United States Senate

WASHINGTON, DC 20510

December 20th, 2019

Mr. Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

Ms. Jelena McWilliams
Chairwoman of the Board of Directors
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Mr. Randal K. Quarles
Vice-Chair of Supervision
Board of Governors of the Federal Reserve System
Marriner S. Eccles Federal Reserve Board Building
2051 Constitution Avenue NW
Washington, DC 20418

Dear Comptroller Otting, Vice-Chair Quarles, and Chairwoman McWilliams:

We are writing to you regarding a disturbing trend in the financial services industry, the intentional discrimination of entire industries by the largest banks in the United States. Over the past few years, one after another, the largest banks in the United States have steadily "derisked" from industries such as firearm manufacturers, private prison services, and fossil fuel producers. Ostensibly, these actions are to "derisk" from a threat to their safety and soundness, but according to the public statements of the banks and their executives, these actions are mainly designed to curry favor with partisan interest groups. Whether it is climate change, immigration policy, or gun ownership, these are divisive issues that are best left to our electoral process.

As firm believers in the free market, we believe private companies have the freedom to choose how to execute their business plans. After all, the desire for bank executives to maximize shareholders' economic value and the attractiveness of the bank's services to customers should be the major determinants for commercial success. However, the banking industry does not operate in a strictly free market. The banking industry is highly restrictive marketplace with high barriers for entry. Within these memberships, they also enjoy both implicit and explicit taxpayer subsidies. For example, as a lesson of the Great Depression and the banking panic that occurred, the FDIC provides taxpayer-funded deposit insurance to every depository bank. The Federal Reserve provides access to the discount window exclusively to banks within its system. This year, banks within the Federal Reserve System will receive nearly $20 billion in interest on the $1.38 trillion in reserves held in excess of their capital requirements. Finally, beyond the direct subsidies, there remains an implicit guarantee that the government will bailout the globally systemically important banks (G-SIBs) if they fall into financial distress. The Dodd-Frank Act did not solve "too big to fail", and the greater complexities in the post-financial crisis regulations

benefited the larger banks as economies of scale made it possible for them to absorb the technology investments and compliance costs that the community banks could never afford.

We are not writing to start a discussion on the worthiness of these subsidies. Surely, previous Congresses would not have provided these implicit and explicit subsidies if they did not have economic benefits to our country as a whole, but banks receive certain advantages over non-banks in exchange for a mandate to serve the credit needs of the entirety of their communities including low and middle income neighborhoods. Mergers and acquisitions require prudential regulatory approval even when there is no anti-trust implications, and laws such as the Community Reinvestment Act highlight the relationship between the government and banks. As bank consolidation shrinks the number of banks, we do worry if there is sufficient choice in the marketplace and whether or not this new concentration of power is used in a discriminatory fashion against law abiding citizens.

The center of our complaint rests with the largest banks in the U.S. The largest 6 banks in the U.S are all considered globally systemically important banks ("G-SIB") and between them hold nearly as much deposits as the remaining 5,000+ financial institutions combined. This concentration increases in more sophisticated services such as leverage finance, mergesr & acquisitions, and capital markets. An example of how this can impact average Americans is on the issue of 2nd amendment rights. Despite the fact that their clout is due to their government-provided protections, if banks continue their hostile treatment of gun manufacturers, suppliers, and stores, banks have the ability to deprive Americans of a constitutional right.

Banks should focus on the twin pillars of profitability and safety and soundness. It is not in the taxpayers' interest for Congress to mandate banks to adopt risky practices. Congressional mandates helped to contribute to the last financial crisis as the desire to increase homeownership created perverse incentives and poor underwriting standards. However, the "derisking" happening today is targeted at industries that pose no risk to a bank's safety and soundness and there is a clear body of evidence that the banks are withholding services explicitly to effectuate social change. We are particularly offended that they have targeted industries and companies predominately located in our rural communities. Often times these industries are the largest and best paying employers within the region and withholding banking services to them is effectively withholding banking services to the entire community. We reject the notion that the New York values of a handful of banking executives and asset managers can hold our constituents hostage and force them to sacrifice their beliefs.

Therefore, we appreciate if you address the following questions:

1. When a bank chooses to use alternative criteria beyond creditworthiness and direct risks to safety and soundness, do they in fact generate risk in their lending practices?

2. More sophisticated banking services such as securities underwriting and treasury management services have been now concentrated to a small number of banks in this

country, what steps do prudential regulators have to take to ensure that these services are extended based strictly on an economic calculus and not based on social preferences?

3. Since the targeting of certain industries based on social concerns have nearly all been concentrated at industries whose primary workforce are located in mostly rural communities, what types of challenges does this present for access to banking services in rural communities?

4. As mentioned before, the government grants banks certain privileges and protections to improve the stability of our country's financial system. Do banks that discriminate against entire segments of our country deserve the taxpayer-funded subsidies?

5. As you move forward on bringing the Community Reinvestment Act into the 21st century, how can you address the concerns we have raised in this letter?

Sincerely,

Senator David A. Perdue

Senator Mike Crapo

Senator Marsha Blackburn

Senator Kevin Cramer

Senator Ted Cruz

Senator Steve Daines

Senator James Inhofe

Senator John Kennedy

Senator James Risch

Senator Marco Rubio

Senator Ben Sasse

Senator Rick Scott

Senator Tim Scott

Senator Dan Sullivan

Senator Thom Tillis