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SUBCOMMITTEE ON HOUSING, TRANSPORTATION,
AND COMMUNITY DEVELOPMENT

May 1, 2013

The Honorable Jacob J. Lew
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Lew,

After two years of partisan bickering, Washington politicians continue to avoid the difficult decision-making needed to right our fiscal course by agreeing to meaningful deficit reduction. As part of this delay, on February 4, Congress and the administration suspended the national debt limit. Previously, the government could borrow up to a certain legal dollar limit, known as the statutory debt limit, which before its suspension was set at $16.4 trillion.

After the United States' credit rating was downgraded for the first time in history, instead of cutting up the credit cards, Washington politicians have given themselves a blank check and limitless debt limit.

This recent action by Congress takes an unprecedented approach to government borrowing by completely suspending the legal dollar limit and replacing it with a calendar deadline, May 19, 2013. As this day looms, much uncertainty exists regarding the nation's borrowing abilities and the financial actions to occur in only 19 days. The debt limit will be reinstated at that time, but at a higher, unspecified level. Failing to specifically limit the extent to which the government can incur new debt not only hides from taxpayers the true extent of Washington's borrowing and spending, but raises serious questions about the country's financial security.

Many budget experts agree the legislation is ambiguous at best and provides extensive room for interpretation. In a recent report, referring to the law suspending the debt limit, the nonpartisan Congressional Research Service stated, "How that measure would set the limit on May 19 appears less than clear."[1] There has also been much debate regarding Treasury's ability or lack thereof to utilize the debt issuance suspension period and extraordinary measures following the pending deadline.[2]

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[1] Congressional Research Service, "The Debt Limit: History and Recent Increases," April 10, 2013
[2] Washington Outside, "The Debt Limit and H.R. 325: The "No Budget, No Pay Act of 2013," January 24, 2013, http://washingtonoutside.blogspot.com/2013/01/the-debt-limit-and-hr-325-no-budget-no.html, and The Bipartisan Policy Center, January 24, 2013, http://bipartisanpolicy.org/blog/2013/01/key-takeaways-house-republican-debt-limit-proposal-hr-325#comment-24833

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While Congress failed to provide clear legislative direction for this process, the burden of implementation rests with the Department of Treasury. In order to assist Congress in understanding Treasury's plan for implementing the law, please respond by May 17, 2013, to the following inquiries.

- What is the U.S. Treasury's interpretation of how Public Law 113-3 requires the new debt limit to be set on May 19? Further, does Treasury agree that, under section 2(b)(2), "the face amount of such obligations outstanding on the date of the enactment of this Act" is the closing balance of Total Public Debt Subject to Limit on February 4, 2013 ($16,435,279 million). If not, to what amount does Treasury believe this clause refers?

- Is it Treasury's interpretation that, on May 19, the new debt limit will be set below the level of total public debt subject to limit, requiring immediate use of extraordinary measures to remain in compliance with the debt limit statute?

- Do any constraints affect the U.S. Treasury's ability to invoke extraordinary measures on or after May 19, 2013? Are there any funds used in extraordinary measures earlier in 2013 that have not been made whole?

- Will the U.S. Treasury consider itself in compliance with the law if cash balances on May 19, 2013, exceeded its cash balances on February 4, 2013, the date of enactment of H.R. 325 (P.L. 113-3)? Would cash slated for transmission from the Federal Reserve play any role in that calculation?

- Alternatively, would the U.S. Treasury calculate the change in its cash balances between February 4, 2013 and May 19, 2013, and grandfather all debt minus that difference in cash balances?

- Are there any other technical factors that would affect the calculation of the debt limit effective May 19, 2013, or the U.S. Treasury's ability to employ extraordinary measures?

- In the U.S. Treasury's view, would changes in trust fund balances have any effect on the calculation of the debt limit effective May 19, 2013?

- When does the Treasury estimate their use of extraordinary measures, if employed, will be exhausted following the automatic May 19 debt limit increase?

- Some private forecasters have projected the U.S. Treasury could meet federal obligations, without an increase in the statutory debt ceiling, through early September and possibly early October, even without a special payment from Fannie Mae. If Fannie Mae were to make such a payment, according to some private forecasts, the U.S. Treasury could make payments until October or even early November. Does the Treasury concur with those forecasts? If not, please explain why and how Treasury forecasts differ.

- Further, does the Treasury anticipate that the conservator would approve any dividend payments required under the senior preferred stock purchase agreement from Fannie Mae or Freddie Mac to the Treasury?

- Does the Treasury view it as appropriate for Fannie Mae and Freddie Mac to borrow money to pay Treasury the dividend that is due, considering these entities will pay a higher interest rate than Treasury would for the same amount of money borrowed?

Sincerely,

Tom A. Coburn, MD
United States Senate