United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510–6275

October 2, 2012

Hon. Timothy Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

Dear Secretary Geithner:

On July 25, 2012, you testified before the House Financial Services Committee that when you became aware of concerns that the LIBOR rate was being rigged, you described your reaction and your interaction with British central bankers as follows: "We brought those concerns to their attention and we felt, and I still believe this, that it was really going to be on them to take responsibility for fixing this."

News reports confirm that The Federal Reserve Bank of New York (NYFRB), where you served as President from November 2003 until January 2009, raised concerns about LIBOR in 2008. Despite what you learned at the NYFRB, during your tenure as Treasury Secretary, nothing has been done to diminish use of this flawed index in U.S. financial markets; to the contrary, Treasury's use of LIBOR has increased. Starting in late 2008, Treasury-supported Small Business Administration loans changed from Prime, a domestic interest rate, to LIBOR.[1]

The decision not to take action to end the dominance of LIBOR, or at least inform the American public, has contributed to emerging litigation that threatens to clog our courts with multi-billion dollar class action lawsuits and losses on interest rate swaps by local, municipal, and state governments which may also lead to more lawsuits. Already, legal observers are calling the litigation boom likely to result from LIBOR manipulation as, "the New Asbestos" and the number of lawsuits likely to be filed as a "deluge."[2] It now appears that your decision to, until now, maintain public silence concerning the manipulation of LIBOR has led to billions in legal fees and has directly led to higher local, municipal, and state debt burdens.[3]

As a result, our concerns regarding LIBOR are two-fold. First, your decision not to make this manipulation publically known will result in American taxpayers being forced to either lose state, municipal, and local services or see higher taxes. Second, the continued inaction to

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[1] CNN Money, The SBA quagmire: Rebuilding a ravaged agency, Leo Jakobson, January 13, 2009.
[2] Businessweek, LIBOR, the New Asbestos, Roben Farzad, August 1, 2012. Washington Post, Trickle of Libor lawsuits from rate-fixing scandal likely to become deluge, Danielle Douglas, July 30, 2012.
[3] *Id.*

prevent further LIBOR scandals continues to place American government and American investors at risk. Should the LIBOR rate be manipulated again, you have set a precedent and defended a decision to make a foreign government aware of LIBOR manipulation but leave the United States in the dark.

These problems place borrowers and lenders who would like to contract using a LIBOR-like rate in a difficult position as they are now aware that the Treasury Department feels no duty to inform them if the rate they are using to execute contracts is fraudulent despite continued signs that LIBOR is an unreliable rate. In fact, the Financial Service's Authority, Britain's financial regulator said that LIBOR is no longer "fit for purpose" as a benchmark rate, yet American government, corporations, and individuals have few alternatives.[4] This creates an uncertain risk environment for interest rate benchmarked financial products and could lead to reduced market liquidity.

To help prevent another crisis, give certainty to borrowers and lenders, and increase market liquidity please answer the following questions:

1. Has the Treasury Department calculated the increased debt burden that state, municipal, and local governments will face as a result of your decisions regarding LIBOR? If so, what is it? If not, please provide an estimate.

2. Was the increased debt burden of state, municipal, and local governments considered when you decided that it would be "on them" (Bank of England) to fix the rigged LIBOR rate? If not, please explain why not.

3. Was litigation risk considered when you decided that it would be "on them" (Bank of England) to fix the rigged LIBOR rate? If not, please explain why not.

4. If you were to again become aware that LIBOR was manipulated, would you continue the policy of maintaining public silence and only bringing it to the attention of the Bank of England?

5. Is Treasury's continued support of LIBOR as the index for Small Business Administration loans restricting borrower access to these loans? If not, please explain why not.

In the wake of this scandal, we believe that it is essential to undertake steps to consider the creation of an American-based interest rate index. If U.S. investors and borrowers have suffered financial harm from our dependence on an index set in London, they have the right to expect the country's leaders to support better alternatives. Complacency in the wake of losses and lawsuits will diminish both investor and borrower confidence regarding debt securities issued in U.S. financial markets. We look forward to scheduling a briefing from key Treasury staff on first steps that can be taken toward this goal.

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[4] Daily Telegraph, Libor system 'no longer viable', says Martin Wheatley, August 10, 2012.

Thank you for your cooperation and attention in this matter. We would appreciate a response by October 16, 2012. If you have any questions, please do not hesitate to contact Chris Lucas for Ranking Member Grassley at (202) 224-5225 and Sue Sweet for Senator Kirk at (202) 224-2854.

Sincerely,

Chuck Grassley

Charles E. Grassley
Ranking Member
Committee on the Judiciary

Mark Kirk
United States Senator