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## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

July 13, 2022

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:

The Federal Reserve System is responsible for ensuring a safe, stable, and fair economy and financial system. Public trust in the institution is essential to fulfilling its mission. Therefore, Federal Reserve officials – the Board of Governors, Federal Reserve Bank Presidents and Vice Presidents, and senior Federal Reserve officers – must be held to the highest ethical standards and avoid even the appearance of any conflict of interest.

Federal Reserve officials' first priority must be to act in the best interest of all Americans, not for their own personal financial gain. The Federal Reserve System's codes of conduct have long required Fed officials to avoid conduct which places private gain above their duties to the Federal Reserve System, [or] which gives rise to an actual or apparent conflict of interest.<sup>1</sup> Despite those clear statements, in the early days of the coronavirus pandemic, as the Federal Reserve was taking unprecedented actions to stabilize our economy and financial markets, several top Federal Reserve officials engaged in stock trading and securities and futures transactions, including the former Vice Chair, who bought millions of dollars in stocks right before the Fed cut interest rates and announced its extraordinary market support.

In response to this scandal, the Federal Reserve adopted a new investment and trading policy for senior officials on February 18, 2022. We appreciate the Fed's work to create a stronger investment and trading policy for Federal Reserve officials. However, more must be done including: taking clear steps to codify the Fed's new trading restrictions – so that there are real teeth for violations – providing a discernible structure for addressing violations, and creating greater transparency to Congress and the American people. By taking these clear, concrete steps, the Federal Reserve can demonstrate its commitment to the highest ethical standards and accountability.

These recommended changes would help address our concerns about the lack of transparency surrounding the development of the policy and the shortcomings with its implementation. Additionally, we are disappointed that the Federal Reserve has refused to provide additional information regarding the full scope of the trading scandal. The need for strong rules and greater transparency is underscored by news reports in March 2020 that indicate Federal Reserve ethics

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<sup>1</sup> See, e.g., Federal Reserve Bank of Dallas Code of Conduct, as revised November 2019.

officials sent a memo to all senior Fed officials warning against trading: “In light of the rapidly developing nature of recent and likely upcoming (Federal Reserve) System actions, please consider observing a trading blackout and avoid making unnecessary securities transactions for at least the next several months, or until FOMC (Federal Open Market Committee) and Board policy actions return to their regularly scheduled timing.”<sup>2</sup> The Fed ethics office also expressed concern about the “appearance of acting on inside information” and encouraged officials to check with ethics staff before making any investment transactions.<sup>3</sup> Given that senior officials traded even after those warnings from Fed ethics officers, senior officials made additional transactions. Recent reports also reveal that the Federal Reserve failed to require updated financial disclosures from the former presidents of the Dallas and Boston Reserve Banks upon termination of their positions, which is inconsistent with the financial disclosure requirements for Board officials.<sup>4</sup>

Because Federal Reserve officials trading activity occurred in the face of unambiguous cautioning, it is clear that there must be consequences for actions taken in violation of these policies to ensure that ethical standards are upheld. Yet, the Federal Reserve’s new investment and trading policy fails to set forth any standards for disciplinary action, financial penalties, or other meaningful consequences for violations. The Federal Reserve’s new policy also fails to align public financial disclosure requirements, including termination reports, for Reserve Bank officials with those of the Federal Reserve Board.

There also appears to be a lack of accountability in the structure of the new policy. Fed officials are required to report to Designated Agency Ethics Officials (DAEO) or Reserve Bank ethics with respect to certain trading disclosures, pre-clearances, and waivers, but it is unclear to whom the DAEO and Reserve Bank ethics officers are to report if there is a violation of the requirements. Further, the policy grants two individuals—the Chair, in consultation with the General Counsel—the discretion to determine what constitutes a heightened period of market stress, without identifying any clear standards or factors to make the determination.

The Federal Reserve has also chosen to implement these policies as a code of conduct, which does not have the force of law. Other Fed ethics requirements are established by regulation, and other agencies, like the Securities and Exchange Commission, have issued regulations relating to ethical conduct and securities transaction restrictions. As agency rules of internal policy and procedure, there is no reason why the Federal Reserve cannot quickly implement its investment and trading policy in the Code of Federal Regulations to ensure that these requirements have the full force and effect of law.

We urge the Federal Reserve to establish penalties or other consequences for violation of this policy, increase accountability in the structure of the program, and implement the code of conduct so that these rules have the force of law. In light of your commitment to full transparency and to restore public trust in the Federal Reserve, we also repeat our request for your cooperation with members of Congress and the Federal Reserve’s Office of the Inspector General as we seek to understand the full depth of the Fed’s trading scandal.

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<sup>2</sup> <https://www.reuters.com/article/usa-fed-ethics-memo-idTRNIKBN2HB2PX>.

<sup>3</sup> *Id.*

<sup>4</sup> <https://www.nytimes.com/2022/06/24/business/fed-financial-disclosures-ethics.html>.

As you know, we introduced the Ban Conflicted Trading at the Fed Act, which requires the Fed to implement regulations governing its investment and trading restrictions and holds Fed officials accountable with penalties for violations of these requirements. All public officials should be focused on the American people, not serving their own stock portfolios.

Thank you for your attention to this important matter.

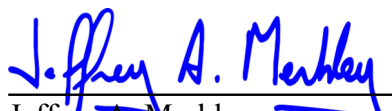
Sincerely,



Sherrod Brown  
United States Senator



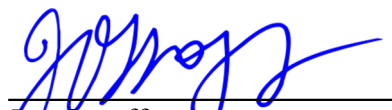
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United States Senator



Jeffrey A. Merkley  
United States Senator



Kirsten Gillibrand  
United States Senator



Jon Ossoff  
United States Senator