February 22, 2021

By Electronic Submission

The Honorable Sherrod Brown
Chairman
Senate Committee on Banking,
Housing and Urban Affairs
United States Senate
Washington, DC 20515

The Honorable Patrick J. Toomey
Ranking Member
Senate Committee on Banking,
Housing and Urban Affairs
United States Senate
Washington, DC 20515

Re: Critical Financial Stability Issues to Address at the February 23, 2021, Hearing with the Chairman of the Board of Governors of the Federal Reserve System

Dear Chairman Brown, Ranking Member Toomey and Members of the Committee:

While the ongoing economic and financial shocks due to COVID-19 should be the focus of your hearing with the Chairman of the Board of Governors of the Federal Reserve System, Better Markets[1] writes to encourage you to also inquire into the dangerous deregulatory actions taken by the Federal Reserve over the last four years.

Although not acknowledged often enough, the Federal Reserve has a tri-mandate: price stability, maximum employment and financial stability. While price stability and maximum employment receive the most attention, financial stability is equally important and can easily undermine the other goals, as painfully evidenced by the financial crash of 2008 and the pandemic-caused economic and financial crisis beginning last March.

That is why this Committee must carefully review the Federal Reserve's deregulatory actions during the last four years, which have been substantial and have weakened the Dodd-Frank Act's financial protection rules. These unwarranted actions have increased the risk to financial stability and our economy, as we detailed in the attached White Paper released last December. Those key deregulatory changes include:

[1] Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street, and make our financial system work for all Americans again. Better Markets works with allies—including many in finance—to promote pro-market, pro-business, and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans' jobs, savings, retirements, and more.

1) lowering capital standards, including those associated with the Federal Reserve's stress testing program;

2) weakening what had been more assertive post-crisis banking supervision;

3) dropping liquidity standards for large banks with less than $700 billion of assets;

4) reducing the frequency at which large banks must prepare resolution plans ("living wills");

5) eliminating margin requirements for certain derivatives positions transacted between banks and their affiliates; and

6) changing the Volcker Rule to gut some of the key limitations on banks' proprietary trading and other risky investments (e.g., in hedge funds and private equity).

We issued a previous White Paper, also attached, demonstrating that the Dodd-Frank Act and other pre-Trump-era banking rules prevented the pandemic-caused crisis beginning in March 2020 from becoming a banking crash. This has been repeatedly confirmed by the Federal Reserve, most recently in the Feb. 19, 2021 Monetary Policy Report submitted in connection with this hearing (at p. 2 et. seq.): "Strong capital positions before the pandemic helped banks absorb large losses related to the pandemic." The Federal Reserve deregulation agenda over the last four years has risked snatching defeat from the jaws of victory: that deregulation must be reversed and the financial protection rules must be strengthened.[2]

These and other critical issues are currently pending before the Federal Reserve, including the ongoing capital distributions[3] and changes to the vital supplemental leverage ratio (SLR),[4] which the financial industry is lobbying[5] relentlessly to weaken dangerously. As we have pointed out in the past, Chairman Powell must be asked about these and related financial deregulation actions by the Federal Reserve.

[2] Of course, that should be done consistent with the intent of the 2018 Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).

[3] See, e.g., As the Federal Reserve Floods the Financial System with Capital, It Must Order Large Banks to Stop Capital Distributions via Stock Buybacks and Dividends, Better Markets (March 24, 2020), available at https://bettermarkets.com/newsroom/federal-reserve-floods-financial-system-capital-it-must-order-large-banks-stop-capital; and Stop Wall Street Payouts that Produce TARP Bailouts, Medium (Oct. 3, 2018) Dennis Kelleher and Jack Reidhill (detailing big bank capital distributions before and after the failure of Lehman Brothers in 2008), available at https://bettermarkets.medium.com/https-medium-com-bettermarkets-stop-wall-street-payouts-that-produce-tarp-bailouts-7647792b3246.

[4] See, e.g., The danger of allowing banks to artificially boost capital ratios, Yahoo!Finance (Aug. 7, 2020) Sheila Bair (discussing how banks will increase dangerous leverage while reducing lending to the real economy), available at https://finance.yahoo.com/news/bair-the-danger-of-allowing-banks-to-artificially-boost-capital-ratios-160415696.html.

[5] See, e.g., Big banks urge Fed to extend looser capital rules for deposits, U.S. debt, Politico Pro (Feb. 19, 2021) Victoria Guida, available at https://subscriber.politicopro.com/article/2021/02/big-banks-urge-fed-to-extend-looser-capital-rules-for-deposits-us-debt-2036818?source=email (subscription required).

We very much appreciate your attention to these important issues.

Sincerely,

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CC: All Members of the Committee

Enclosures: White Papers