

United States Senate

WASHINGTON, DC 20510

July 21, 2023

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Chairman Powell:

We write to you today regarding the Federal Reserve (Fed)'s upcoming consideration of capital requirement changes borne out of Vice Chair Michael Barr's "holistic review."

Like you, we believe the American financial system must be capitalized in a manner that promotes safety and soundness for individual institutions and the broader banking system while also fostering the level of dynamism that has been a mainstay of the American economy for decades. As such, deliberations on capital standards by the Fed are among the most important decisions the Board of Governors (Board) considers. Given the gravity of these decisions, we respectfully request the Fed pursue a transparent process on any proposed policy changes to the current capital standards framework so the American people can be confident that proper and thorough deliberation occurred.

On July 10, 2023, Vice Chair Barr delivered a speech¹ in which he announced several formal conclusions to his "holistic review" of capital standards. Though we welcome Vice Chair Barr's commitment to pursue changes to our capital framework through the congressionally-mandated Administrative Procedure Act (APA) and its defined notice-and-comment periods, it is highly concerning that the Board may soon initiate this process and vote on a set of policy changes stemming from the "holistic review" while neither have been made available for evaluation.

While we strongly believe these materials must be issued publicly for further review, there are significant questions regarding the level of transparency inside the Fed itself. Governor Cook's own comments during her confirmation hearing last month indicated that she had not reviewed, seen, or seemed to have any perspective on the anticipated lengthy proposal stemming from Vice Chair Barr's holistic review.² If true, this reveals a troubling lack of transparency and collaboration within the Fed. As Americans worry about access to affordable and reliable credit, it is critical that all voting members of the Board, including those who could be added in coming weeks, have sufficient time to fully understand and comment on the scope and conclusions of these reforms before a vote occurs.

¹ <https://www.federalreserve.gov/newsevents/speech/barr20230710a.htm>

² <https://www.banking.senate.gov/hearings/06/14/2023/nomination-hearing>

Additionally, in his July 10 speech, Vice Chair Barr made numerous assertions regarding changes to the capital requirements framework that remain unsubstantiated by any publicly-released analysis. Among these assertions are:

- “The comprehensive set of proposals that I have described here today would significantly strengthen our financial system and prepare it for emerging and unanticipated risks...For the reasons I have outlined today, we need to strengthen capital standards for large banks.”³ Earlier this year, the twenty-three largest banks operating in the U.S. were found as holding “sufficient capital” to absorb significant losses and continue lending under a variety of stressful conditions.⁴ It is unclear what analysis has driven Vice Chair Barr to disagree with the results of the 2023 Federal Reserve stress tests, which inherently show a well-capitalized system.
- A capital framework with multiple ways of measuring risk is “harder for banks to game.”⁵ This dismisses a core regulatory theory that greater complexity introduces greater risk. Though Vice Chair Barr references this counterargument in his speech, no underlying analysis or cost-benefit breakdown is provided to support Barr’s assertion that “multiple approaches are warranted.”⁶
- “The proposed rules are less burdensome for banks to implement than the current requirements, since they don’t require a bank to develop a suite of internal credit risk and operational risk models...”⁷ Given the lack of public information and analysis of the proposed rule changes, it is impossible to determine the accuracy of this statement.
- Increased capital requirements would mostly fall on the “largest, most complex banks.”⁸ Vice Chair Barr has characterized his proposed changes as impacting financial institutions at or above \$100 billion in assets. Linking the definition of large and complex banks to anything above a \$100 billion threshold would be a significant deviation from current standards and clear congressional intent.
- “In fact, most banks already have enough capital today to meet the new requirements. For the banks that would need to build capital to meet the requirements, assuming that they continue to earn money at the same rate as in recent years, we estimate that banks would be able to build the requisite capital through retained earnings in less than 2 years, even while maintaining their dividends.”⁹ Given the lack of public information and analysis of the proposed rule changes, it is impossible to determine the accuracy of this statement.

³ <https://www.federalreserve.gov/newsevents/speech/barr20230710a.htm>

⁴ <https://www.federalreserve.gov/publications/files/2023-dfast-results-20230628.pdf>

⁵ <https://www.federalreserve.gov/newsevents/speech/barr20230710a.htm>

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

These points, among others, highlight the continued uncertainty surrounding the “holistic review” and what concrete changes the Board is expected to soon consider. Given this uncertainty, we respectfully request the Fed commit to the following good governance considerations:

- Provide all materials related to Vice Chair Barr’s “holistic review” for public evaluation sufficiently prior to a vote on any changes to the capital standards framework. Vice Chair Barr’s speech that references but does not formally cite or provide the contents of the “holistic review” is inadequate for proper evaluation.
- Provide the full text of any proposed changes to the capital standards framework for public evaluation sufficiently prior to a vote. Vice Chair Barr’s speech that references but does not formally cite or provide the contents of the proposed changes is inadequate for proper evaluation.
- Ensure all members of the Board have time to consider and reflect upon any proposed changes to the capital standards framework sufficiently prior to a vote. Should new members be added to the Board, they cannot be expected to properly digest and evaluate lengthy proposals in the matter of a few days or weeks.

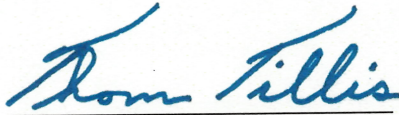
Though the Fed’s independence on monetary policy is undisputed, the deliberations soon-to-be under consideration by the Board clearly and unequivocally represent regulatory functions that fall squarely within the oversight powers of Congress. As a proposal is expected soon, failure to afford Board members and nominees the necessary time to undertake a requisite review and make an informed decision would be quite troublesome and undercut the credibility of the regulatory process. Likewise, it is especially important for Congress to understand the rationale and see the underlying analysis which should naturally accompany any regulatory changes, especially ones as significant as those proposed by Vice Chair Barr. At a time when credit availability is tightening for small businesses and everyday Americans across this country¹⁰, efforts to increase capital requirements will be significant and felt across all sectors. The Fed must clearly articulate, through the release of concrete economic analysis, the necessity for these regulatory changes.

Given our concerns, we respectfully request the Fed adhere to the considerations above to ensure any alteration to our current capital standards framework is conducted in a manner that emphasizes the transparency and proper deliberation it is due. Additionally, we urge you to consider the impact that possible confirmations and the perception of a rushed process will have on the economy, consumers, and small businesses alike.

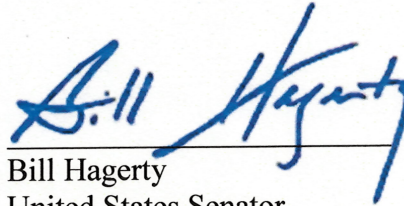
¹⁰ <https://www.bloomberg.com/news/articles/2023-04-11/us-small-businesses-face-worst-credit-in-a-decade-after-svb>

Thank you for your attention to this matter. We respectfully request a response prior to any scheduled vote by the Board on this matter, but no later than August 4, 2023.

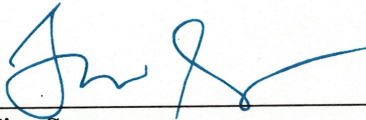
Sincerely,



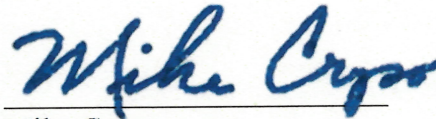
Thom Tillis
United States Senator



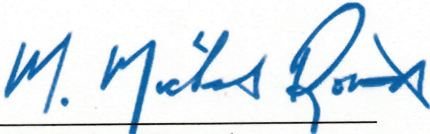
Bill Hagerty
United States Senator



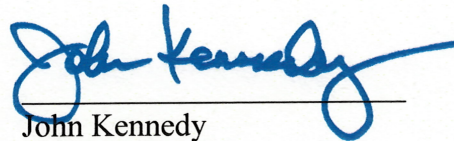
Tim Scott
United States Senator



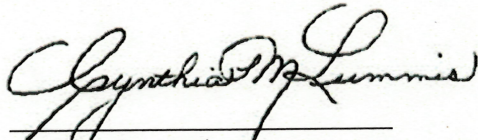
Mike Crapo
United States Senator



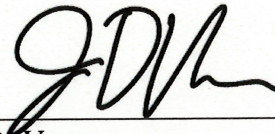
M. Michael Rounds
United States Senator



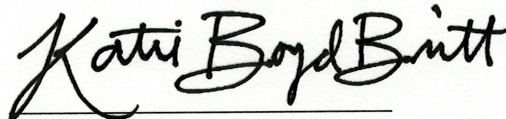
John Kennedy
United States Senator



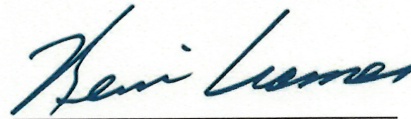
Cynthia Lummis
United States Senator



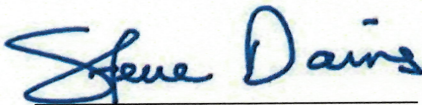
J.D. Vance
United States Senator



Katie Boyd Britt
United States Senator



Kevin Cramer
United States Senator



Steve Daines
United States Senator