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August 29, 2023

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

Dear Chair Powell:

On July 27, 2023, the Fed voted to advance proposed rules to strengthen capital standards for the nation's biggest banks, implementing the remaining provisions of the international Basel III agreement that was initially launched in response to the 2008 financial crisis and finalized in December 2017.¹ This was an important and long overdue step forward, and I urge you to resist industry pressure to weaken the proposal and finalize the rules as quickly as possible. But I am concerned that your intent to seek "potential modifications to the proposals" means that you will seek to weaken them.² This would be a grievous error.

The Fed's proposal, which has been under development for the entirety of your service on the Fed Board, including your tenure as Fed Chair, "would modify large bank capital requirements to better reflect underlying risks and increase the consistency of how banks measure their risks" and "seeks to further strengthen the banking system by applying a broader set of capital requirements to more large banks" in response to the March 2023 bank crisis.³ This includes the elimination of a regulatory loophole that allows large regional banks to exclude unrealized losses and gains from securities in their capital calculations, which "helped mask deterioration in SVB's balance sheet until investors and customers sparked a deposit exodus."⁴ The Fed's description of the proposal further notes that the increase in capital requirements would "principally affect[] the largest and most complex banks," that "[m]ost banks currently would have enough capital to meet the

¹ CNBC, "Regulators unveil sweeping changes to capital rules for banks with \$100 billion or more in assets," Hugh Son, July 23, 2023, <https://www.cnbc.com/2023/07/27/regulators-sweeping-capital-rules-changes-big-banks.html>; Politico, "Powell voices skepticism at Fed's own bank rule proposal," Victoria Guida, July 27, 2023, <https://www.politico.com/news/2023/07/27/powell-skepticism-bank-proposal-00108530>

² Board of Governors of the Federal Reserve System, "Opening Statement on the Large Bank Capital Requirement Proposal by Chair Jerome H. Powell," July 27, 2023, <https://www.federalreserve.gov/aboutthefed/boardmeetings/powell-statement-20230727.pdf>

³ Board of Governors of the Federal Reserve System, "Agencies request comment on proposed rules to strengthen capital requirements for large banks," press release, July 27, 2023, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20230727a.htm>

⁴ CNBC, "Regulators unveil sweeping changes to capital rules for banks with \$100 billion or more in assets," Hugh Son, July 23, 2023, <https://www.cnbc.com/2023/07/27/regulators-sweeping-capital-rules-changes-big-banks.html>

proposed requirements,” and that the “proposal includes transition provisions to give banks sufficient time to adapt to the changes while minimizing any potential adverse impact.”⁵

This is a common-sense proposal that has become even more urgent in the wake of the banking turmoil earlier this year. As President Biden urged federal banking agencies in March, “there is remaining work to fully implement post-financial crisis capital rules” so that Americans can “be confident that banks have sufficient capital cushions to absorb potential losses during stress events like the ones experienced by Silicon Valley Bank.”⁶ Accordingly, as Fed Vice Chair for Supervision Michael Barr noted, the goal of the Fed’s proposal “is simple: to increase the strength and resilience of the banking system by better aligning capital requirements with risk ... so that banks bear the responsibility for their own risk-taking.”⁷ This particularly critical following the recent bank crisis given that the Fed’s post-mortem analysis of SVB’s failure finds that “while the proximate cause of SVB’s failure was a liquidity run, the underlying issue was concern about its solvency.”⁸

Nevertheless, the bank lobby has been “engaging in a full-court press to fend off higher capital requirements” well before the release of the Fed’s capital proposal.⁹ As I noted in a March 29 letter to you, JPMorgan Chase CEO Jamie Dimon warned that stronger capital requirements were “bad for America” and a “significant economic risk” in October 2022, just months before SVB and Signature collapsed.¹⁰ Even worse, big bank lobbyists and their allies in Congress were pressing you to stave off increased capital requirements just *days before* those failures.¹¹ Lobbying expenditures by the major banking trade groups and three dozen of the biggest banks from April through June this year were nearly 20 percent higher than lobbying expenditures during the same period last year – a clear effort to fend off stronger rules following the failures of SVB and Signature.¹²

⁵ Board of Governors of the Federal Reserve System, “Agencies request comment on proposed rules to strengthen capital requirements for large banks,” July 27, 2023, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20230727a.htm>

⁶ The White House, “FACT SHEET: President Biden Urges Regulators to Reverse Trump Administration Weakening of Common-Sense Safeguards and Supervision for Large Regional Banks,” press release, March 30, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/03/30/fact-sheet-president-biden-urges-regulators-to-reverse-trump-administration-weakening-of-common-sense-safeguards-and-supervision-for-large-regional-banks>

⁷ Board of Governors of the Federal Reserve System, “Statement by Vice Chair for Supervision Michael S. Barr,” press release, July 27, 2023, <https://www.federalreserve.gov/newsevents/pressreleases/barr-statement-20230727.htm>

⁸ Board of Governors of the Federal Reserve System, “Review of the Federal Reserve’s Supervision and Regulation of Silicon Valley Bank,” April 28, 2023, <https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf>

⁹ Politico, “Fed rate hikes are posing a risk to banks. The banks hate the government’s solution,” Victoria Guida, June 26, 2023, <https://www.politico.com/news/2023/06/26/bidens-regulators-poised-to-turn-up-the-heat-on-big-banks-00103467>

¹⁰ Letter from Senator Warren to Federal Reserve Vice Chair for Supervision Michael Barr, FDIC Chairman Martin Gruenberg, and Acting Comptroller Michael Hsu, March 29, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.03.29%20Letter%20to%20Federal%20FDIC%20OCC%20re%20Bank%20Capital%20Requirements1.pdf>

¹¹ *Id.*

¹² Bloomberg, “Bank Lobbying Climbs Nearly 20% Ahead of New Fed Capital Rules,” Laura Davison and Bill Allison, July 21, 2023, <https://www.bloomberg.com/news/articles/2023-07-21/bank-lobbying-climbed-nearly-20-as-new-fed-rules-loom#xj4y7vzkg>

It is no surprise why the big bank lobby has invested so much money to stave off higher capital requirements in good times and bad: stronger capital requirements “impact the amount of profits banks return to investors through [stock] buybacks,”¹³ which in turn may reduce bank executive bonuses and compensation.¹⁴ Indeed, in April, S&P Global Market Intelligence predicted that buybacks this year will “remain under pressure due in part to the possibility of tougher capital rules.”¹⁵ For the big banks that plan to move ahead with share repurchases – such as Wells Fargo, which announced a \$30 billion buyback plan in July 2023 – the Fed’s capital proposal is a direct threat to massive payouts for executives and shareholders.¹⁶

I am concerned that even though you voted to advance the Fed’s proposed rule, your tepid embrace of the proposal seem to suggest that you may share Wall Street executives’ concerns that stronger capital requirements will eat into their bonuses.¹⁷ Your opening statement on the proposal notes that you “support putting” the proposal “out for comment”¹⁸ but at no point did you indicate that you support the proposed rule or even recognize the need for it – a signal the media picked up on when noting that you “ha[ve] reservations” that “underscore how deeply divided the Fed is on regulations, even as it has maintained striking unanimity in its far more visible interest rate-hiking campaign.”¹⁹ Although you admit that “recent events have demonstrated the need to strengthen supervision and regulation for firms with assets between \$100 billion and \$250 billion,” even here you qualify your support for such action with vague references to the “need to strike the right balance.”²⁰ Rather than declare clear support for stronger capital standards, the bulk of your statement is focused on your interest in seeing “potential modifications to the proposals,” raising concerns that you intend to water down the proposed rules in line with the banking industry’s wishes.²¹ This would be at odds with your comments following the release of the Fed’s post-mortem of SVB’s failure in which you clearly stated that you “agree with and support [Vice Chair

¹³ Wall Street Journal, “Banks Are Halting Stock Buybacks Again as New Capital Rules Loom,” David Benoit, July 28, 2023, <https://www.wsj.com/articles/banks-stock-buybacks-basel-endgame-50fb9e7c>

¹⁴ Reuters, “The Cannibalized Company,” Karen Brettell, David Gaffen, and David Rohde, December 10, 2015, <https://www.reuters.com/investigates/special-report/usa-buybacks-pay/>

¹⁵ S&P Global Market Intelligence, “US banks cut share buybacks by 74% YOY in Q4 2022,” Rica Dela Cruz and Gaby Villaluz, April 13, 2023, <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/us-banks-cut-share-buybacks-by-74-yoy-in-q4-2022-75049751#>

¹⁶ Bloomberg, “Wells Fargo Jumps After Approving \$30 Billion Buyback Plan,” Jennifer Surane, July 25, 2023, <https://www.bloomberg.com/news/articles/2023-07-25/wells-fargo-jumps-after-approving-new-30-billion-buyback-plan>

¹⁷ Board of Governors of the Federal Reserve System, “Opening Statement on the Large Bank Capital Requirement Proposal by Chair Jerome H. Powell,” July 27, 2023

<https://www.federalreserve.gov/aboutthefed/boardmeetings/powell-statement-20230727.pdf>

¹⁸ *Id.*

¹⁹ Politico, “Powell voices skepticism at Fed’s own bank rule proposal,” Victoria Guida, July 27, 2023, <https://www.politico.com/news/2023/07/27/powell-skepticism-bank-proposal-00108530>

²⁰ Board of Governors of the Federal Reserve System, “Opening Statement on the Large Bank Capital Requirement Proposal by Chair Jerome H. Powell,” July 27, 2023

<https://www.federalreserve.gov/aboutthefed/boardmeetings/powell-statement-20230727.pdf>

²¹ *Id.*

for Supervision Barr’s] recommendations to address our rules and supervisory practices”²² – which included improving capital standards.²³

Your uncertain positioning on the Fed’s proposal, just months after the banking system was nearly brought to its knees by the sudden collapse of banks you enthusiastically supported deregulating, reveals a broader lack of leadership. Your tenure as Fed Chair has been defined by delivering on Wall Street executives’ wish lists,²⁴ most notably through your support of the 2018 Dodd-Frank rollback that “was designed to ensure that lenders with between \$50 billion and \$250 billion in assets — then covering about two dozen of the country’s largest banks, including SVB — no longer faced a range of strict rules that apply to their bigger counterparts.”²⁵ You wrongly assured the public that, even after the rollback, the law still “gives us the tools that we need to continue to protect financial stability.”²⁶

Under your watch and with your support, the Fed Board also weakened oversight of the regulatory framework for the biggest banks well beyond what was required of the law, including a March 2020 rule that one of your former colleagues on the Board noted was estimated to reduce capital requirements by “nearly \$40 billion or 4 percent for the global systemically important banks (GSIBs), nearly \$30 billion or 11 percent for other large banks with assets above \$250 billion, and nearly \$35 billion or 16 percent for banks with assets between \$100 and \$250 billion.”²⁷ Now, as the big bank lobby prepares its targeted assault on the Fed’s new capital proposal,²⁸ your failure thus far to voice clear support for stronger rules that protect taxpayers and the economy – and your indications that you support potentially weakening the Fed’s proposal – provides them with cover.

The Fed’s advancement of the capital proposal follows years of unnecessary delays during your tenure as Chair.²⁹ While the new capital rules were supposed to be adopted by January 1, 2023, the release of the proposal came six months after that deadline.³⁰ Further delaying the rule’s

²² Board of Governors of the Federal Reserve System, “Federal Reserve Board announces the results from the review of the supervision and regulation of Silicon Valley Bank, led by Vice Chair for Supervision Barr,” press release, April 28, 2023, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20230428a.htm>

²³ Board of Governors of the Federal Reserve System, “Review of the Federal Reserve’s Supervision and Regulation of Silicon Valley Bank,” April 28, 2023, <https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf>

²⁴ Office of Senator Elizabeth Warren, “At hearing, Warren Presses Fed Chair Powell on Record of Deregulation, Opposes Renomination As Fed Chair,” press release, September 28, 2021, <https://www.warren.senate.gov/newsroom/press-releases/at-hearing-warren-presses-fed-chair-powell-on-record-of-deregulation-opposes-renomination-as-fed-chair>

²⁵ Politico, “‘The Fed has mishandled this about 7 different ways’: SVB rescue sparks backlash,” Victoria Guida, March 20, 2023, <https://www.politico.com/news/2023/03/17/fed-svb-regulation-michael-barr-00087717>

²⁶ Roll Call, “Fed Chairman Weighs in on Financial Deregulation Bill Set for Senate Debate,” Doug Sword, March 1, 2018, <https://rollcall.com/2018/03/01/fed-chairman-weighs-in-on-financial-deregulation-bill-set-for-senate-debate/>

²⁷ Board of Governors of the Federal Reserve System, “Statement by Governor Brainard,” press release, March 4, 2023, <https://www.federalreserve.gov/newsevents/pressreleases/brainard-statement-20200304a.htm>

²⁸ Reuters, “US banking industry starts to pick its battles against new capital rules,” Douglas Gillison, Nupur Anand, and Tatiana Bautzer, August 7, 2023, <https://www.reuters.com/business/finance/us-banking-starts-pick-its-battles-against-new-capital-rules-2023-08-07/>

²⁹ Financial Times, “Banks plead for rethink over post-crisis rules,” David Crow, Stephen Morris and Laura Noonan, March 19, 2020, <https://www.ft.com/content/0827a58e-693d-11ea-800d-da70cff6e4d3>

³⁰ MLex Market Insight, “US Fed aims to adopt last Basel III part by January 2023 with ‘capital neutral’ calibrations across system,” Neil Roland, June 3, 2021, <https://mlexmarketinsight.com/news-hub/editors-picks/area-of->

implementation, the Fed allowed a 120-day comment period on the proposal – longer than usual³¹ – in deference to the bank lobby’s requests.³² The long delay in proposing and implementing these post-financial crisis reforms under your watch is puzzling given that you have wasted no time in hiking interest rates to a 22-year high over the last year and a half.³³ It is even more striking in light of the haste with which the Fed enacted more than a dozen deregulatory changes since you became Chair.³⁴

Following the collapse of SVB and Signature, you admitted that “I’ve been chair[ing] the [Fed] board for five-plus years now, and I fully recognize that we made mistakes ... we need to do better ... I do feel that I’m personally accountable to do what I can to foster measures that will address the problems.”³⁵ The Fed’s proposal to strengthen capital requirements for big banks provides you an opportunity to do so. It is critical for the Fed’s credibility as a regulator that the Chair clearly support the United States’ leadership in implementing the Basel reforms. I strongly urge you to accept accountability for your failures, resist industry pressure to weaken and further delay the rules, and finalize this proposal as quickly as possible.

Sincerely,



Elizabeth Warren
United States Senator

[expertise/financial-services/us-fed-aims-to-adopt-last-basel-iii-part-by-january-2023-with-capital-neutral-calibrations-across-system](#)

³¹ Federal Register, “A Guide to the Rulemaking Process,” January 2011, https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf

³² Financial Services Forum, “Joint Trades Letter to Federal Chair Powell on Costs of Higher Capital,” July 13, 2023, <https://fsforum.com/news/joint-trades-letter-to-federal-chair-powell-on-costs-of-higher-capital>

³³ Bloomberg, “Fed Raises Interest Rates to 22-Year High, Leaves Door Open for More,” Steve Matthews, July 26, 2023, <https://www.bloomberg.com/news/articles/2023-07-26/fed-raises-rates-to-22-year-high-leaves-door-open-for-more>

³⁴ Better Markets, “Powell-Led Federal Reserve Deregulation Caused the Failure of Silicon Valley Bank and the 2023 Banking Crisis,” Dennis M. Kelleher, March 27, 2023, https://bettermarkets.org/wp-content/uploads/2023/03/BetterMarkets_FactSheet_Powell-Led_Fed_Deregulation_Caused_SVB_Failure_March-2023.pdf

³⁵ Board of Governors of the Federal Reserve System, “Transcript of Chair Powell’s Press Conference,” May 3, 2023, <https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20230503.pdf>