Opening Statement of Chairman Sherrod Brown
Hearing on "Examining Mandatory Arbitration in Financial Service Products"
May 4, 2023

Most Americans who put their money in a bank should trust that it will be safe. They shouldn't have to give it a second thought.

That money isn't just sitting in the bank vault collecting dust. Working Americans lend their hard-earned money to their banks, with the promise to get it back, with a little interest. They expect that their banker will not only keep their money safe, but that they'll also take those customer deposits and put them to good use.

And that's what many banks do.

They make loans to small businesses, issue mortgages to homebuyers, and finance new apartment buildings so that our communities can continue to grow and prosper. This is Banking 101. It's pretty boring – as good banking should be.

Because of the important role that banks play in our economy, that responsibility comes with a public safety net –American taxpayers subsidize this industry with government guarantees, like deposit insurance and access to emergency loans.

These are perks that most Americans don’t get. Workers don’t have access to special emergency loans when something goes wrong in their life.

Banks get special treatment, because they’re supposed to play a special role in our economy.

But we’ve seen over and over that some bank executives don’t hold up their end of the deal.

Banks need to manage their risks, build capital, and be able to pay back their depositors when they need their money back.

That’s not what happened at Silicon Valley Bank and Signature Bank.

Their CEOs and executives led their banks off a cliff.

They failed to manage the risks associated with their business model and investments. They lacked strong corporate governance and internal controls. They failed to respond to – and in some cases ignored – regulators’ concerns.

And we ended up with a bank run.

As their banks grew rapidly – more than doubling and tripling in size in just three years – their already-weak risk management couldn’t keep up.

It’s the Wall Street business model we see corporations follow over and over: executives put short-term profits above everything else.

In this case, that meant taking on more and more risk. Fatter profit margins meant higher payouts for those at the top – and more risk for the small businesses with their money in the bank.

At Silicon Valley Bank, executive bonuses were tied to the bank’s return on equity, so they bought securities with higher yields to chase higher and higher profits. When those investments started to lose money, instead of changing course they doubled down.

At Signature Bank, executives had incentive compensation plans that were tied to return on assets to “reflect additional focus on profitability.”

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Then when the writing was on the wall, SVB executives dumped millions of dollars’ worth of company stock.

At First Republic, senior executives sold millions in their bank stock less than a week after SVB and Signature Bank failed and sparked further concerns at their own bank.

For a lot of Americans, this all brought a sickening feeling of deja vu.

Everyone remembers 2008. We all remember Wall Street wrecking our economy, setting off the worst recession since the Depression that cost millions of Americans their jobs and their homes.

And Americans will never forget that, by and large, the Wall Street executives who caused all that pain didn't face any consequences.

Their profits and bonuses weren't clawed back – they went up.

Only in corporate boardrooms can you run your business into the ground, take the whole economy along with you, and come out ahead.

We cannot – we will not – let that happen again.

Bank executives who take on too much risk and crash their banks because of their own hubris and greed shouldn't get to ride off into the sunset with their ill-gotten gains.

And they shouldn't get to take their bad behavior to another bank, where they can continue to profit off an unsustainable business model and put more people's money at risk.

When it comes to holding big bank executives accountable for their recklessness, the wheels of justice move slowly – or often not at all.

We know that when workers make just one mistake – if they overdraft their bank account or miss a credit card payment, they get dinged with fees and penalties.

But when big bank executives and giant Wall Street firms do something far worse, like run their bank into the ground or crash our whole economy, they're almost never held accountable.

The big banks have more money and resources to fight tooth and nail. They have layers of complex management and bureaucracy to shield them. And that makes it harder and takes longer to enforce the law.

Just a few days after the SVB and Signature Bank failures, Carrie Tolstedt, the former Wells Fargo executive who led the bank's years-long fake account scandal that was uncovered in 2016, was finally banned from the industry and fined $17 million.

Only now – nearly a decade later – is the executive responsible for the massive scandal that hurt hundreds of thousands of Americans being held to account.

We need to strengthen our financial watchdogs' ability to impose fines, ban bad actors from the banking industry, and claw back compensation, so that accountability doesn't just apply to the teller who miscounts the cash box or the community bank director who makes a bad judgment on a loan.

We must modernize our enforcement rules to match the size and complexity of banks with billions of dollars in assets and multiple business lines – banks like Silicon Valley and Wells Fargo.

We need legislation to:

- Expand the banking agencies' authority to ban a bank executive or manager from the industry for failing to properly oversee the bank's operations.

- Make it easier for agencies to bring actions against bank executives and managers who are asleep at the switch, so we can disincentivize the lax oversight that leads to bank failures.

- Clarify and expand the FDIC's authority to claw back compensation.

- Increase penalties and make it easier to impose fines against bad actors.

- Require the agencies to finally finish the Dodd-Frank section 956 rule on incentive-based compensation.

I have been talking to many of my colleagues about this, including the Ranking Member, and I know there is bipartisan interest on many of these issues. Two of the members on this Committee have bipartisan bills. I hope we can work together to get this done.

As we've seen over the past few months, we need a system that deters excessive risk taking and imposes real, financial consequences on individuals for failing to oversee and manage those risks. Bank executives cannot continue to operate under the assumption that basic risk management is optional and secondary to making profits.

Let me say that again: Bank executives cannot operate a bank in a manner where risk management is optional.

And that’s exactly what happened here, and is underscored by the reports the regulators and GAO put out last week. Executives failed to manage these banks.

Later this month, we will hear from the regulators about what they can do to strengthen their oversight and supervision and how we can make the banks and our financial system more resilient. And we will hear directly from the failed bank executives, who must answer for their banks’ downfalls.

But today, our focus is on how to improve the tools we have to hold bank executives accountable and prevent these failures from happening in the first place.

Ultimately, bank executives are responsible for the success or failure of their institution. They are responsible for keeping their depositors’ money safe. They know when they sign up for the job that banking is built on trust. They are responsible for holding up their end of the deal.