opportunity, if confirmed, to work with my colleagues across the Commerce Department, including in our Enforcement and Compliance Division, to ensure that small businesses around the country are aware of the opportunities and the tools that are available to them, and to make those tools accessible to them so that they can ensure the level playing field in the sectors in which they operate.

Chairman BROWN. Thank you. Senator Ossoff from Georgia is recognized for 5 minutes.

Senator OSSOFF. Thank you, Mr. Chairman. Thank you for convening this hearing, and Ranking Member as well. Mr. Venkataraman, I would like to discuss with you the future of America's solar manufacturing sector, a particular interest to the State of Georgia. As the clean energy sector continues to grow and the transition from fossil fuel combustion to renewable energy necessarily accelerates to address climate change, the United States

and the State of Georgia have a tremendous opportunity, economically. In Georgia alone, there are already 50 solar manufacturers, including the Q CELLS plant in Dalton, Georgia, which is little known and yet is the largest solar factory in the Western Hemisphere.

So my question for you, Mr. Venkataraman, is should you be confirmed in this role, in order to ensure that workers in places across my State, in cities and towns like Covington and Mansfield, Griffin, LaGrange, and Dalton can participate in this growing clean energy sector, will you commit to taking strong action to expand access to export markets for U.S. solar manufacturers such as ours in Georgia?

Mr. VENKATARAMAN. Thank you, Senator. If confirmed, I would indeed be able to commit to ensuring that we fight for markets for our solar exporters.

Senator OSSOFF. Thank you. I appreciate the answer. Mr. Chairman.

Chairman BROWN. Thank you, Senator Ossoff. Senator Van Hollen from Maryland is recognized for 5 minutes.

Senator VAN HOLLEN. Thank you, Mr. Chairman, Ranking Member Toomey, and congratulations to both of you on your nominations.

Mr. Venkataraman, let me start by asking you a question about tools available to you, if confirmed, to help boost U.S. trade with Africa. I chair the Africa Subcommittee on the Senate Foreign Relations Committee, and Administrations, both Republicans and Democrats, have said they want to increase that investment. And yet, despite those efforts, if you look at the year 2019, the most recent year I have data for anyway, Africa accounted for only 1.4 percent of U.S. global trade, and received 0.7 percent of U.S. foreign direct investment.

It seems we can do a lot better, given the fact that the younger population in Africa is one of the fastest growing in the world. There are many economic opportunities for Africans and for trade with Africa. How would you use your office, if confirmed, to improve on the numbers from the past and really boost our economic engagement with Africa?

Mr. VENKATARAMAN. Thank you, Senator Van Hollen. If confirmed, I would certainly welcome the opportunity to use the tools we have in global markets to significantly advance our trade investment with Africa. I agree with you that the demographics and the opportunities in Africa are too great to ignore, and I think that there are a number of American sectors that would contribute, not just in terms of exports but to the growth and development across the continent. I would welcome the opportunity, if confirmed, to use the tools we have at Global Markets, including through our Foreign Commercial Service Officers that are stationed throughout Africa, as well as working closely with agencies like the Development Finance Corporation, the EXIM Bank, and the State Department and USTR to ensure that we develop a more robust plan to engage Africa and to contribute to Africa's growth and development for the long term.

Senator VAN HOLLEN. Well, thank you. I appreciate you mentioning those other agencies, because I think this does really re-

quire teamwork, and everybody around one table. I was pleased that Secretary Blinken joined an earlier discussion with the International Finance Development Corporation, and that is one of many tools. Congress recently passed legislation to improve our competitiveness that increased the overall authorization for that to \$100 billion. So I hope you will have a close working relationship with them.

Just picking up on Senator Ossoff's question, but not limiting it simply to clean energy, which I think is a critical sector, but, you know, one of the concerns that the Office for Commercial Services has sort of overlooked the small business community in the United States. What can you do to change that?

Mr. VENKATARAMAN. Senator, I can commit to you that if confirmed, indeed one of my priorities is to expand and double down on the work the Global Markets team and the Foreign Commercial Service and the Domestic Commercial Service is doing with small companies. I think those small companies are the key to long-term economic success for our country, and they are the ones that are the most in need of, and should be benefiting from the unique Government services that Global Markets has to offer.

Senator VAN HOLLEN. I appreciate that, because as you say, as you are suggesting, you know, large companies have the capacity to do much of this, sometimes with the assistance of, you know, this office, and sometimes they can do it on their own. But those smaller businesses really do depend on it.

Mr. Smith, close here to Washington, DC, you are in Prince George's County in the State of Maryland, one of the most affluent African American counties in the country. I was just talking with the Prince George's County Association of Realtors recently, and a number of them expressed concern with what they perceive as to be unfair appraisals for their homes. And this has been a theme that I have heard, not just in Prince George's County but other parts of the State and the country. Can you speak to that, and what you could do to bring to that problem, if confirmed?

Mr. SMITH. Thank you for that question, Senator. As you are aware, the Administration has announced an effort to look into appraisal bias, in particular, and we are working with Department of Justice and many other agencies to make sure that as a whole-of-Government response there is an ability for this Administration to be able to understand that bias and to be able to take steps to address it.

Certainly our work, ensuring that appraisers, among other participants in the real estate market, abide by the Fair Housing Act and its requirements and restrictions will be a major component in that, and if confirmed, I look forward to working on that issue.

Senator VAN HOLLEN. Thank you. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Van Hollen. I will ask one more question, and Senator Menendez, I believe, is on his way. Mr. Venkataraman, you will be managing a broad portfolio of export promotion efforts to encourage foreign investments in the U.S. at the ITA and Commerce, working with hundreds of Commerce employees and U.S. Foreign Service Officers in embassies all over the world to promote U.S. products and services and jobs. Should you be confirmed, what do you see as the major challenges facing

you in this role, and what will be your priorities and strategy in addressing these challenges?

Mr. VENKATARAMAN. Thank you, Mr. Chairman. I have had an opportunity to touch on some of these, and I am happy to explain further what I think my priorities would be, if I were confirmed to this position.

I think first and foremost, as Senator Van Hollen highlighted, the critical role that small businesses play, and the critical needs they have, they have always had, but particularly as we emerge from this pandemic, small businesses have been the ones that have been devastated in ways that are quite different from other corporations. And we need to help those small businesses recover, and being able to provide them access to foreign markets is one critical way of doing that. Giving them access to foreign markets is really expanding their customer base. And so giving them access to those new customers is a key area that I want to focus on. I am fortunate that our Global Markets team already focuses on small businesses, with over 85 percent of our clients being small businesses today.

But what I am interested in doing are a couple of things. One, taking the small businesses that are already our clients and encouraging them and helping them find ways to export to new markets that they are not reaching yet. Two, trying to find ways to expand the small business space that use these Government services. So how can we get new small businesses? There are a number of small businesses that are highly competitive in this country, but they should be accessing foreign markets and getting access to those customers. How can we help them do that?

Part and parcel of that is also bringing in new small businesses from communities that may not have always used our services before. These underserved communities that may not have access to the same opportunities. How do we make sure they recognize that these Government services are not just available to them, but how do we make sure that they actually avail themselves of those services so that they can achieve the same benefits that other small businesses achieve when they use our services to achieve export markets? So that is the first thing I would mention.

The second thing I would mention is as we enter these export markets, we are not just competing with the companies from those export markets. We are competing against Chinese companies, European companies, Korean companies, in those markets. How could we improve our competitiveness vis-a-vis those third-country competitors, so that we are the most competitive in each of the markets where we operate? So understanding those competitive conditions will be another focus of mine.

And the last thing I would mention is I think as we develop our dialogs with foreign Governments, we need to make sure that the engagement we have with foreign Governments actually reflects our domestic competitiveness concerns. The President has laid out an ambitious agenda for how to achieve competitiveness and how to strengthen the American economy, including strengthening critical industries and focusing on building resilient and secure supply chains. How do we ensure that our dialogs with foreign Governments reflect those same priorities so that our engagement with

foreign Governments is part and parcel of what we are doing domestically to strengthen the American economy over the long term.

Chairman BROWN. Thank you. My memory—and I had not thought about this for a while—was early in my time in the House, a number of years ago, we had worked on something called the U.S. Export Assistance Center. It was a collection of various agencies located in cities around the U.S. that worked, I believe, under the aegis of the Commerce Department. Again, pardon my ignorance on this. Does that still exist in some form within your jurisdiction, or do you know that?

Mr. VENKATARAMAN. Yes, Senator. Under the Global Markets banner our domestic commercial services has U.S. Export Assistance Centers in 48 States, in 116 cities around the country.

Chairman BROWN. And give me your assessment of their effectiveness, in the last minute or so.

Mr. VENKATARAMAN. Sure. So they have been incredibly effective at helping small businesses identify export opportunities and help small businesses incorporate export plans into their business plans, and by really performing those basic services of connecting them, not just in terms of building their business but really connecting them with our Foreign Commercial Service, located on the ground overseas, to customers overseas. So we provide services on the domestic side but combined with the services on the foreign side to help the front to back of the entire sales chain.

Chairman BROWN. And the U.S. Export Assistance Centers' focus has been small and medium-sized businesses in the U.S., correct?

Mr. VENKATARAMAN. Yes, sir.

Chairman BROWN. OK. Thank you. Senator Menendez from New Jersey is recognized.

Senator MENENDEZ. Thank you, Mr. Chairman. Mr. Venkataraman—is that the correct pronunciation?

Mr. VENKATARAMAN. Venkataraman, yes, sir.

Senator MENENDEZ. Venkataraman. OK. I have always supported the Foreign Commercial Service in its mission. In my other role as the Chair of the Senate Foreign Relations Committee I see this as an incredibly important part of our advocacy abroad. I think the office's work is critical to U.S. exporters who struggle to navigate complex foreign markets and need advocates on the ground to help them succeed. Other countries do this in a much more significant, and I think effective, way. So I was disheartened to see the last Administration propose to slash the Foreign Commercial Services funding.

So can you commit to me that if you are confirmed you work to strengthen the office and ensure the staff has adequate resources to support U.S. exporters, in terms of your advocacy internally?

Mr. VENKATARAMAN. Thank you, Senator Menendez, and thank you for your longstanding support of the Commercial Service, and indeed, I can commit to you that I will work tirelessly to ensure that the Commercial Service is adequately funded to meet its growing demand.

Senator MENENDEZ. Now building stronger economic ties with our neighbors in Latin America has always been a priority of mine. This is our own hemisphere, our own front yard, a tremendous opportunity, and it is more than economics. It is also creating sta-

bility and close relationships that inure to our national interests and security. The region presents a tremendous opportunity for the U.S. to develop export markets to foreign partnerships to boost our nation's competitiveness and to compete in the global with China. China is all over the Western Hemisphere.

If confirmed, what specific steps will you take to prioritize strengthening our relationships with partners in Latin America?

Mr. VENKATARAMAN. Thank you, Senator, and indeed, Latin America and South America are critical areas for us. As you point out, there are, in fact, our neighbors. They should be the first areas of go-to for many of our exporters. I would work very closely with the State Department, and particularly with agencies like the EXIM Bank, to ensure that we are able to avail ourselves of the opportunities presented in those markets. I would also work with our foreign Government counterparts to ensure that they maintain transparent procurement practices and that they impose the rise conditions in those marketplaces to facilitate the kind of two-way trade and investment that strengthens our connections with these countries and contributes to their long-term growth and development.

Senator MENENDEZ. Thank you. Mr. Smith, it almost 4 years since Puerto Rico suffered twin disasters of catastrophic proportions, Hurricane Maria and the Trump administration's derision of the people of Puerto Rico after they suffered a natural disaster. Throwing out paper towels is not my idea of how you help American citizens. Puerto Ricans are American citizens of the United States, 3.5 million of them, who happen to call the island their home, are citizens of the United States.

According to HUD inspector general report, the Trump administration successfully delayed and stonewalled Puerto Rico's disaster funding by setting unprecedented—unprecedented—procedural hurdles. I would like to ensure no future Administration can so cruelly deny American citizens the disaster relief they need and that Congress provided them.

So the HUD IG laid out several legal concerns HUD had with OMB's requirements for Puerto Rico's disaster funds. Some of these concerns include, but are not limited to, Tenth Amendment issues and concerns over possible violations of the Impoundment Control Act. Furthermore, former Deputy Secretary Montgomery of HUD Stated that he was not sure that the OMB requirements were, quote, "even legal."

Mr. Smith, what role does the General Counsel play when HUD receives a request from OMB that HUD feels is legally questionable?

Mr. SMITH. Thank you for that question, Senator. As I think that report pointed out, certainly the Office of General Counsel played a role, and does play a role, in helping the Administration and helping the leadership at HUD respond to those types of requests, and to push back, where necessary, to make sure that HUD's voice is being heard and that our requirements are being met. Certainly I know that that report also suggested that HUD consider rule-making that would help in making sure that that understanding of what is being done is in accord with HUD's requirements.

And so certainly something that I would look forward to having discussions with the Secretary and the head of our Office of Community Planning and Development about going forward.

Senator MENENDEZ. Well, I hope, as General Counsel—I mean, the HUD IG report focuses on the interaction between OMB and HUD, and how OMB imposed new burdensome requirements for releasing disaster aid to Puerto Rico. As General Counsel, I hope you would work to standardize the process for releasing funds, to ensure that a future Administration with a vendetta against certain citizens, cannot successfully delay critical aid. Can I get your commitment to look at that, if you are confirmed?

Mr. SMITH. Certainly, Senator, that is something that I can confirm I will look at as General Counsel.

Senator MENENDEZ. Thank you very much. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Menendez. Thank you both for testifying today. For Senators who wish to submit questions for the record, those questions are due at the close of business on Thursday, July 15. To expedite moving forward on these nominees—Senator Toomey has signed off on these dates—to the nominees, we would like to have your responses by noon Monday, July 19.

Thank you again for your testimony, thank you for your willingness to serve, and thank you to your families for their support.

The hearing is adjourned.

[Whereupon, at 11:04 a.m., the hearing was adjourned.]

[Prepared statements, biographical sketches of nominees, and responses to written questions supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN SHERROD BROWN

Today, we will consider two nominations for the Commerce Department's U.S. and Foreign Commercial Service and the Department of Housing and Urban Development.

The President's nominee to serve as Director General of the U.S. and Foreign Commercial Service is Arun Venkataraman.

For over two decades, Mr. Venkataraman has worked on matters of international trade both in the public and private sectors. He currently serves as Counselor to the Secretary of Commerce, advising the Department on trade and other international economic matters.

And in the Obama-Biden administration he served in the Commerce Department's International Trade Administration.

Mr. Venkataraman holds a J.D. from Columbia Law School, a Master of Arts in Law and Diplomacy from the Fletcher School of Law and Diplomacy, and a B.A. from Tufts University.

The agency Mr. Venkataraman has been nominated to lead exists to create American opportunity abroad, because we assume it will grow American jobs at home.

But, in the past, too often it has meant creating corporate opportunity abroad and loss of jobs, especially union jobs, in places like mine and the Ranking Member's home State.

We welcome you to the Committee.

We will also consider the nomination of a key housing expert today to join the senior leadership of HUD.

Damon Smith, the President's nominee to serve as General Counsel at HUD, currently serves as a Senior Advisor to Secretary Fudge.

Mr. Smith is the grandson of a Tuskegee Airman and we're proud to claim him as Athens, Ohio's, own—in addition to his wife, Janine, he's joined today by his parents Bill and Charlene, who still live in Athens and worked at Ohio University.

He joined the Biden-Harris administration after serving as Senior Director of Advocacy and Counsel at the Credit Union National Association (CUNA).

He previously served as the Senior Counsel and Acting General Counsel at HUD during the Obama-Biden administration, providing legal and policy guidance, and setting the Department's litigation strategy and regulatory agenda.

Before his Government service, he was a law professor at both Rutgers and at American Universities. He has also served as an urban planner in East St. Louis, Illinois, and St. Louis, Missouri.

Mr. Smith is a graduate of Harvard Law School and holds a bachelor's degree in English and a master's degree in urban planning from the University of Illinois at Urbana-Champaign.

I look forward to both of your testimonies today.

PREPARED STATEMENT OF SENATOR PATRICK J. TOOMEY

Mr. Chairman, thank you.

Mr. Venkataraman and Mr. Smith, welcome to you both. You've been nominated for important leadership positions at the Commerce Department and HUD.

At Commerce, the Director General of the U.S. and Foreign Commercial Service and Assistant Secretary for Global Markets must stand up for the interests of U.S. exporters overseas. This includes addressing barriers to entry in foreign markets and attracting foreign direct investment, known as FDI, into the U.S. Many U.S. businesses and jobs depend upon exports. This position is critically important right now as COVID-19 led to the imposition of new trade barriers and a sharp decline in global FDI.

The Assistant Secretary will face a host of challenges right off the bat. The previous Administration's trade wars alienated our allies. For example, many of them imposed retaliatory tariffs on U.S. exports after Section 232 tariffs labeled their steel and aluminum exports a "national security threat."

"Buy American" policies that seek to limit foreign access to U.S. Government procurement contracts have caused our trading partners to threaten to do the same, potentially taking away a major export market for U.S. businesses. Foreign countries also frequently impose nontariff technical barriers to trade, to limit U.S. entry and protect their domestic industries. The Assistant Secretary must oversee efforts to convince foreign Governments to overcome these concerns, remove these obstacles, and allow our businesses market access.

Another major responsibility of the Assistant Secretary is to oversee U.S. Government efforts to attract FDI into the U.S. The U.S. has long been a magnet for FDI, due to our skilled workforce, broad capital markets, strong legal protections for in-

vestors, and attractive business environment. But FDI has faced challenges due to COVID-19. In 2020, global FDI fell 42 percent according to U.N. Conference on Trade and Development.

In addition, the Biden administration is making attracting FDI more difficult. The Administration has proposed burdensome regulations and corporate taxes that would make it less desirable to invest in the U.S. And the Administration's support for a waiver of IP protections for vaccines sends a worrying signal to investors in IP-intensive industries.

If confirmed, I expect you to use your position to promote policies that will achieve the mission entrusted to you. That means giving a voice to U.S. exporters in the Administration's policy decisions and advocating for policies that make the U.S. an attractive destination for foreign direct investment.

Now turning to HUD: HUD's General Counsel plays an important role advising the agency on what it can and cannot do. HUD needs a General Counsel who will help ensure effective oversight of the Federal tax dollars it spends. That means rooting out waste, fraud, and abuse. This is critically important given the \$60 billion given to HUD this past year and the \$68 billion requested for the next fiscal year.

Unfortunately, HUD is already making poor choices on this front. For example, the agency has made it easier for illegal immigrants to get emergency housing vouchers by waiving regulations that require verification of citizenship or legal immigration status. In addition, HUD removed sensible restrictions on Puerto Rico's use of disaster recovery funds. These restrictions required Puerto Rico to spend these funds in tranches and to have expenditures reviewed by an independent financial monitor. By eliminating these requirements, HUD is all but guaranteeing that a Government with chronic financial mismanagement problems will misspend taxpayer dollars.

The General Counsel must ensure HUD is complying with the law despite political pressures. In other words, he can't be a "yes" man. What does that mean in practice?

First, the General Counsel needs to push back on policies that are inconsistent with the law. Unfortunately, we've seen HUD ignore the law recently. For example, Congress has explicitly prevented any part of a borrower's downpayment for a FHA loan from being financed by an entity benefiting from the mortgage transaction. But, as I noted in a recent letter to HUD, the agency continues to turn a blind eye to circular funding schemes where FHA borrowers finance their own downpayment assistance in contravention of the law.

Second, the General Counsel needs to ensure all legal requirements with respect to rulemaking and guidance are followed. That means meaningfully considering all input from stakeholders, preparing all supporting materials to accompany significant policy guidance, and completing regulatory impact analyses which describe the economic burdens on stakeholders.

Third, the General Counsel needs to be readily available and work with Congress to ensure laws are faithfully implemented. That includes responding fully to oversight requests that come from Congress, specifically Members of the Banking Committee.

Let me close by saying: Mr. Venkataraman, I look forward to hearing how you plan to effectively support U.S. exporters overseas and attract foreign investment to the U.S. Mr. Smith, I look forward to hearing how you will ensure that HUD faithfully complies with the law and conducts thorough oversight of how it spends taxpayer dollars. If confirmed, you both will have important missions to fulfill.

PREPARED STATEMENT OF ARUN VENKATARAMAN

TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL OF THE
UNITED STATES AND FOREIGN COMMERCIAL SERVICE

JULY 13, 2021

Chairman Brown, Ranking Member Toomey, Members of the Committee, thank you for the opportunity to appear before you today. I am honored to be nominated by President Biden to be the Assistant Secretary of Commerce for Global Markets and Director General of the U.S. and Foreign Commercial Service. I want to thank Secretary Raimondo for her support of my nomination. I also want to thank the Committee for the opportunity to meet with members of your staff this past week.

I feel the deepest sense of gratitude and humility in being considered for this position. When my parents brought me to this country 45 years ago, we could not appreciate that we were part of a proud lineage of immigrants that came through New York, like us, in search of better opportunities. And, my parents certainly could

never have imagined that those opportunities would lead to my being here today to be considered for this position by the Committee.

I remain grateful to my parents for making all this possible because of their bold decision to move 8,000 miles away from everything they knew to start a new life for us here in America. Their support for everything that I do has been unwavering, and I am glad to have them here today to share this experience with me.

I have had the privilege of spending much of my career in public service, working on a wide range of international trade issues on behalf of the American people. I have negotiated with some of our most challenging trading partners on issues like subsidies and tech policy and held them accountable to their commitments under our trade agreements. I have collaborated with foreign Governments to address shared challenges in third-country markets. I have also helped defend the legitimate policy tools we have to protect American companies and workers from unfair State-backed competition from countries like China. And, in these and other areas, I have worked extensively across the multiple agencies and with various stakeholders to build a unified position for the Government.

From working and leading teams in highly matrixed organizations, both in and out of Government, I fully understand that no one of us has a monopoly on solutions to the types of trade problems we are being called on to address at this time in our history. We increasingly need to look beyond our silos to bring to bear the right perspectives and knowledge to any challenge. That is why I am committed to working together with my colleagues across the Commerce Department and across the Administration, and with Congress, and with all stakeholders, to meet those challenges head-on.

In over 20 years working on international trade, my career has allowed me to see how trade works from different vantage points—from the judicial branch, from an international organization, from the private sector, and from the public sector. I believe that Global Markets is uniquely situated to make trade work for American firms and their workers. This team works with foreign Governments to make sure American firms get the fair access they deserve to foreign markets. Global Markets also helps small and medium-sized enterprises (SMEs) become new exporters and take advantage of the commercial opportunities created by trade agreements. Finally, Global Markets leverages the inherent attractiveness of the United States as an investment destination to bring foreign companies to America and create jobs. Through these core activities, Global Markets brings to life the potential that trade and investment offer the American people. And I am committed to seeing that mission through to its fullest, if confirmed.

One last point I would note for the Committee: I fully appreciate the privilege I would have if I were confirmed to this position. I have had the fortune of working closely with Global Markets through much of my Government career, most recently as the International Trade Administration's Director of Policy in the Obama administration. I know firsthand the high caliber of staff and the deep commitment of the Global Markets team to creating opportunities and bringing the benefits of trade to the American people. If confirmed, I commit to you to be worthy of leading this high-performing team to do what it does best and drive the Administration's efforts to strengthen precisely that connection between trade and the American people.

Thank you again for this opportunity to be considered for this position and to appear before you today. I look forward to your questions.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name:	Venkataraman	Arun	None
	(Last)	(First)	(Other)

Position to which nominated: Assistant Secretary for Global Markets and Director General of the U.S. and Foreign Commercial Service

Date of nomination: May 27, 2021

City of Residence: Arlington, VA

Education*:	Institution	Dates Attended	Degrees Received	Dates of Degree
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Tufts University	1991-1995	Bachelor of Arts	1995
The Fletcher School of Law and Diplomacy, Tufts University	1996-1999	Master of Arts in Law and Diplomacy	1999
Columbia Law School	1995-1999	Juris Doctor	1999

*Nominees should provide information for all institutions attended, whether or not the nominee was granted a degree by the institution

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships and any other special recognitions for outstanding service or achievement.

- USTR Kelly Award for outstanding performance and extraordinary leadership (2011)
- USTR Team Awards for leading settlement of litigation on Chinese subsidies and for contributions to passage and implementation of U.S.-Peru Free Trade Agreement (2008)

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, social, charitable and other organizations.

Organization	Office Held (if any)	Dates of Membership
DC Bar	None	2000-present (inactive 2013-2018)
MD Bar	None	1999-2003
Washington	Board Member	2019-Present (Board Member 2020-Present)
International Trade Association (WITA)		

Employment record: List below all positions held since graduation from college including the title or description of job, name of employer, location of work, and inclusive dates of employment.

- Counselor to the Secretary, U.S. Department of Commerce (Washington, DC; March 2021-Present)
- Senior Director, Visa Inc. (Washington, DC; April 2019-March 2021)
- Trade and Investment Advisor, Steptoe & Johnson (San Francisco, CA; May 2018-March 2019)
- Director of Policy, International Trade Administration, U.S. Department of Commerce (Washington, DC; April 2014-January 2017)
- Director for India, Office of the U.S. Trade Representative (Washington, DC; August 2010-April 2014)
- Associate General Counsel, Office of the U.S. Trade Representative (Washington, DC; April 2006-August 2010)
- Legal Affairs Officer, World Trade Organization (Geneva, Switzerland; September 2002-February 2006)
- Associate, Steptoe & Johnson (Washington, DC; November 2001-August 2002)
- Law Clerk, Judge Jane Restani, U.S. Court of International Trade (New York, NY; October 2000-October 2001)
- Associate, Steptoe & Johnson (Washington, DC; October 1999-September 2000)
- Law Clerk, Judge Jane Restani, U.S. Court of International Trade (New York, NY; August-September 1999)
- Summer Associate, Steptoe & Johnson (Washington, DC; May-August 1999)
- Summer Associate, Steptoe & Johnson (Washington, DC; May-August 1998)
- Intern, Judge Jane Restani, U.S. Court of International Trade (New York, NY; August-December 1997)
- Summer Associate; Shearman & Sterling (New York, NY and Washington, DC; May-August 1997)
- Research Assistant, Professor Jeswald Salacuse, Fletcher School of Law and Diplomacy (Medford, MA; June-August 1996)

Government Experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other (including part-time) service or positions.

Name of Government Entity Position Dates of Service

Department of Commerce	Counselor to the Secretary	March 2021-Present
Department of Commerce (International Trade Administration)	Director of Policy	April 2014-January 2017
Office of the U.S. Trade Representative	Director for India	September 2010-April 2014
Office of the U.S. Trade Representative	Associate General Counsel	April 2006-August 2010
Judge Jane Restani, U.S. Court of International Trade	Law Clerk	October 2000-October 2001
Judge Jane Restani, U.S. Court of International Trade	Law Clerk	August-September 1999
Judge Jane Restani, U.S. Court of International Trade	Intern	August-December 1997

Published writings: List the titles, publishers and dates of books, articles, reports and other published materials you have written. The list should include any publicly accessible publications on the internet in the past ten years, including appropriate URLs for any posts on blogs you maintained or contributed to, and URLs for any other significant internet-based postings during that same period. If available, provide the Committee with **one digital copy** of each of the writings you list.

- USMCA Unlocked: Working Under the New NAFTA, co-authored with Susan G. Esserman, Luke Tillman, Lauren Shapiro, March 2019 (<https://www.stepto.com/en/news-publications/usmca-unlocked-working-under-the-new-nafta.html>). Copy attached.
- "India: A Turing Point on Trade?", co-authored with Susan G. Esserman, Harvard Asia Quarterly, Spring 2002 (https://projects.iq.harvard.edu/files/har/files/vol_6.2_spring_2002.pdf). Copy attached.
- "Binational Panels and Multilateral Negotiation: A Two-Track Approach to Limiting Contingent Protection?", Columbia Journal of Transnational Law, vol. 37 (1999) (no link available). Copy attached.

Speeches and presentations:

List all of the formal speeches and presentations (e.g., PowerPoint) you have delivered during the past ten years which are on topics relevant to the position for which you have been nominated, including dates. If available, provide the Committee with **one digital copy** of each formal speech and presentation. If text is no longer available, list the date, place, and organization or group to whom you made the speech or presentation.

- “Breaking Down More Than Just Trade Barriers: The Inclusion of Human Rights Provisions in Free Trade Agreements,” presented to The LGBT Bar Association (Virtual, August 2020): PowerPoint Attached
- “Using Electronic Payments to Support Government Resilience Efforts,” presented to WTO E-commerce Negotiators (Virtual, May 2020): PowerPoint Attached
- “Global Payments Networks and Micro, Small and Medium-sized Enterprises (MSMEs),” presented to WTO E-commerce Negotiators (Geneva, Switzerland, October 2019): PowerPoint Attached
- “Trade in the Time of Trump,” presented to The LGBT Bar Association (Philadelphia, PA, August 2019): PowerPoint Attached

Public statements:

List all public statements you have made during the past ten years which are on topics relevant to the position for which you have been nominated, including dates. Whenever possible, provide the Committee with finding aids (such as citations, internet URLs, etc.) for each statement.

- Virtual Panel Participant, *Digital Trade Conference* (May 2021): <https://www.techuk.org/digital-trade-conference/agenda.html> (no PowerPoint or formal remarks)
- Virtual Panel Participant, *The Art and Science of Trade Negotiating* (September 2020): <https://www.wita.org/events/the-art-of-trade-negotiating/> (no PowerPoint or formal remarks)
- Webinar Participant, *Services Market Access in the WTO E-commerce Negotiations* (July 2020): <https://globalinnovationforum.com/events/services-market-access-webinar/> (no PowerPoint or formal remarks)
- Panel Participant, *Digital Trade Challenges: The View from Industry* (December 2019): https://www.wit.org/ev_calendar_day.asp?date=12/3/2019&eventid=51 (no PowerPoint or formal remarks)
- Panel Participant, *Digital Trade and the WTO eCommerce Initiative* (May 2019): <https://www.wita.org/events/digital-trade-initiative/> (no PowerPoint or formal remarks)
- Panel Participant, *America First: Will the Trump Administration's Trade Policies Help Your Global Business?* (September 2017): <https://info.themedtechconference.com/hubs/The%20MedTech%20Conference%20Final%20Program.pdf> (no PowerPoint or formal remarks)
- Panel Participant, *India's National IPR Strategy: A View from Global Innovators* (July 2016): Hudson Institute (no link available)
- I participated in other panels since 2011 where I spoke to issues relevant to the position for which I have been nominated, but I do not have the details of those events. None of those events involved formal remarks or presentations.

Social media usernames:

Please provide a list of all of your currently active social media usernames (e.g., Facebook, Instagram, Twitter, etc.), and any usernames for any inactive accounts you have used within the previous ten years.

- LinkedIn: www.linkedin.com/in/venkataramanarun
- Instagram: www.instagram.com/clubarunv/
- Twitter: @arunincali
- Facebook: account deleted, but believe it was listed under my full name

Political affiliations activities:

List memberships and offices held in and services rendered to all political parties or election committees during the last ten years. *None.*

List all public offices, if any, for which you have been a candidate in the past ten years.

Name of Office	Elected/Appointed Candidate Only	Year(s) Election Held or Appointment Made	Terms of Service (if applicable)
<i>None</i>			

Political contributions:

Itemize all political contributions which exceed \$200 or which aggregate to over \$200 in a calendar year to any individual, campaign organization, political party, political action committee or similar entity during the last ten years and identify specific amounts, dates, and names of recipients.

Biden for President - \$500 (07/13/20)
 Biden Action Fund - \$500 (07/13/20)
 Biden Victory Fund - \$500 (09/03/20)
 Biden for President - \$500 (09/03/20)
 Biden Victory Fund - \$500 (10/11/20)
 Biden Victory Fund - \$500 (10/11/20)
 Biden for President - \$500 (10/11/20)
 Biden for President - \$500 (10/11/20)
 Biden for President - \$800 (10/29/20)
 Sri for Congress - \$20 (10/31/20)
 Sri for Congress - \$20 (10/24/20)
 Sri for Congress - \$20 (10/17/20)
 Sri for Congress - \$20 (10/10/20)
 Sri for Congress - \$20 (10/03/20)
 Sri for Congress - \$100 (9/9/20)
 Haley Stevens for Congress - \$250 (3/31/2019)

Qualifications: State fully your qualifications to serve in the position to which you have been named.
(attach sheet)

I have spent over two decades working on international trade issues in the public and private sector. In particular, I have devoted most of my career to public service, working to advance the interests of U.S. business and workers by expanding commercial opportunities in foreign markets.

Through my experience, I have worked to acquire skills that will allow me, if confirmed, to successfully perform the role of Assistant Secretary for Global Markets and Director General of the U.S. and Foreign Commercial Service. I have led negotiations with key trading partners to hold them accountable to their trade commitments and open markets for U.S. goods and services. I have defended U.S. trade laws against foreign governments' efforts to limit their effectiveness and stood up for U.S. industry and workers when faced with unfair foreign trade practices. I have implemented and participated in government dialogues and developed new tools of engagement with foreign governments that are designed to strengthen U.S. negotiating positions and facilitate cooperation in challenging policy areas. I have also worked with Congress in the implementation of trade agreements, development of trade promotion authority, and the strengthening of U.S. trade laws, and look forward to building on this cooperation if confirmed.

Central to my experience has been close coordination with U.S. industry. My previous positions have required a deep understanding of the impact of foreign government policies on U.S. business operations and employment across a range of sectors. Through my work in the private sector and open and regular engagement with stakeholders while in government, including individual companies and trade associations, I have developed that understanding and worked to shape U.S. policy responses that would secure the benefits of open foreign markets for U.S. industries and their workers.

In addition to developing and refining the skills needed to execute this position, I have had the privilege of working before at ITA as the Director of Policy. In that position, as in the position I currently occupy as Counselor to the Secretary, I worked closely with a number of the teams in Global Markets and with many members of the U.S. and Foreign Commercial Service. I am deeply familiar with the functions of Global Markets, the depth of expertise brought to bear by Global Markets professionals (including in the U.S. and foreign field) for U.S. companies, and the importance of coordinating the organization's work with other business units in ITA, as well as across the bureaus in Commerce. While I will undoubtedly have more to learn in the position, I believe my significant experience with Global Markets would allow me to make immediate contributions to ITA and the Department if confirmed.

Future Employment 1. Indicate whether you will sever all connections with your present employer, business relationships: firm, association or organization if you are confirmed by the Senate.

I am currently employed by the Department of Commerce and will therefore not sever my ties if confirmed.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization

None.

3. Has anyone made a commitment to employ you after you leave government service?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

I continue to participate in a Visa defined contribution plan, but the plan sponsor no longer makes contributions.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

In connection with the nomination process, I have consulted in coordination with the Department of Commerce Ethics Office and the Office of Government Ethics. Any conflict of interest will be resolved according to the terms of an ethics agreement that I have entered into with the Commerce Designated Agency Ethics Official, which will be provided to this Committee. In the event that an actual or potential conflict of interest arises during my appointment, I will consult with Commerce ethics officials and take the measures necessary to resolve the conflict.

3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last ten years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

- Visa Inc.: Implementation of financial services provisions in U.S.-Mexico-Canada Agreement (USMCA)
- Visa Inc.: Negotiation and implementation of financial services provisions in China Phase One trade agreement
- Visa Inc.: Negotiation of financial services issues in U.S.-India trade negotiations
- Visa Inc.: Negotiation of financial services issues in OECD tax negotiations
- Visa Inc.: Negotiation of financial services issues in U.S.-UK trade negotiations
- Visa Inc.: Negotiation of financial services issues in U.S.-Kenya trade negotiations

- Visa Inc.: Negotiation of financial services issues in WTO e-commerce negotiations
- Visa Inc.: Financial services issues in connection with meetings of the G7, G20 and the Asia-Pacific Economic Cooperation forum
- Visa Inc.: Financial services issues in Argentina, Bangladesh, Belarus, Brazil, Burma, China, European Union, Ghana, India, Indonesia, Japan, Kazakhstan, Kenya, Korea, Nepal, Nigeria, Serbia, Singapore, South Africa, Ukraine, Vietnam
- Visa Inc.: Sanctions or potential sanctions in connection with Burma, China, Russia, Turkey and Venezuela
- Steptoe & Johnson: Exclusion from Section 301 tariffs for U.S. medical equipment
- Steptoe & Johnson: Protection of intellectual property rights for online platform
- Steptoe & Johnson: Application of tariffs under the Generalized System of Preferences

None of my lobbying activities met the threshold for registering as a lobbyist under the Lobbying Disclosure Act at any point in the past 10 years.

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

In connection with the nomination process, I have consulted in coordination with the Department of Commerce Ethics Office and the Office of Government Ethics. Any conflict of interest will be resolved according to the terms of an ethics agreement that I have entered into with the Commerce Designated Agency Ethics Official, which will be provided to this Committee. In the event that an actual or potential conflict of interest arises during my appointment, I will consult with Commerce ethics officials and take the measures necessary to resolve the conflict.

**Tax compliance
and bankruptcy:**

1. In the past ten years, have you and your spouse (if applicable) filed and paid all taxes (federal, state, and local) as of the date of your nomination? Indicate if you filed as 'married filing separately.'

Yes.

2. In the past ten years, have you been required to make any back tax payments? If so, indicate if you have made any back tax payments and provide full details.

No.

3. Has a tax lien or other collection procedure(s) been instituted against you or your spouse (if applicable) by federal, state, or local authorities? If so, provide full details.

No.

4. In the past ten years, have you or your spouse (if applicable) ever been the subject of any audit, investigation, or inquiry for federal, state, or local taxes? If so, provide full details.

No.

5. Were all your Federal, State, local, and other tax returns and tax liabilities of any kind current (filed and paid when due) as of the date of your nomination? If not, provide details.

Yes.

6. Have you ever filed for bankruptcy? If so, provide details.

No.

Civil, criminal and investigatory actions:

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (e.g. an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? If so, provide details, regardless of outcome.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding, or civil litigation other than a divorce proceeding? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

Other information: Please advise the Committee of any additional information, favorable or unfavorable, which you believe should be considered in connection with your nomination.

None.

Public records search:

Do you consent to allow Committee staff to conduct a public records search on you using appropriate search tools? (including Westlaw, Lexis, etc.)

Yes.

The undersigned certifies that the information contained in the public statement to the Committee is true and correct.

Signed:  Date: 28 JUNE 2021

PREPARED STATEMENT OF DAMON Y. SMITH

TO BE GENERAL COUNSEL, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

JULY 13, 2021

Chairman Brown, Ranking Member Toomey, and distinguished Members of the Committee, I am honored and humbled to appear before you today as the nominee for General Counsel of the Department of Housing and Urban Development.

I want to first take this opportunity to thank President Biden for nominating me, and Secretary Fudge for her leadership and support. I also want to thank my family and friends for their unwavering love, prayers and support that have sustained me over the years and to this very day. I am especially grateful to my mother and father. The lessons that they have taught and the values that they instilled in me are integral to who I am as a husband, father, professional and public servant. Finally, I want to thank my wife, Janine, who served as a staffer here in the United States Senate and has passed along her great respect for this institution. She has been a true partner and a blessing to me, our 3 children, and entire family.

HUD's Office of General Counsel is a special place to me, filled with dedicated attorneys, analysts and support staff of the highest caliber. I have had the pleasure of working with and leading them in other capacities, but, if confirmed, it would be a distinct honor to serve with them and all the incredible employees of HUD as their General Counsel.

There are several reasons why I find myself here today, but I would like to share a few in particular. My first lessons in housing and community came from my grandmother, who passed away this past March, just short of her 100th birthday. She did not own a car and used to walk everywhere—often for many miles and often in high heels if headed to work—and I would tag along every summer soaking in her stories about the people and communities that we passed. Everyone seemed to know her and love her, particularly in north Champaign where she lived for almost her entire life. She did not have much in the way of formal education, but she taught me some of the most valuable lessons that have served me well throughout my career, including the importance of a safe and supportive community. My first lessons in public service came from my father and grandfather, who both served honorably in the military. Their examples taught me that serving others in whatever way we can is incredibly rewarding and one of life's highest callings.

In my career as an urban planner, academic, and attorney, I have worked on community development, housing, and housing finance issues with a wide variety of partners and clients. The through line in my diverse experiences is a fundamental belief in our ability to improve communities, provide opportunity and create better housing and development outcomes for everyone.

My work on these issues began in earnest when I sought my master's in urban planning at the University of Illinois. As a student and in my career as a planner and academic, I collaborated with low-income residents on planning, housing, and community development issues and learned incredibly valuable lessons in perspective and perseverance along the way. As an attorney in private practice, I have worked on real estate and regulatory issues with developers, building owners and financial institutions and learned about the importance of clear guidelines, ethical leadership, and building and rewarding a culture of compliance. And as a public servant at the State and Federal levels, I have provided advice and counsel to policymakers and attorneys at all levels of Government, learning how to work collaboratively and manage people effectively to achieve better outcomes.

All these experiences have increased my knowledge and appreciation of the work done by a myriad of stakeholders to ensure that we can have strong, sustainable, inclusive communities and quality affordable homes for all. If confirmed, I will use the knowledge gleaned from these experiences to ensure the Secretary, Deputy Secretary, and their staffs are provided with timely and helpful counsel. And I will work hard to ensure that the Office of General Counsel and the entire Department operate ethically and effectively in delivering on our critical mission for the American people.

Thank you for the opportunity to testify before you today. I look forward to your questions.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name:	Smith (Last)	Damon (First)	Yancy (Other)
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Position to which nominated: General Counsel, U.S. Department of Housing and Urban Development

Date of nomination: June 17, 2021

City of Residence: Silver Spring, MD

Education*:	Institution	Dates Attended	Degrees Received	Dates of Degree
	Univ. of Illinois at Urbana-Champaign	08/89-05/93	B.A. in English	05/1993
	Univ. of Illinois at Urbana-Champaign	08/89-05/93	Master of Urban Planning	05/1995
	Harvard Law School	09/99-06/02	Juris Doctor	06/2002

*Nominees should provide information for all institutions attended, whether or not the nominee was granted a degree by the institution.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships and any other special recognitions for outstanding service or achievement.

U.S. Department of Housing and Urban Development: HUD Office of Inspector General Eagle Award for Outstanding Partnership; HUD Secretary's Meritorious Service Award; HUD General Counsel Award for Distinguished Service

Rutgers School of Law-Camden: New Professor of the Year Award

Harvard Law School: Dean's Award for Community Service; Civil Rights/Civil Liberties Law Review, Executive Editor

University of Illinois at Urbana-Champaign, Department of Urban and Regional Planning: Karl B. Lohmann Award for Professional Promise; Wetmore Fellowship Recipient; Graduate School Fellowship Recipient

University of Illinois at Urbana-Champaign, English Department: High Departmental Distinction at graduation;
Edmund B. James Scholar Designation

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, social, charitable and other organizations.

Organization	Office Held (if any)	Dates of Membership
Maryland Bar Association	Member	01/2003-Present
District of Columbia Bar Association	Member	04/2003-Present
Preservation of Affordable Housing, Inc.	Board Member	01/2019-01/2021
Norbeck Country Club	Social Member	08/2018-Present
Harvard Club of Boston	Member	06/2002-Present

Employment record: List below all positions held since graduation from college including the title or description of job, name of employer, location of work, and inclusive dates of employment.

State of Illinois East St. Louis Financial Advisory Authority, East St. Louis, IL <i>Research Associate</i>	August 1995-August 1996
Univ. of IL Neighborhood Technical Assistance Center, E. St. Louis, IL <i>Director</i>	August 1996-January 1999
International Honors Program, Boston MA <i>Instructor</i>	January 1999-May 1999; January 2004-May 2004
Arnold & Porter, Washington DC <i>Associate</i>	September 2002-July 2005
Rutgers School of Law-Camden, Camden, NJ <i>Assistant Associate Professor</i>	July 2005-June 2009
U.S. Department of Housing and Urban Development, Washington DC <i>Acting General Counsel</i> (January 2014-July 2014) <i>Senior Counsel/Principal Deputy General Counsel</i> (February 2012-January 2014), <i>Acting Associate General Counsel for Insured Housing</i> (August 2011-February 2012), <i>Special Assistant to the General Counsel</i> (June 2009-August 2011),	June 2009-July 2014
Jenner and Block LLP, Washington DC <i>Partner</i>	November 2014-July 2020
Credit Union National Association, Washington DC <i>Senior Director of Advocacy and Counsel</i>	August 2020-January 2021
U.S. Department of Housing and Urban Development, Washington DC <i>Principal Deputy General Counsel Senior Advisor</i>	January 2021-Present

Government Experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other (including part-time) service or positions.

Name of Government Entity	Position	Dates of Service
University of Illinois at Urbana-Champaign	Research Assistant	09/1994-06/1995
State of IL E. St. Louis Financial Advisory Auth.	Research Associate	08/1995-08/1996
University of IL E. St. Louis Neighborhood Technical Assistance Center	Director	08/1996-01/1999
Rutgers School of Law-Camden	Asst./Assoc. Prof.	07/2005-06/2009
U.S. Department of Housing and Urb. Dev.	Special Assistant/Senior Counsel/ Acting Associate/Principal Deputy	06/2009-10/2014
U.S. Department of Housing and Urb. Dev.	Principal Deputy	02/2021-Present

Published writings: List the titles, publishers and dates of books, articles, reports and other published materials you have written. The list should include any publicly accessible publications on the internet in the past ten years, including appropriate URLs for any posts on blogs you maintained or contributed to, and URLs for any other significant internet-based postings during that same period. If available, provide the Committee with **one digital copy** of each of the writings you list.

"HUD Publishes New Affirmatively Furthering Fair Housing Rule," Consumer Law Roundup Blog, January 2020, <https://consumer.jenner.com/2020/01/10/hud-publishes-new-affirmatively-furthering-fair-housing-rule.html>.

"The FDIC's Consumer Compliance Supervisory Highlights," The Consumer Finance Observer, July 2019, <https://jenner.com/system/assets/assets/10998/original/The%20Consumer%20Finance%20Observer%20-%20July%202019.pdf>.

"New Cybersecurity Regulations for Financial Institutions," DAILY JOURNAL, Nov. 2, 2016, <https://jenner.com/system/assets/publications/15622/original/Libin%20Smith%20Wachs%20Daily%20Journal%2011%2016.pdf?1478208411>.

"HUD's Multifamily Rental Project Closing Documents: Modernizing FHA Multifamily Financing," May 2012, ABA 26 PROBATE & PROP. MAGAZINE 3. https://www.americanbar.org/digital-asset-abstract.html/content/dam/aba/publications/probate_property_magazine/v26/03/2012_aba_rpte_pp_v26_3_may_june_apr_eigen_smith.pdf.

"Participatory Planning and Procedural Protections: The Case for Deeper Public Participation in Urban Redevelopment," Saint Louis University Public Law Review: Vol. 29: No. 1, Article 10. Available at: <https://scholarship.law.slu.edu/plr/vol29/iss1/10>.

"*Buchanan v. Warley* and the Struggle for Civil Rights," ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES, 2008.

Speeches and presentations: List all of the formal speeches and presentations (e.g., PowerPoint) you have delivered during the past ten years which are on topics relevant to the position for which you have been nominated, including dates. If available, provide the Committee with **one digital copy** of each formal speech and presentation. If text is no longer available, list the date, place, and organization or group to whom you made the speech or presentation.

AMERICAN BAR ASSOCIATION FORUM ON AFFORDABLE HOUSING AND COMMUNITY DEVELOPMENT LAW, Speaker, HUD Programs, May 18, 2021.

COOPERATIVE CREDIT UNION ASSOCIATION, INC., MASSACHUSETTS ADVOCACY MEETING, Presenter, Federal Housing Finance Issues, October 6, 2020.

MORTGAGE BANKERS' ASSOCIATION LEGAL ISSUES & REGULATORY COMPLIANCE CONFERENCE, Panelist, Regulatory Developments Track: The Path Forward on GSE Reform, May 7, 2019.

MORTGAGE BANKERS ASSOCIATION LEGAL ISSUES & REGULATORY COMPLIANCE CONFERENCE, Panelist, Regtech Fintech Track: Cybersecurity Concerns in the Era of Big Data, May 1, 2018.

AMERICAN BAR ASSOCIATION FORUM ON AFFORDABLE HOUSING AND COMMUNITY DEVELOPMENT LAW, Speaker, HUD Programs, May 22, 2014.

FEDERAL RESERVE BOARD OF CLEVELAND, GETTING BACK IN GEAR: BETTER WAYS TO MOVE STALLED AND VACANT FORECLOSURES FORWARD SEMINAR, Panelist, Federal Oversight and Compliance, March 11, 2014.

NORTH ANDOVER BAPTIST CHURCH, Keynote Speaker, 7th Annual Martin Luther King Jr. Celebration and Luncheon, January 20, 2014.

UNIVERSITY OF ILLINOIS at URBANA CHAMPAIGN DEPARTMENT OF URBAN AND REGIONAL PLANNING 100 YEAR CELEBRATION, Panel Member, "What I Did with My Planning Education," November 8, 2013.

THE FIVE STAR CONFERENCE AND EXPO, Moderator, The Settlement Solution: Short Sales and Liabilities, September 10, 2013.

HUD PRESENTATION, "Introduction to the National Mortgage Servicing Settlement," <https://www.hud.gov/sites/documents/AGSETTLEMENT080712.PDF> August 7, 2012.

NATIONAL BAR ASSOCIATION CLE SEMINAR, Presenter, Cash Payments, Servicing Standards, Consumer Relief and Monitoring: The Legal Structure of the \$25 Billion Mortgage Servicing Settlement, July 18, 2012.

WHITE HOUSE AFRICAN AMERICAN POLICY FORUM, Panel Member and Discussion Leader, Major Obama Administration Housing Initiatives, July 13, 2012.

WHITE HOUSE FORUM ON HOUSING, Panel Member, Housing Assistance Available Through the Landmark Mortgage Servicing Settlement, multiple occasions, the last one occurring on June 25, 2012.

AMERICAN PLANNING ASSOCIATION, ILLINOIS CHAPTER CONFERENCE, Opening Keynote, Planning Recovery: Recent Federal Planning and Technical Assistance Initiatives, October 5, 2011.

AMERICAN BAR ASSOCIATION FORUM ON AFFORDABLE HOUSING AND COMMUNITY DEVELOPMENT LAW, Presenter, Reform of the Housing Finance System: Consequences for Affordable Multifamily Housing, May 25, 2011.

Public statements: List all public statements you have made during the past ten years which are on topics relevant to the position for which you have been nominated, including dates. Whenever possible, provide the Committee with finding aids (such as citations, internet URLs, etc.) for each statement.

May 17, 2021 - <https://www.insideindianabusiness.com/story/43901629/hud-charges-housing-providers-with-disability-discrimination>.

May 13, 2021 - <https://www.heraldtimesonline.com/story/news/local/2021/05/13/hud-charges-bloomington-property-managers-with-discrimination/44334243/>.

April 30, 2021 - <https://www.heraldtimesonline.com/story/news/local/2021/05/13/hud-charges-bloomington-property-managers-with-discrimination/44334243/>.

March 17, 2021 - <https://explorevenango.com/hud-charges-oil-city-landlords-with-sexual-harassment-and-retaliation-against-female-tenant-update/>.

February 15, 2021 - <https://www.mychesco.com/a/news/national/hud-to-enforce-fair-housing-act-to-prohibit-discrimination-on-the-basis-of-sexual-orientation-and-gender-identity/>.

June 30, 2014 - <https://www.justice.gov/opa/pr/us-bank-pay-200-million-resolve-alleged-fha-mortgage-lending-violations>.

February 14, 2014 - <https://northdallasgazette.com/2014/02/04/jpmorgan-chase-will-pay-614-million-fine-for-filing-false-fha-and-va-mortgage-loans/>.

Summer 2012 - <https://today.law.harvard.edu/feature/closing-the-deal-grads-and-the-mortgage-settlement/>.

Social media usernames: Please provide a list of all of your currently active social media usernames (e.g., Facebook, Instagram, Twitter, etc.), and any usernames for any inactive accounts you have used within the previous ten years.

<https://www.linkedin.com/in/damonysmith>

Political affiliations activities: List memberships and offices held in and services rendered to all political parties or election committees during the last ten years.

List all public offices, if any, for which you have been a candidate in the past ten years.

Name of Office	Elected/Appointed Candidate Only	Year(s) Election Held or Appointment Made	Terms of Service (if applicable)
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N/A

Political contributions:

Itemize all political contributions which exceed \$200 or which aggregate to over \$200 in a calendar year to any individual, campaign organization, political party, political action committee or similar entity during the last ten years and identify specific amounts, dates, and names of recipients.

SMITH, DAMON	HUMAN RIGHTS CAMPAIGN EQUALITY VOTES UNION NATIONAL ASSOCIATION	MD	CREDIT 09/24/2020	\$250.00
SMITH, DAMON	BIDEN VICTORY FUND	MD	08/11/2020	\$35.58
SMITH, DAMON	BIDEN VICTORY FUND	MD	JENNER & BLOCK 05/22/2020	\$5,600.00
SMITH, DAMON	BIDEN FOR PRESIDENT	MD	310 OPERA CT 05/22/2020	\$2,800.00
SMITH, DAMON	BIDEN FOR PRESIDENT	MD	310 OPERA CT 05/22/2020	\$2,800.00
SMITH, DAMON	THE COMMITTEE TO ELECT AYANNA PRESSLEY BLOCK LLP 05/07/2018	MD	JENNER & \$250.00	
SMITH, DAMON	ACTBLUE	MD	JENNER & BLOCK LLP 05/07/2018	\$100.00
SMITH, DAMON	FRICK FOR CONGRESS	MD	JENNER & BLOCK LLP 06/30/2017	\$250.00
SMITH, DAMON Y.	OBAMA FOR AMERICA URBAN D 09/06/2012	MD	U.S. DEPARTMENT OF HOUSING AND \$1,000.00	
SMITH, DAMON Y.	OBAMA FOR AMERICA URBAN D 08/12/2012	MD	U.S. DEPARTMENT OF HOUSING AND \$1,000.00	
SMITH, DAMON Y.	OBAMA VICTORY FUND 2012 HOUSING AND URBAN D 08/12/2012	MD	U.S. DEPARTMENT OF \$1,000.00	
SMITH, DAMON Y.	OBAMA FOR AMERICA URBAN D 09/06/2012	MD	U.S. DEPARTMENT OF HOUSING AND \$1,000.00	
SMITH, DAMON Y.	OBAMA FOR AMERICA URBAN D 08/12/2012	MD	U.S. DEPARTMENT OF HOUSING AND \$1,000.00	
SMITH, DAMON Y.	OBAMA VICTORY FUND 2012 HOUSING AND URBAN D 08/12/2012	MD	U.S. DEPARTMENT OF \$1,000.00	

Qualifications: State fully your qualifications to serve in the position to which you have been named.
(attach sheet)

My qualifications to serve as General Counsel of HUD include almost three decades of work on community development, housing and housing finance issues as an urban planner, law professor and attorney. Over that time, I have had the opportunity to work with public housing tenants, grassroots organizations, non-profit housing developers, credit unions, mortgage banks and many others on complex issues involving tenancy, housing development and regulatory compliance. My experience with these issues in the public, private and non-profit sectors have also provided me with a significant amount of knowledge about and respect for the many stakeholders involved in accomplishing HUD's mission.

I first became acquainted with housing and community development issues as a child walking through the streets of north Champaign, Illinois with my grandmother, Imogene Smith. She would walk everywhere, no matter how far, and would tell me about the neighborhoods, houses, apartment buildings and people that we saw along the way. I was always fascinated by the different types of homes, the neighborhood histories that she recited and her broad sense of community. My grandmother passed away this past March just short of her 100th birthday, but the lessons she taught me are still reflected in my career choices today.

My interest in public service can be traced to my grandfather, Brigadier General Charles E. McGee (Ret.) He left college to enlist in the Army Air Corps in 1942 and became one of the famed Tuskegee Airmen, escorting bombers in WWII, and going on to a distinguished career of more than 30 years in the Air Force. By the time he retired, he had flown 409 combat missions in WWII, Korea, and Vietnam. In recognition of his incredible service my grandfather has received numerous awards, including the Distinguished Flying Cross, Bronze Star and - alongside his fellow Tuskegee Airmen - a Congressional Gold Medal. He retired as a full Colonel a few years after I was born and had a successful career as a civilian, but he has always made clear that his greatest honor and privilege was to serve his country. That is why I was so proud and grateful when Senator Chris Van Hollen and Representative Anthony Brown sponsored legislation to promote my grandfather to Brigadier General, and when President Trump signed that legislation into law and pinned a long-overdue star on his uniform. I will never do anything in my career to prove worthy of the bipartisan standing ovation that Brigadier General Charles McGee earned at the State of the Union in 2020, but I promise that the values he embodies have been passed down to me through his many lessons about faith, service, and love of country.

My work on housing issues began in earnest when I sought my master's in urban development at the University of Illinois at Urbana-Champaign. As I student, I worked in East St. Louis, Illinois on planning, housing, and community development issues. That opportunity to work with amazing residents seeking to improve their neighborhoods taught me valuable lessons about the hopeful possibilities that exist, and the victories that can be achieved with collaboration and support from residents, community institutions and all levels of government. After graduating, I began my career in East St. Louis, working for the state's oversight and advisory authority and for the University of Illinois, trying to help community organizations deal with decades of disinvestment and craft a new way forward.

When I began law school, I immediately volunteered for the Tenant Advocacy Project, representing public housing residents facing eviction, and I spent my first summer working on housing issues related to a HOPE VI development in Birmingham, Alabama. After law school I worked at Arnold & Porter as a Real Estate Associate, providing counsel to clients involved in commercial real estate transactions, and representing DC Habitat for Humanity as my primary pro bono client. As a law professor, I delved more deeply in property law issues, focusing on the intersections of law and urban planning. I had no intentions of going back into full-time practice until the opportunity arose to work as an appointee in HUD's Office of General Counsel.

I immediately fell in love with HUD, its mission, and its dedicated and exceptional legal and program staff. Over the course of my service with HUD, I have worked on a myriad of legal issues, large and small, from multifamily document reform and FHA mortgage servicing settlements to counseling program offices on regulatory matters. I have even had the privilege of leading HUD's Office of General Counsel in 2014 and this year. In this role as head of the office, I responsibly and successfully managed the Department's attorneys, Departmental Enforcement Center analysts, support staff and budget. My time with HUD's Office of General Counsel has provided me with unique insight into the incredible capabilities of the hardworking and talented HUD career staff, and thanks in no small part to their efforts in addition to mine, I have been honored with the HUD General Counsel Award for Distinguished Service, the HUD Office of Inspector General Eagle Award for Outstanding Partnership, and the HUD Secretary's Meritorious Service Award.

After leaving HUD for private practice at Jenner & Block LLP, I worked with numerous companies on regulatory compliance issues, and joined the Board of Directors of Preservation of Affordable Housing (POAH) where I gained an even greater understanding of housing market participants of all sizes. I also continued to give back through pro bono work, including the provision of legal assistance to tenants facing eviction and the loss of federal housing subsidies. Although I greatly enjoyed my practice at Jenner, I missed working full-time at the intersection of law and policy and took a position at the Credit Union National Association in 2020. I would still be there today if I had not been offered the opportunity to return to public service at HUD.

These diverse experiences have increased my knowledge and appreciation of the work done by a myriad of stakeholders – from cities, civil rights organizations, financial institutions, affordable housing developers, and HUD funding beneficiaries – to ensure that we have safe, affordable, and fair housing for all. If confirmed, I will use the knowledge gleaned from these opportunities to ensure the Secretary, Deputy Secretary and Assistant Secretaries are provided with timely and wise counsel on the law and that the Office of General Counsel and Department operate ethically and effectively in delivering on our critical mission for the American people.

Future Employment 1. Indicate whether you will sever all connections with your present employer, business relationships: firm, association or organization if you are confirmed by the Senate.

N/A. I currently work at the U.S. Department of Housing and Urban Development.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization

None.

3. Has anyone made a commitment to employ you after you leave government service?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and HUD's Office of Ethics and Appeals to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of my ethics agreement.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and HUD's Office of Ethics and Appeals to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of my ethics agreement.

3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last ten years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and HUD's Office of Ethics and Appeals to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of my ethics agreement.

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

My work for CUNA involved drafting comment letters and related communications regarding regulatory activities of Executive branch agencies, including the following:

- Federal Housing Finance Agency – Comments on the Agency's Strategic Plan, Housing Goals, and GSE Capital Requirements;
- Consumer Finance Protection Bureau – Comments on QM definitions, QM patches and loss mitigation regulations;
- Federal Communications Commission – Comments and communications on call blocking and robocalling regulations;
- Financial Crimes Enforcement Network – Comments on Anti-Money Laundering regulations.

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

In connection with the nomination process, I have consulted with the Office of Government Ethics and HUD's Office of Ethics and Appeals to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of my ethics agreement.

**Tax compliance
and bankruptcy:**

1. In the past ten years, have you and your spouse (if applicable) filed and paid all taxes (federal, state, and local) as of the date of your nomination? Indicate if you filed as 'married filing separately.'

Yes.

2. In the past ten years, have you been required to make any back tax payments? If so, indicate if you have made any back tax payments and provide full details.

No.

3. Has a tax lien or other collection procedure(s) been instituted against you or your spouse (if applicable) by federal, state, or local authorities? If so, provide full details.

No.

4. In the past ten years, have you or your spouse (if applicable) ever been the subject of any audit, investigation, or inquiry for federal, state, or local taxes? If so, provide full details.

No.

5. Were all your Federal, State, local, and other tax returns and tax liabilities of any kind current (filed and paid when due) as of the date of your nomination? If not, provide details.

Yes.

6. Have you ever filed for bankruptcy? If so, provide details.

No.

**Civil, criminal and
investigatory
actions:**

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (e.g., an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? If so, provide details, regardless of outcome.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding, or civil litigation other than a divorce proceeding? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

Other information: Please advise the Committee of any additional information, favorable or unfavorable, which you believe should be considered in connection with your nomination.

None.

Public records search: Do you consent to allow Committee staff to conduct a public records search on you using appropriate search tools? (including Westlaw, Lexis, etc.)

Yes.

The undersigned certifies that the information contained in the public statement to the Committee is true and correct.

Signed: Damon G. Smith Date: 06/29/2021

**RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN BROWN
FROM ARUN VENKATARAMAN**

Q.1. Where have you excelled in past positions in attracting, hiring, and promoting people of color in positions in your organization(s)? Where might there be room for improvement?

A.1. To date, I have had limited opportunity to advance the careers of people of color. When given the opportunity, I have worked closely with my recruiting team to ensure that we did not adopt a passive approach to issuing notices of open positions, but instead, identified specific and nontraditional channels of distribution to reach the most diverse pool of potential candidates possible. I also worked with colleagues to ensure that early stages of recruitment and interviews reflected that diverse pool. As a manager, I have strongly supported my team's active connections with mentors and sought to identify specific professional opportunities that aligned with their career development goals, which has resulted in their promotions.

With 1 million minority-owned businesses and over 1 million women-owned businesses in our country, according to the latest available data, Global Markets must have the diverse workforce to reach those businesses and ensure that they can avail themselves of the Government services to help them export and grow jobs in their communities. If confirmed, I look forward to prioritizing the search for, and promotion of, the most qualified candidates that reflect the diverse backgrounds of all Americans, including in terms of race, gender, ethnicity, veteran status, and sexual orientation. I commit to working with ITA's Diversity and Inclusion Council and Employee Resource Groups/Affinity Groups to organize and develop strategies to ensure participation rates of minorities, People with Disabilities, and women in the talent pipeline and especially in leadership positions.

Q.2. What specific measures will you use to evaluate the success of the U.S. Department of Commerce in understanding and addressing the needs of Black, Indigenous and People of Color (BIPOC)? And, will you work with the Secretary and senior officials to keep Congress apprised, as appropriate, on the progress being made on these measures?

A.2. I am committed to making sure that Global Markets, including the export promotion services we offer to the American people, reflects a more robust understanding of the needs of BIPOC communities. If confirmed, I will direct our team to ensure equity of access to these communities so they are aware of, and can take advantage of, our services to help grow their businesses and jobs through exporting and investments. To that end, we will evaluate our success by: (1) measuring the number of newly engaged clients from these communities that have not previously received our assistance; (2) developing new strategic partnerships with local, regional, and national organizations that serve these communities, to enhance our outreach efforts; (3) organizing trade education and facilitation events that focus on the unmet needs of these communities; and (4) training our client-facing staff to understand and identify opportunities to better reach and assist previously underserved companies. I commit to working with the Secretary and other senior officials

to keep Congress apprised of the progress made on these important issues.

Q.3. What is your plan for creating an inclusive working environment for employees within your office?

A.3. I believe that proper staffing, empowerment and recognition are key to building an inclusive working environment, and I would be committed to this effort, if confirmed. This means first ensuring that additional positions in the office of the Assistant Secretary for Global Markets are hired with an eye towards seeking out candidates with a diversity of backgrounds and experiences, personal and professional. If confirmed, I would also seek to ensure the visibility of these colleagues throughout the organization, provide them with ownership of workstreams, and solicit their views through both group meetings and one-on-one conversations. I would also work to publicly acknowledge their contributions and contribute to their successes so that others can be fully aware of their efforts.

In addition, if confirmed, I would fully support, and look to implement, recommendations of ITA's recently inaugurated Diversity and Inclusion Advisory Council (DIAC), composed of 13 members geographically dispersed around the world that represent their business units, including Global Markets. The DIAC works collaboratively with the ITA Human Capital office on creative ways to promote outreach to best attract people of all walks of life including people of color. The DIAC operates in accordance with a comprehensive Charter with focus on the following functional areas, adding others as needed in the future: Recruitment and Outreach; Development; Retention and Succession; and Reaching More Diverse Customers.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TOOMEY FROM ARUN VENKATARAMAN

Q.1. *Congressional Oversight*—Please provide your philosophy on how the Commerce Department International Trade Administration's (ITA) Global Markets Department will approach and respond to Congressional information requests (both for documentary information and oral testimony), if you are confirmed.

A.1. I view Congress as a vital partner in the execution of Global Markets' mission, together with a broad range of stakeholders and agencies across the Executive Branch. As Global Markets develops and delivers services to small business exporters, works with foreign companies and local economic development organizations to bring investment and jobs into the U.S., and engages foreign Governments to improve the business climate for American firms and workers, I would, if confirmed, welcome Congressional input into how these objectives can be better achieved. In order to facilitate this partnership, I would seek to ensure that my team regularly provides information to Congressional staff about Global Markets' activities and responds in a timely manner to all Congressional requests for information.

More broadly, I understand and respect Congress' duty to conduct oversight of Executive Branch agencies and functions. If confirmed, I am committed to ensuring that my team is responsive to

oversight requests and provides Congress with the information that it needs consistent with appropriate law and regulations.

Q.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.

A.2. I understand and respect Congress' duty to conduct oversight of Executive Branch agencies and functions. If confirmed, I am committed to ensuring that my team is responsive to oversight requests and provides Congress with the information that it needs consistent with appropriate law and regulations.

Q.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.

A.3. If confirmed, I am committed to ensuring that my team is responsive to oversight requests and provides Congress with the information that it needs consistent with appropriate law and regulations.

Q.4. Will you commit that, if confirmed, you will make yourself and any other Global Markets 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.

A.4. If confirmed, I am committed to ensuring that my team is responsive to requests for oral testimony consistent with appropriate law and regulations.

Q.5. *Attracting Foreign Direct Investment Into the United States*—In 2020, global foreign direct investment (FDI) fell 42 percent according to U.N. Conference on Trade and Development (UNCTAD). This low level has not been seen since the 1990s. It is over 30 percent lower than the investment decline that followed the 2008 global financial crisis. If confirmed, you will oversee the SelectUSA program, which is charged with leading U.S. efforts at attracting FDI into the United States. How do you plan to leverage U.S. resources to continue to attract high-impact, job-creating FDI to our country?

A.5. As you mention, if confirmed, I would welcome the opportunity to lead the SelectUSA program to facilitate job-creating business investment into the United States and raise awareness of the important role that foreign direct investment (FDI) plays in the U.S. economy during this critical post-COVID recovery time. The downturn in global FDI makes this mission even more critical—the program has seen more client requests this year to date than any other year in SelectUSA's history.

Promoting inbound investment at this time begins with supporting the Administration's ongoing efforts to combat COVID by delivering vaccines to all eligible Americans. Addressing this public health crisis is key to putting the U.S. back on a long-term trajectory of positive growth and driving ever greater investment flows into the country. The success of this year's SelectUSA Investment

Summit is a testament to global perceptions of our ability to emerge stronger from the pandemic.

If confirmed, I would reinforce the Administration's efforts to ensure the security and resiliency of supply chains in critical industries by working to attract investment and strengthen commercial and governmental partnerships in these sectors. I would also support the program and its initiatives promoting early stage innovative FDI (SelectUSA Tech) and FDI from female-founders (SelectUSA Global Women in Tech). In addition, if confirmed, I would deepen engagement with local governments and Economic Development Organizations across the country to keep the U.S. at the forefront of global competitiveness to support, and add to, the 7.8 million U.S. workers directly employed by FDI.

Q.6. The primary reason attributed to the dive in FDI is uncertainty over the evolution of the COVID-19 pandemic. It is important to the U.S. recovery that we overcome these barriers. The SelectUSA program coordinates U.S. Government efforts to attract and retain FDI into the United States. How would you work with other members of the SelectUSA Federal Interagency Investment Working Group to resolve investors' uncertainty related to the COVID-19 pandemic?

A.6. Working across agencies to develop whole-of-Government messaging and facilitating productive FDI that supports U.S. jobs is always critical to Global Markets' investment mission. That whole-of-Government effort, including through the Interagency Investment Working Group (IIWG), is all the more important at a time when we need to reassure investment partners about the fight against COVID-19. I would work with the White House, and across agencies, to underscore the progress the Government has made in delivering vaccines to most Americans. I would also support the interagency work evaluating travel conditions with a view to facilitating international travel at the earliest appropriate opportunity. At the same time, I would continue to press forward with the IIWG's work reviewing individual and ongoing casework to attract FDI and implementing joint programs such as webinars that can help investors understand the U.S. is an unparalleled market in its stability, size, and strength.

Q.7. *Export Promotion Through Trade Agreements*—The clearest and most straightforward way for the U.S. Government to engage in export promotion is to pursue bilateral and multilateral free trade agreements (FTAs). What do you view as the role of free trade agreements in facilitating market access?

A.7. Global Markets is committed to helping develop the best policy environment to encourage the export of U.S. goods and services. FTAs play an important role in securing that policy environment and thereby facilitating market access for those goods and services. Global Markets works with other offices in the Commerce Department and with other agencies like USTR to ensure that our trading partners live up to their commitments in those FTAs so that U.S. firms and workers get the benefits of the deals negotiated on their behalf. If confirmed, I am committed to driving the work of Global Markets to make sure that those FTAs, and the market access that

they provide, bring benefits to American workers and their families.

Q.8. In your position as an advocate for U.S. exporters, will you seek to encourage the Biden administration to pursue trade-facilitating agreements and policies?

A.8. If confirmed, I will advance the export promotion mission of Global Markets by using all the tools available to support opening foreign markets, keeping them open, and encouraging foreign purchases of U.S. goods and services. I would work closely with USTR, if confirmed, to pursue trade-facilitating agreements that produce benefits for American workers and their families. I would also support the deployment of other tools available to expand U.S. exports, including bilateral commercial dialogues, joint actions with trading partners to address shared challenges, and participation in regional and multilateral venues like the Asia-Pacific Economic Cooperation (APEC) forum and the World Trade Organization (WTO).

Q.9. In recent years, there has been a gradual rise in new restrictions and nontariff barriers to trade across the globe. How do you plan to engage with other countries in addressing unfair market barriers, expediting certification procedures, and reducing technical barriers to trade?

A.9. As the principal advocate in the U.S. Government for small business exporters, Global Markets is uniquely aware of the disproportionate impact that trade barriers, especially unjustified certification procedures and other technical barriers to trade, can have on small businesses. Bearing in mind the goal of making trade agreements work for American workers and their families, and the critical job-creating role that small businesses play, I would, if confirmed, ensure meaningful engagements with foreign countries on the elimination of barriers that produce benefits for small businesses. I would also elevate within the Commerce Department, and with USTR, those barriers that raise concerns of compliance with trade agreements, so that U.S. firms and workers get the benefits they deserve under those agreements. Finally, if confirmed, I would work closely with allies to pursue shared approaches to global standards and combat technical barriers to trade that allow our values to drive the new rules of the road.

Q.10. *Securing Procurement Market Access for U.S. Exporters*—The World Trade Organization’s (WTO) Agreement on Global Procurement (GPA) is a plurilateral agreement based on reciprocal market access for procurement, and for most of its history the United States has encouraged other countries to join the GPA in order to help secure market access for U.S. exporters. Your position oversees the Global Markets Advocacy Center, whose mission is to help U.S. companies compete for foreign procurement contracts. Do you support the WTO GPA as a tool for ITA’s Global Markets Advocacy Center to help U.S. businesses secure foreign procurement contracts?

A.10. The WTO GPA helps reinforce Global Markets’ advocacy on the importance of fair and transparent procurement processes that allow Governments to purchase the best goods and services suited to their needs. Fairness and transparency in these processes are

critical to the work of the Advocacy Center and more broadly to the ability of U.S. goods and services to compete for these foreign purchases. If confirmed, I will continue Global Markets' strong commitment to fair and transparent procurement processes that facilitate U.S. exports, including through the processes required under the WTO GPA.

Q.11. The Biden administration has proposed “Buy American” policies to tighten domestic content rules for procurement contracts, including “working with allies to modernize international trade rules and associated domestic regulations regarding Government procurement to make sure that the U.S. and allies can use their own taxpayer dollars to spur investment in their own countries.”¹ This would likely lead to trading partners retaliating by narrowing their own procurement markets to American exporters. If the Biden administration moves forward with such policies, how do you plan to work to make sure that other countries do not restrict their export markets in retaliation?

A.11. If confirmed, I would work with colleagues across ITA to reach out to WTO GPA members and trading partners to ensure that rules-based procurement regimes, guaranteeing fairness and transparency, continue to be adopted by countries around the world. As the provisions of the current Made in America Executive Order remain consistent with our trade agreement obligations, I would support ITA efforts to monitor and ensure that trading partners also continue to uphold their reciprocal trade agreement commitments to the United States.

Q.12. *Global Carbon Tax as a Barrier to U.S. Exports*—ITA’s Global Markets Department seeks to address and remove foreign Government policies, practices, or procedures that unfairly or unnecessarily restrict U.S. exports. Pursuant to that, the European Union (EU) is expected to soon formally release its proposed Carbon Border Adjustment Mechanism (CBAM). This proposal, if enacted, will likely be a substantial barrier to U.S. exporters seeking to sell to the EU, through both tariff and nontariff barriers to trade. This proposal would also likely be found to violate WTO “national treatment” requirements—which State that imported products be given “no less favorable” treatment than that given to like domestic products.

Do you agree that a carbon border adjustment tax is a barrier to trade that has the potential to discriminate against U.S. exporters?

A.12. The United States, like the EU, is committed to keeping 1.5 C within reach, and we are both aligned in our long-term (2050) and short-term (2030) climate objectives. We believe that carbon border adjustment measures, if designed appropriately, represent one of several potentially useful tools as countries implement their emissions reduction strategies. If confirmed, I will work with Congress and all stakeholders, as well other offices in ITA and across the agencies, to develop a fuller understanding of any carbon border adjustment to avoid any inadvertent harm or discrimination against U.S. exporters.

¹ <https://joe Biden.com/made-in-america/>

Q.13. If this policy is enacted, how will you work with the EU to prevent this policy from unfairly harming U.S. exporters?

A.13. Global Markets and ITA are working closely with USTR and other U.S. Government agencies to analyze the recently released proposal for a carbon border adjustment mechanism (CBAM) and will hold consultations with U.S. industry on the impact of the EU CBAM on U.S. exports and commercial interests. Information on the technical details will be critical to understanding the full impact of the measure on U.S. companies. If confirmed, I look forward to continuing to consult and exchange views informally and formally with our EU colleagues in coordination with the U.S. Trade Representative, including in the U.S.–EU Trade and Technology Council.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR DAINES
FROM ARUN VENKATARAMAN**

Q.1. Protecting U.S. intellectual property is essential for maintaining our competitive edge when competing in the global economy. China in particular has been a long-standing abuser of IP rights and protections which is why I have led efforts to ensure the U.S. holds China accountable for its IP commitments in the China Phase One deal and elsewhere. What can the U.S. do to better support and enforce IP protections in China?

A.1. The Biden administration will continue to work with Congress to ensure the United States holds China accountable for its intellectual property (IP) commitments. Thorough implementation of the Phase One deal is key to meaningful IP reforms in China and a fair and effective Chinese IP system. The Department of Commerce actively supports USTR and the interagency in tracking China's compliance with its obligations under the IP Chapter of the Phase One deal. Commerce experts at the Patent and Trademark Office (USPTO) have participated in several of the technical-level discussions led by USTR to better understand how China's IP action plan will fulfill China's commitments. In addition, Commerce monitors the practical impact of Chinese reforms on the ability of U.S. rights holders to protect and enforce their IP in China.

The Department of Commerce, through ITA and the USPTO, actively assists U.S. firms with IP questions and issues in China, among other foreign markets. Our U.S. Foreign and Commercial Service officers and IP Attaches based in China provide critical on the ground assistance to U.S. companies with IP concerns. The Department will address the challenge of protecting U.S. intellectual property from theft and unfair competition by helping our innovators and creators identify and protect their IP, providing information to U.S. businesses and practitioners on IP protection, and working to maintain high standards for IP protection in any future trade agreements. The Department will also use the tools at its disposal to ensure our trading partners abide by their international commitments, including those respecting IP protection and enforcement, and will actively participate and defend U.S. IP interests in international forums and standard-setting processes. If confirmed, I will work to ensure that Global Markets deepens its part-

nership across ITA, and with USPTO, to best protect the innovation central to long-term U.S. competitive advantage.

Q.2. I also believe that India will play an even larger role in the global economy for years to come and the U.S. should work to expand economic ties and consider entering formal negotiations with India, which presents an enormous opportunity for growth for U.S. farmers, especially Montana's pulse crop farmers, and small businesses in addition to the strategic, regional, and geopolitical significance of India as a counterweight to China's growing influence. What will be your priorities in expanding opportunities and helping level the playing field for U.S. businesses in India's market?

A.2. I agree that India is an increasingly critical market for U.S. exporters and innovators and a strategic partner for addressing global challenges. If confirmed, I will prioritize our engagement and focus on the opportunities presented by India, including for rural exporters and exporters from underserved communities, and identify key sectors for strategic collaboration that help both countries meet shared challenges around the world. I would, if confirmed, look for ways to build on the participation of the private sector through the U.S.-India CEO Forum (Forum) and the U.S.-India Commercial Dialogue (CD). I would also seek to drive concrete outcomes from any engagement that would facilitate commercial partnerships between U.S. and Indian companies, including with respect to the digital economy.

Q.3. As you know, the International Trade Administration plays an important role in seeking to remove or reduce unfair barriers to trade in foreign markets. While individual issues and barriers to trade are inevitable in any market, pursuing trade agreements can be the most effective way to improve market access substantially for U.S. farmers, ranchers, manufacturers, and businesses. While not directly responsible for developing trade policy, how do you see ITA working with USTR and other agencies in the Federal Government to advance and improve U.S. trade policy?

A.3. ITA and Global Markets have a very close working relationship with USTR and other agencies in the Federal Government to advance and improve U.S. trade policy. The President has made clear that his Administration will pursue ways to strengthen the linkage between trade agreements and American workers and families, and ITA and Global Markets can play a meaningful role in supporting that linkage. If confirmed, I fully intend on continuing this engagement, sharing ITA's expertise and data and analytical support, and providing inputs and viewpoints from stakeholders including the U.S. business community to the trade policymaking process.

**RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN BROWN
FROM DAMON Y. SMITH**

Q.1. Where have you excelled in past positions in attracting, hiring, and promoting people of color in positions in your organization(s)? Where might there be room for improvement?

A.1. I believe that for HUD to succeed in its mission, we need to attract and retain talent from every background and walk of life.

I have served on the hiring and diversity committees of two law firms and had the opportunity at HUD to promote staff to fill critical managerial roles in the Office of General Counsel. In each of those instances, I excelled at attracting, hiring, and promoting highly qualified people of color. There is always room for improvement, and HUD's Office of General Counsel is no exception. If I am confirmed, I will ensure that our Legal Honors Program is well-publicized to law school affinity groups, participate in our recruitment outreach efforts, and work closely with our managerial staff to ensure that everyone has opportunities to work on high-profile projects in their area of expertise and has access to rotations and training that can advance their careers.

Q.2. What specific measures will you use to evaluate the success of the U.S. Department of Housing and Urban Development in understanding and addressing the needs of Black, Indigenous and People of Color (BIPOC)? And, will you work with the Secretary and senior officials to keep Congress apprised, as appropriate, on the progress being made on these measures?

A.2. Understanding and addressing community needs is vital to HUD's mission to create strong, sustainable, inclusive communities and quality affordable homes for all. Our Secretary and Deputy Secretary have already committed to requesting sufficient staff resources so that the Department can fully execute its mission in all communities, including BIPOC communities that have been disproportionately impacted by COVID-19 and its economic fallout. If confirmed, I would work with the Secretary and other senior officials to partner with our grantees to enhance their capacity to effectively respond to community needs and ensure they comply with the law. We can measure our success by, among other things, the number and quality of outreach efforts to heavily impacted communities, increases in resources available, successful efforts made to mitigate harms, progress in our efforts to ensure that everyone who is able to own a home has the opportunity to do so, and an increase in the number of tenants who are housed in safe, sanitary, and decent housing. If confirmed, I will work with Secretary Fudge to advance HUD's mission, and per President Biden's Executive Order 13985, to advance the equitable delivery of HUD's programs. I will also work with the Secretary and our Congressional and Intergovernmental Relations office to keep Congress apprised on the progress being made on these goals.

Q.3. What is your plan for creating an inclusive working environment for employees within your office?

A.3. If confirmed, I will make it a priority to build and maintain an inclusive working environment in HUD's Office of General Counsel (OGC). HUD OGC is a diverse workplace with leadership from many different backgrounds. I will work to ensure those diverse voices are a part of the decision-making process when it comes to office initiatives, legal determinations, and our efforts at recruitment and retention of talent. Through training sessions and meetings, I will make sure everyone understands that we value the contributions that our employees bring to meeting HUD's mission, and that, together, we are responsible for maintaining a workplace that is fair, inclusive, and free from all forms of harassment and

discrimination. I will maintain and enhance training that reinforces the values of civil treatment and building teams based on mutual respect and collegial relations.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR TOOMEY
FROM DAMON Y. SMITH**

Q.1. *Organization of the Office of General Counsel (OGC)*—How do you view your role with regards to other program offices? How will you shape their priorities on policy?

A.1. With respect to policy decisions, the primary function of the General Counsel is to provide the Secretary, the Deputy Secretary, and the program offices with legal counsel. While enhancing policy-makers' understanding of the law is critical to those policy decisions, should I be confirmed, I would not view my role as determining policy priorities, but rather ensuring that policy decisions are informed by the best legal counsel.

Q.2. Will you commit to ensuring that OGC provides legal advice on hiring matters rather than deferring to HUD's Office of the Human Chief Capital Officer?

A.2. I am a strong believer in collaboration and relationship building, and I believe OGC has a critical role to play in advising the Office of the Chief Human Capital Officer (OCHCO), as well as all of the Agency's support offices and program offices. If confirmed, as General Counsel, I will serve as the chief legal officer for the Department, and I will fulfill my role as General Counsel by providing timely and effective legal advice to all parts of the Agency, including OCHCO.

Q.3. HUD's Departmental Enforcement Center (DEC) was created during the late 1990s, and there is sometimes been confusion about the proper role of DEC. What do you view as DEC's purpose? Where should it be housed within HUD?

A.3. The DEC plays an incredibly critical role at HUD in ensuring the public trust by protecting residents, improving the quality of housing, and helping our program offices eliminate fraud, waste, and abuse. The DEC's primary role is to bring HUD-assisted property owners into full compliance with important obligations so that there is no compromise in the quality or economic performance of housing for the low- and moderate-income families and senior housing residents that we serve. The DEC works closely with the Office of General Counsel's Program Enforcement attorneys and our program offices in Public and Indian Housing and Community Planning Development to ensure that HUD funds are properly accounted for and spent in accordance with our requirements. Should I be confirmed as General Counsel, the DEC will have strong support within OGC, and I will help it broaden and deepen its positive impact on HUD programs.

Q.4. How will you ensure that the legal opinions of OGC staff are elevated and not ignored?

A.4. I have a strong belief in the expertise and professionalism of OGC staff. I also believe OGC has a critical role to play in partnership with HUD leadership to ensure that all decisions are well-in-

formed and benefit from excellent legal counsel. Should I be confirmed as General Counsel, I will act in accordance with this understanding of the key role of OGC staff and the benefits that they provide throughout the Department.

Q.5. What will inform your decision to overrule any recommendations or not accept legal analysis prepared by OGC attorneys?

A.5. I am a strong supporter and admirer of OGC's dedicated career attorneys. Should I be confirmed, I will always give great weight to their expertise, legal analysis, and recommendations in making decisions. Ultimately, as General Counsel I will accept responsibility for using that input to reach the best legal conclusions I can based on the law, facts, and evidence.

Q.6. *Disparate Impact*—HUD recently proposed reinstating its 2013 disparate impact rule. I'm concerned that this proposal will fully disregard the U.S. Supreme Court's decisions in *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015), which identified constitutional guardrails for disparate impact liability. Under HUD's 2013 disparate impact rule, it seemed that defendants were often guilty until proven innocent. Defendants lacked the protections announced by the Supreme Court in *Inclusive Communities*, like the need for a plaintiff to prove a robust causality between the plaintiff's action and the alleged harm. Reinstating this rule without taking *Inclusive Communities* into account will invite a wave of frivolous lawsuits against housing providers and made it costlier to access affordable housing.

Do you acknowledge that *Inclusive Communities* defines limitations for the scope of disparate impact liability?

A.6. In affirming the consensus of the courts of appeals and of HUD that the Fair Housing Act provides for disparate impact liability, *Inclusive Communities* stated that "disparate-impact liability is properly limited in key respects" and highlighted some of them. For example, it cited HUD's 2013 rule in observing that a defendant must be given the opportunity to state and explain the valid interest served by its policies. That said, the Department has begun taking comments via notice and comment rulemaking, and if confirmed, I will ensure that we carefully review and respond to all comments on *Inclusive Communities* and other matters before promulgating a final regulation.

Q.7. Will you ensure that any revised rule complies with the Supreme Court's limitations in *Inclusive Communities*?

A.7. If confirmed, I will ensure that any revised rule comports with *Inclusive Communities* and other applicable law.

Q.8. In 2019, when now-HUD Deputy Secretary Adrienne Todman was CEO of NAHRO, that organization filed a comment letter arguing that HUD should exempt housing authorities from disparate impact if a policy is "a reasonable approach and in the housing authority's sound discretion." The comment letter quoted the Supreme Court in *Inclusive Communities* that disparate impact liability should not "second-guess . . . approaches a housing authority should follow" and that the Fair Housing Act "does not decree a particular vision of urban development." As HUD General Counsel,

will you evaluate the possibility of including such a safe harbor in any revisions to HUD's disparate impact rule?

A.8. The comment period in the rulemaking you reference is currently open, and I do not want to prejudice that process by stating what will be included in any revisions. In accordance with the Department's legal responsibilities under the Administrative Procedures Act, if confirmed, I will ensure that the Department carefully considers any revisions to the proposed rule that commenters may propose, including those described in this question.

Q.9. Will you commit that any revisions to HUD's disparate impact rule will follow the Supreme Court's 2015 dictate in *Inclusive Communities* that "disparate-impact liability [should not] be so expansive as to inject racial considerations into every housing decision?"

A.9. If confirmed, I will ensure that any revised rule comports with *Inclusive Communities* and other applicable law.

Q.10. Will you commit that any revisions to HUD's disparate impact rule will follow the Supreme Court's dictate in *Inclusive Communities* that "disparate impact liability must be limited so employers [can] make . . . practical business choices and profit-related decisions [to] sustain a vibrant and dynamic free-enterprise system?"

A.10. If confirmed, I will ensure that any revised rule comports with *Inclusive Communities* and other applicable law.

Q.11. Will you commit that any revisions to HUD's disparate impact rule will follow the Supreme Court's dictate in *Inclusive Communities* to have "adequate safeguards" for defendants at the prima facie (pleading) stage so "race [is not] used and considered in a pervasive way [that] would almost inexorably lead governmental or private entities to use numerical quotas . . . ?"

A.11. If confirmed, I will ensure that any revised rule comports with *Inclusive Communities* and other applicable law.

Q.12. Will you commit that any revisions to HUD's disparate impact rule will follow the Supreme Court's dictate in *Inclusive Communities* to have "robust causality" between the defendant's actions and the harm to a protected class so that defendants will not be held liable for racial disparities they did not create?

A.12. If confirmed, I will ensure that any revised rule comports with *Inclusive Communities* and other applicable law.

Q.13. Will you commit that any revisions to HUD's disparate impact rule will follow the Supreme Court's dictate in *Inclusive Communities* to focus on removing "artificial, arbitrary, and unnecessary barrier[s]" to housing?

A.13. If confirmed, I will ensure that any revised rule comports with *Inclusive Communities* and other applicable law.

Q.14. *Regulatory Policy*—Do you commit to receiving comments from the public before publishing sub-regulatory guidance, including industry stakeholders, housing advocates, and families affected by HUD's policies?

A.14. I believe strongly in the benefit of public input for Federal agency decision-making whenever required or feasible. In formu-

lating rules and regulations, HUD complies with the Administrative Procedure Act. HUD has several types of sub-regulatory guidance documents, ranging from Handbooks, Notices, and Letters to FAQs, that serve to highlight or explain statutory or regulatory requirements that pertain to HUD programs or operations. HUD's sub-regulatory guidance documents are designed to assist program participants and the public, but do not have the force and effect of law, except pursuant to statutory or regulatory authority or as incorporated by contract.

If I am confirmed as General Counsel, I will commit the Department to following the requirements of the Administrative Procedure Act in close consultation with the Office of Management and Budget, providing for public notice and comment where required. Further, I will encourage our program offices to continue existing practices for solicitation of public feedback as appropriate in connection with sub-regulatory guidance documents, even if it is not legally required.

Q.15. Economically significant policy changes require additional documentation such as a regulatory impact analysis (RIA) that comprehensively considers impacts on all stakeholders.

Will you advise HUD to review all proposed changes to check if they are economically significant?

A.15. Yes. If confirmed, I will ensure that HUD works closely with the Office of Information and Regulatory Affairs (OIRA) to follow Executive Order 12866, which requires for each matter identified or determined to be a significant regulatory action that the agency provide an assessment to OIRA, including the underlying analysis, of the costs and benefits anticipated from the regulatory action, together, to the extent feasible, a quantification of those benefits.

Q.16. Do you commit to preparing RIAs and other additional materials for any economically significant policy changes?

A.16. Yes. If confirmed, I will ensure that HUD works closely with the Office of Information and Regulatory Affairs (OIRA) to follow Executive Order 12866, which requires for each matter identified or determined to be a significant regulatory action that the agency provide an assessment to OIRA, including the underlying analysis, of the costs and benefits anticipated from the regulatory action, together, to the extent feasible, a quantification of those benefits.

Q.17. *Congressional Oversight*—Please provide your philosophy on how HUD will approach and respond to Congressional information requests (both for documentary information and oral testimony), if you are confirmed.

A.17. I recognize and respect Congress' important role in conducting oversight of the Executive Branch. If confirmed, I would work with colleagues in HUD's Office of Congressional and Intergovernmental Relations to ensure HUD responds to Congressional requests for information, consistent with appropriate law and regulations.

Q.18. 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.

A.18. No.

Q.19. Will you commit that, if confirmed, you will timely respond to and fully comply with all information requests from me? Please answer “yes” or “no.” If your answer is “no,” please explain.

A.19. If confirmed, I would ensure HUD responds to Congressional requests for information, consistent with appropriate law and regulations and will work with our Office of Congressional and Intergovernmental Relations to make sure we provide responses to your inquiries in close coordination with your staff.

Q.20. Will you commit that, if confirmed, you will make yourself and any other HUD 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.

A.20. If confirmed, I will work to ensure HUD responds in a timely manner to all to Congressional requests for information, including from both Chairs and Ranking Members, consistent with applicable law and regulations.

Q.21. Do you believe that HUD may assert any privileges or other legal justifications to withhold information (whether records or oral testimony) from Congress? Please answer “yes” or “no.”

A.21. The decision to assert a privilege or other legal justification to withhold information from Congress requires a fact-specific inquiry and cannot be resolved in the abstract. However, if confirmed, I will work to ensure that HUD addresses all Congressional informational requests as openly and transparently as possible, consistent with my obligation to my client.

Q.22. If you answered “yes” to the preceding question, please list every such privilege or other legal justification and provide the legal basis for why you believe HUD may use such privilege or legal justification to withhold information from Congress.

A.22. The decision to assert a privilege or other legal justification to withhold information from Congress requires a fact-specific inquiry and cannot be resolved in the abstract. However, if confirmed, I will work to ensure that HUD addresses all Congressional informational requests as openly and transparently as possible, consistent with my obligation to my client.

Q.23. In an effort to be open and transparent with Congress and the public, will you commit not to assert any such privilege or legal justification against Congress that you listed above? If not, why not? If so, please identify all such privileges or legal justifications that you will commit to not assert against Congress.

A.23. The decision to assert a privilege or other legal justification to withhold information from Congress requires a fact-specific inquiry and cannot be resolved in the abstract. However, if confirmed, I will work to ensure that HUD addresses all Congressional

informational requests as openly and transparently as possible, consistent with my obligation to my client.

Q.24. *Emergency Housing Voucher (EHV) Program*—The law governing noncitizen eligibility for emergency housing vouchers (EHVs) makes clear that notwithstanding any other laws, only some lawful noncitizens may receive EHVs and no exceptions are made for unlawful aliens.¹ A related law limiting eligibility for other housing programs to lawful noncitizens does provide exceptions for certain short-term shelter programs when assistance is not conditioned on income.² However, the amount of assistance through the EHV program is conditioned on the applicant's income and the program is not short-term. Given that Congress knew how to make exceptions to citizenship eligibility requirements for homelessness programs and chose not to extend those exceptions for voucher programs, do you feel HUD's justification of its recent waiver requiring verification of eligible immigration status before admitting people into the EHV program is sufficient?

A.24. HUD's recent policy implementing EHV did not waive the law governing noncitizen eligibility and PHAs remain responsible for ensuring that the vouchers are only provided to eligible applicants. In recognition that eligible applicants experiencing domestic violence, sexual assault, and human trafficking during the COVID-19 pandemic may have particular difficulty timely obtaining certain proof of eligibility, HUD made available to PHAs the option to have additional time to collect the necessary documentation.

HUD takes seriously our responsibility to implement this and all programs in full accordance with laws and statutes. If confirmed, I will ensure that program flexibilities are extended in a way that complies with applicable statutes and regulations.

Q.25. *Collaboration With HUD's Office of Inspector General (OIG)*—Please provide your philosophy on how HUD will support and address OIG audits and investigations, if you are confirmed.

A.25. Although management responses to OIG audits are typically led by the program offices audited, the Office of General Counsel (OGC) plays an important role in helping our clients respond and ensuring that responses are legally sufficient. In addition, OGC often liaises with counsel for OIG to attempt to resolve disputes between our respective clients prior to elevation to the Deputy Secretary.

I am proud of the close relationship that I was able to develop with OIG in my prior tenure at HUD. The success of that collaboration was confirmed when OIG granted me the HUD-OIG Eagle Award for Outstanding Partnership. If confirmed, I would work to build that same rapport and work closely to resolve audits in support of OIG's mission of reducing and eliminating waste, fraud, and abuse in HUD programs.

Q.26. In 2020, HUD-OIG determined that for the last 11 years, HUD has failed to submit an annual report to Congress required

¹ 42 U.S.C. §1436a.

² 8 U.S.C. §1611(b)(1)(D).

by law on troubled PHAs.³ Will you commit to transmitting this report this year as required by law?

A.26. Yes. Pursuant to section 6(j)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(5)), HUD submitted an overview of troubled PHAs in Fiscal Year 2019 to Congress on August 25, 2020. The overview of troubled PHAs for Fiscal Year 2020 is currently in departmental clearance. If confirmed, I would look into this matter and seek to ascertain ways to improve the reporting process.

Q.27. HUD measures the performance of PHAs across a number of indicators to ensure that units are decent, safe, sanitary, and in good repair. After compiling scores for each indicator into an overall score, the PHA receives a performance designation.⁴ HUD–OIG determined that a number of PHAs that received a “troubled performer” designation remained troubled for longer than two years, after which time they should have been referred to the HUD Assistant Secretary for takeover. HUD–OIG determined that when “[the HUD Office of Public and Indian Housing] does not refer a troubled PHA to the Assistant Secretary after the maximum 2-year recovery period, a PHA could remain troubled for a period beyond that maximum 2-year period while conditions stagnate or deteriorate.”⁵ Will you ensure that HUD’s process for referring troubled PHAs to the HUD Assistant Secretary for takeover by HUD would be consistent with the law and regulations as identified by HUD–OIG?

A.27. I take very seriously all findings and determinations made by the HUD–OIG. If confirmed, I will work with the relevant program officials to ensure that HUD’s handling of PHAs designated “troubled performer” is in accordance with applicable laws and regulations.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TILLIS FROM DAMON Y. SMITH

Q.1. Recently, the Department issued guidance which permits officials to issue emergency housing vouchers (EHV) to individuals without first providing a Social Security number. This policy risks inviting fraud by illegal immigrants.

What action is HUD taking to ensure that American citizens, and not illegal immigrants, receive assistance? What measures are in place to prevent illegal immigrants from violating Federal law and taking advantage of EHV assistance?

A.1. HUD’s recent policy implementing EHV did not waive the law governing noncitizen eligibility and PHAs remain responsible for ensuring that the vouchers are only provided to eligible applicants. In recognition that eligible applicants experiencing domestic violence, sexual assault, and human trafficking during the COVID–19 pandemic may have particular difficulty timely obtaining certain

³ 42 U.S.C. §1437d(j)(5); HUD–OIG, 2019-OE-0001 “HUD Has Not Referred Troubled Public Housing Agencies as the Law and Regulations Require” 10 (Feb. 4, 2020), available at <https://www.hudoint.gov/sites/default/files/2020-02/2019-OE-0001.pdf>.

⁴ 24 CFR §902.11(d).

⁵ HUD–OIG, 2019-OE-0001 “HUD Has Not Referred Troubled Public Housing Agencies as the Law and Regulations Require” 5.

proof of eligibility, HUD made available to PHAs the option to have additional time to collect the necessary documentation.

HUD takes seriously our responsibility to implement this and all programs in full accordance with laws and statutes. If confirmed, I will ensure that program flexibilities are extended in a way that complies with applicable statutes and regulations.

Q.2. How will the agency ensure that American taxpayer dollars are repaid, if and when illegal immigrants unlawfully receive EHV assistance due to this policy?

A.2. If confirmed, I will direct my Program Enforcement counsel and the Departmental Enforcement Center to work closely with the program office and HUD-OIG to ensure that HUD's response to this scenario or any other that may occur in the implementation of EHV's is in accordance with applicable laws and regulations.

Q.3. I sent a letter on June 11 to the Department to raise my concerns about this policy, and requested a response no later than July 12. Can you please provide an update on the status of this letter, and when I should expect to receive a response?

A.3. The letter is being processed by the Department. My colleagues in the Office of Congressional and Intergovernmental Relations have informed me that they provided an update to your office.