

SHERROD BROWN, OHIO, CHAIRMAN
TIM SCOTT, SOUTH CAROLINA, RANKING MEMBER

JACK REED, RHODE ISLAND
ROBERT MENENDEZ, NEW JERSEY
JON TESTER, MONTANA
MARK WARNER, VIRGINIA
ELIZABETH WARREN, MASSACHUSETTS
CHRIS VAN HOLLEN, MARYLAND
CATHERINE CORTEZ MASTO, NEVADA
TINA SMITH, MINNESOTA
RAPHAEL WARNOCK, GEORGIA
JOHN FETTERMAN, PENNSYLVANIA
LAPHONZA R. BUTLER, CALIFORNIA

MIKE CRAPO, IDAHO
MIKE ROUNDS, SOUTH DAKOTA
THOM TILLIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA
BILL HAGERTY, TENNESSEE
CYNTHIA LUMMIS, WYOMING
J.D. VANCE, OHIO
KATIE BRITT, ALABAMA
KEVIN CRAMER, NORTH DAKOTA
STEVE DAINES, MONTANA

LAURA SWANSON, STAFF DIRECTOR
LILA NIEVES-LEE, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 20, 2024

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:

In March 2020, as the Federal Reserve considered monetary policy actions and programs to support financial institutions and businesses to limit the economic damage to our economy from the COVID-19 crisis, several officials engaged in trading activity that called into question their ability to set economic policy without a conflict of interest. Last month, the Office of Inspector General (IG) for the Board of Governors of the Federal Reserve System (Board) released a report providing additional information regarding their investigation into the trading activity of two former Federal Reserve Bank Presidents.¹ The report's findings show that both Federal Reserve officials engaged in market trading activity during an advised Federal Open Market Committee (FOMC) blackout period and failed to disclose those trades to their respective ethics officer. While the IG's investigation determined the officials' conduct "did not violate the laws, rules, regulations, or policies related to trading activities," it is clear that more needs to be done to address market trading activity that could create an "appearance of acting on confidential FOMC information" under the FOMC blackout rule or an "appearance of a conflict of interest".²

Given the seriousness of these incidents, the Board acknowledged the gap in the oversight of trading prohibitions and developed several policy enhancements to mitigate conflict of interest risks for Federal Reserve officials. Under the Board's 2022 update of its *Investment and Trading Policy*, covered individuals are prohibited from trading activities throughout blackout periods and must pre-clear any market trades with their respective ethics officers—in effect, banning the trading activities conducted by Federal Reserve officials in March 2020.

Since the Board issued its revised *Investment and Trading Policy* in an April 2023 report, the IG made five additional recommendations to improve the trading and investment rules and prevent

¹ Office of Inspector General for the Board of Governors of the Federal Reserve System, "Report of Investigation on the Closing of 22-0030-I Reserve Bank Trading Activity." <https://oig.federalreserve.gov/releases/investigation-closing-reserve-bank-trading.pdf>.

² Ibid.

future conflicted trading activities. The Board concurred with all of the IG’s recommendations, and in January 2024, the FOMC published an update to the *Investment and Trading Policy* adopting most of the IG’s recommendations—including expanding “the number of Federal Reserve System staff who will be covered by the most stringent restrictions on investment and trading activities and tightening restrictions on all staff with access to confidential FOMC information.”³

The Board’s *Investment and Trading Policy* is a constructive step toward restoring the public’s trust that Board officials will not use their knowledge of the economy and monetary policy setting to boost their investment portfolios. Nevertheless, I am concerned that the Board has not yet adopted the IG’s most critical recommendation to “formalize a process for determining and enforcing consequences for Reserve Bank covered individuals who violate the *Investment and Trading Policy* that includes clear roles and responsibilities.”⁴ Without an enforcement mechanism and penalties for Federal Reserve officials who violate the Board’s *Investment and Trading Policy*, these changes are ineffectual.

Federal Reserve officials, as charged with setting monetary policy, must serve the American people—not their own investment portfolios. To restore trust that Federal Reserve officials are not using their access to sensitive economic and monetary policy information to enrich themselves, the Board should, without delay, establish a process for enforcing the *Investment and Trading Policy* and develop sufficient penalties for individuals that violate the policy. As such, I urge the Board to implement substantive penalties for Federal Reserve officials that engage in prohibited market trading activity. Nothing will change unless there are real consequences for violating the Board’s *Investment and Trading Policy*.

Additionally, I encourage the Board to establish protocols so that all covered Federal Reserve officials who violate the Board’s *Investment and Trading Policy* are subject to a disciplinary review process. I also urge the Board to assess whether its existing Ethics Program has a sufficient number of full-time ethics officials to effectively oversee the financial reporting disclosures of all covered Federal Reserve staff. Creating substantive penalties and making sure there are sufficient staff to oversee covered Federal Reserve employees’ compliance with the rules, will reduce the likelihood of future conflicted trading activity.

³ Federal Open Market Committee, “Federal Open Market Committee announces updates that further enhance its policy on investment and trading.”

<https://www.federalreserve.gov/newsevents/pressreleases/monetary20240131c.htm>.

⁴ Office of Inspector General for the Board of Governors of the Federal Reserve System, “The Board Can Further Enhance the Design and Effectiveness of the FOMC’s Investment and Trading Rules.”

<https://oig.federalreserve.gov/reports/board-FOMC-investment-trading-rules-apr2023.pdf>.

The American people must be able to trust that the Federal Reserve works for them, and that officials aren't abusing their positions for personal gain. Thank you for your work on this issue and I look forward to your timely consideration of this request.

Sincerely,



Sherrod Brown

United States Senator