



BETTER MARKETS

September 29, 2021

Via Email

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

Re: ***The Cover Up Must End***: The Pandemic Trading Violated Clear Fed Policies & The Fed Must Tell the American People Who Else at the Fed Traded During the Pandemic

Dear Chairman Powell,

Your steadfast defense of trading by regional Fed presidents during the pandemic as apparently in compliance with Fed policies (as you said again on Tuesday at the Senate Banking Committee hearing to Sen. Warnock) is indefensible and your refusal to come clean with the American people about the extent of the trading by Fed personnel in possession of material nonpublic information during the pandemic looks like a cover up. While accepting the resignations of two regional Fed presidents was a good first step, it is wholly insufficient, particularly considering you showered them with praise rather than condemning their violation of Fed policies, abysmal bad judgement, failure of leadership, and breach of the public trust. This was another missed opportunity for you to send a clear message to the American people (and to those who you lead at the Fed) that the Fed has high ethical standards. Actual leadership and meaningful action are required, not more PR, damage control, and incremental half measures.

First, as you must know, it is beyond doubt that the trading disclosed thus far violated the Fed's clear and express policies for regional Fed presidents and others. Contrary to suggestions by you and others, those policies are not limited to "appearances" or to complying with the pre-FOMC meeting trading blackout periods, but also include the following:

"1. Members of the Board of Governors of the Federal Reserve System and ***presidents*** and first vice presidents ***of the Federal Reserve Banks*** have a ***special responsibility for maintaining the integrity, dignity, and reputation of the System***. Accordingly, ***they should scrupulously avoid***

conduct that might in any way tend to embarrass the System or impair the effectiveness of its operations.

“2. They should carefully adhere **to the spirit, as well as the letter, of the rules of ethical conduct** prescribed for employees of the Board of Governors or the Federal Reserve Banks and should **exemplify in their own conduct the high standards** set forth in those rules.

“3. **Their personal financial dealings should be above reproach**, and information obtained by them as officials of the System **should never be used for personal gain**. In order to **avoid even the appearance of acting on confidential information**, they should not knowingly purchase or sell any security [during the FOMC black out period].... **Beyond these guidelines, they should carefully avoid engaging in any financial transaction the timing of which could create the appearance of acting on inside information concerning Federal Reserve deliberations and actions.**”

“4. **They should be careful to avoid any dealings or other conduct that might convey even an appearance of conflict between their personal interests, the interests of the System, and the public interest...**”¹

This establishes beyond a doubt that the ethical policies applicable to the conduct of Fed officials is not limited to the pre-FOMC meeting blackout period. In stark contrast, the ethical rules are expansive and broad as is appropriate for senior officials of the central bank who are frequently in possession of material market sensitive nonpublic information:

¹ Federal Reserve “Voluntary Guide to Conduct for Senior Officials” (“Guide”): <https://www.federalreserve.gov/monetarypolicy/files/FRAM2-026-1.pdf> (emphasis added). While oddly titled “Voluntary,” it’s clear that the Guide is official Fed policy governing regional Fed presidents and others as made clear by its reference to “See also Directors—Guide to Conduct,” which can be found here (and quoted below): <https://www.federalreserve.gov/generalinfo/listdirectors/PDF/guide-to-conduct.pdf>. The Guide is also part of the “Policies Governing Directors,” which can be found here: <https://www.federalreserve.gov/aboutthefed/directors/policy-governing-directors.htm>. The Guide is also listed on the FOMC “Rules and Authorizations” website at the bottom: https://www.federalreserve.gov/monetarypolicy/rules_authorizations.htm. **See also** “DIRECTORS-Guide to Conduct for Directors of Federal Reserve Banks and Branches”: <https://www.federalreserve.gov/generalinfo/listdirectors/PDF/guide-to-conduct.pdf> (“Directors of Federal Reserve Banks and branches have a special obligation for maintaining the integrity, dignity, and reputation of the Federal Reserve System.”; “it is essential that directors, through adherence to high ethical standards of conduct, avoid actions that might impair the effectiveness of System operations or in any way tend to discredit the System.”; “Their personal financial dealings should be above reproach and information obtained by them as directors of the System should never be used for personal gain.”; “Directors ... should avoid any action that might result in or create the appearance of— a. affecting adversely the confidence of the public in the integrity of the Federal Reserve System....”)

“Beyond these guidelines, they should carefully avoid engaging in any financial transaction the timing of which could create the appearance of acting on inside information concerning Federal Reserve deliberations and actions.”

No one reading these Fed policies -- which are expressly applicable to regional Fed presidents -- could credibly claim that the pandemic trading disclosed thus far complied with these policies. These policies are broad and clear, and they were violated by the regional presidents' pandemic trading.

As the most senior leader of the Fed, you should have said so and held those Fed leaders to the high standards that they are supposed to follow and that the American people properly expect. Instead, you have cast doubt on the Fed's clear policies by saying that they need to be “reviewed” when all they needed was to be read and applied by Fed leadership to themselves and others. The incredibly low standard you have now set for violating clear Fed policies -- and violating the trust of the American people -- is mere resignation, [the same fate](#) the Fed allowed for former Richmond regional Fed president Lacker for his misconduct and policy violations.

That is an unacceptably low standard for violating Fed policies and you must immediately make clear that the Fed (a) currently has high standards applicable to all personnel including the leadership and (b) that there will be meaningful consequences for those who violate those policies. While this will require you to change course, it is never too late to do the right thing. That, after all, is what leaders do.

Second, your refusal to tell the American people the details and extent of how many Fed personnel have traded during the pandemic while in possession of material nonpublic information is wrong, violates the public trust, and looks like a cover up at best. There is no reasonable dispute that many at the Fed were in possession of material nonpublic information when it was (1) dropping interest rates to near zero, (2) flooding the financial system with trillions of dollars, and (3) creating numerous programs to support various financial products and markets, all of which impacted the price of most if not all financial assets. Anyone privy to that material nonpublic information who traded would likely have had a decided advantage.

How many people at the Fed in possession of this material nonpublic information traded during the pandemic? Whether they broke the law or not, the American people are entitled to know the extent of this violation of the public trust and whether these few regional Fed presidents were the tip of the iceberg or the entire universe of those seeking to profit during the pandemic. Therefore, you must require the full and immediate disclosure of:

(1) any and all trading activities (including all long and short positions, whether direct, indirect, or synthetic) by any and all Fed officials and staff at the Board, FOMC, or regional Feds who had access to information, analysis or other materials that played any part in the Board's decision-making process regarding its (a) “traditional” monetary policy, (b) “unconventional” monetary policy, or (c) pandemic-related facilities and

programs since the beginning of the pandemic though today and the details of their trading; and

(2) all documents related to any review, approval and/or denial of any such trading.

Moreover, allowing Dallas Fed President Kaplan to continue to stonewall the many requests for him to disclose the dates of his trading simply cannot be tolerated. You have repeatedly referred to the disclosure forms as informing the public, but to properly inform the public, all information required by the form must be disclosed, including the dates of all trading. Mr. Kaplan merely put the word “multiple” where the date is required. Everyone should be able to agree that “multiple” is not a date and, therefore, Mr. Kaplan has not complied with the Fed policy to fill out the form and disclose the required trading information. You must order him to fill out the form properly and fully and disclose the dates of his trading as all the others who have filled out the forms presumably have done. If you do not, it will be clear to all that senior leaders of Fed can knowingly and intentionally ignore the mandatory disclosure policies and face no adverse consequences for doing so.

Third, wholly apart from their violations of Fed policies, the American people are also entitled to know if senior officials or others at the Fed broke the laws on insider trading or otherwise and whether there will be any accountability for any violations of law. Your announced internal “review” will have no credibility. You and other Fed leaders have already publicly communicated the conclusion of any such “review” by repeatedly stating that the trading complied with Fed policies or appears to have complied, as you were at pains to tell Sen. Warnock at the Senate Banking Committee hearing on Tuesday. Worse, you have needlessly, incorrectly, and improperly undermined those policies by casting doubt on their clarity, completeness, and applicability, as you did again also at that Senate Banking Committee hearing.

Directing subordinates and direct reports to now conduct a “review” of that trading in light of your prejudgment and exoneration is inappropriate. The only proper course of action is for you to publicly request the Department of Justice, the Securities and Exchange Commission, and the Fed’s Inspector General to conduct comprehensive independent investigations to determine if any laws were broken by any of this trading.

In conclusion, the trust of the American people has been seriously undermined by the trading disclosed thus far by several regional Fed presidents during the pandemic when hundreds of thousands of Americans were dying and tens of millions were being thrown out of work. One can only imagine the demoralizing impact such trading has also had on the many hard-working Fed staff who were not trading but working overtime to prevent a collapse of the economy and financial system. Their selfless work stands in stark contrast to the misconduct of the regional Fed presidents’ profit-seeking pandemic trading.

To begin to restore the faith of the American people, the confidence of the Fed's own staff, and the moral authority of the Fed to do its job, we urge you to promptly take the concrete, comprehensive, and meaningful action set forth here.

Sincerely,



Dennis M. Kelleher
President and CEO

CC: Vice Chairman Richard H. Clarida
Ms. Ann E. Misback, Secretary, Board of Governors
Senator Sherrod Brown, Chairman, Senate Banking Committee
Chair Maxine Waters, House Financial Services Committee