

May 16, 2023

Mr. Mark Bialek  
Inspector General  
Office of Inspector General  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue NW  
Washington, DC 20551

Dear Mr. Bialek:

I am writing in regard to the findings and recommendations that your office produced in its April 2023 evaluation of the investment and trading rules governing the Board of Governors of the Federal Reserve System, the Federal Reserve Banks, and the Federal Open Market Committee (FOMC).<sup>1</sup> Since September 2021, a series of reports have revealed a shocking ethics scandal at the Federal Reserve System (Fed) in which high-level Fed officials engaged in stock and other investment trades as the Fed took extraordinary action to right the economy during the COVID-19 pandemic.<sup>2</sup> This scandal has raised questions about the integrity of individual Fed Board members, and eroded the public's trust in the Fed itself.<sup>3</sup> In response to this scandal, the Fed in February 2022 adopted new rules for investments and trading activity of senior officials.<sup>4</sup> Your evaluation of these new rules also come at a time when the Fed faces disturbing questions about whether unaddressed conflicts of interest are undermining its ability to effectively supervise the nation's big banks.<sup>5</sup>

Your office's evaluation of the "design and effectiveness" of the Fed's "approach to monitoring personal investment and trading activities for possible conflicts of interest" presents three central findings: 1) "The Board should implement additional controls for individuals with access to confidential Class I FOMC information;" 2) "The Board can continue to strengthen the System ethics programs' governance of personal investment and trading activities;" and 3) The Board

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<sup>1</sup> Office of Inspector General for the Board of Governors of the Federal Reserve System and the Consumer Protection Bureau, "The Board Can Further Enhance the Design and Effectiveness of the FOMC's Investment and Trading Rules," p. 2, April 26, 2023, <https://oig.federalreserve.gov/reports/board-FOMC-investment-trading-rules-apr2023.pdf>.

<sup>2</sup> New York Times, "A Fed Official's 2020 Trade Drew Outcry. It Went Further Than First Disclosed," Jeanna Smialek, January 6, 2022, <https://www.nytimes.com/2022/01/06/business/economy/richard-clarida-fed-stock-fund.html>.

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

<sup>4</sup> Board of Governors of the Federal Reserve System, "FOMC formally adopts comprehensive new rules for investment and trading activity," press release, February 18, 2022, <https://www.federalreserve.gov/newsevents/pressreleases/monetary20220218a.htm>.

<sup>5</sup> New York Times, "Before Collapse of Silicon Valley Bank, the Fed Spotted Big Problems," Jeanna Smialek, March 19, 2023, <https://www.nytimes.com/2023/03/19/business/economy/fed-silicon-valley-bank.html>.

can better monitor compliance with the *Investment and Trading Policy*.”<sup>6</sup> In simple terms, you found that the rules did not cover enough senior staff, were not strong enough, and were not being effectively enforced – a trifecta of failure.

Among other disturbing weaknesses, you reported that the rules “do[] not include all individuals with access to confidential Class I FOMC information,” that “the Board does not have a formal process for determining and enforcing consequences for Reserve Bank covered individuals who violate ethics rules, laws, or regulations pertaining to personal investment and trading activities,” and that “the Board and most Reserve Banks do not verify the accuracy of financial disclosure reports.”<sup>7</sup> These findings appear to indicate that the new rules are all but useless. Given the spate of trading scandals that have plagued high-level Fed officials over the past two years – and your office’s troubling response to those scandals – this failure is not surprising.

In July 2022, your office released the findings of its investigation of trading activities by senior officials of the Federal Reserve Board of Governors.<sup>8</sup> Chair Powell requested the review in October 2021 amid reports that then-Vice Chair Richard Clarida, then-Federal Reserve Bank of Dallas President Robert Kaplan, and then-Federal Reserve Bank of Boston President Eric Rosengren all made numerous investment trades as the Fed considered and took extraordinary action to boost the economy amid the pandemic.<sup>9</sup> In addition to reviewing Mr. Clarida, Mr. Kaplan, and Mr. Rosengren’s activities, your July 2022 report revealed improper trading involving Chair Powell’s own accounts, and revealed that Mr. Clarida had not met all disclosure requirements for his trading activities.<sup>10</sup>

However, your response to these findings was feckless. You accepted uncritically Mr. Clarida’s claims that the failure to disclose his trading activity was “inadvertent.”<sup>11</sup> And, despite the fact that Chair Powell’s “spouse notified the financial advisor that the trust would be writing charitable donation checks and requested to be informed when the funds became available,” you reported that there was “no evidence that [Chair Powell] or [his] spouse had contemporaneous knowledge that the five transactions were executed during the blackout period.”<sup>12</sup> Instead of insisting that powerful Federal Reserve leaders meet high ethics standards, you eagerly accepted their excuses for failure. You made no recommendations to hold Chair Powell and Mr. Clarida

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<sup>6</sup> Office of Inspector General for the Board of Governors of the Federal Reserve System and the Consumer Protection Bureau, “The Board Can Further Enhance the Design and Effectiveness of the FOMC’s Investment and Trading Rules,” p. 3, April 26, 2023, <https://oig.federalreserve.gov/reports/board-FOMC-investment-trading-rules-apr2023.pdf>.

<sup>7</sup> Office of Inspector General for the Board of Governors of the Federal Reserve System and the Consumer Protection Bureau, “The Board Can Further Enhance the Design and Effectiveness of the FOMC’s Investment and Trading Rules,” pp. 2, 21, 23, April 26, 2023, <https://oig.federalreserve.gov/reports/board-FOMC-investment-trading-rules-apr2023.pdf>.

<sup>8</sup> Memorandum from Inspector General Mark Bialek to The Honorable Jerome Powell, July 11, 2022, <https://oig.federalreserve.gov/releases/board-closing-trading-activity-jul2022.pdf>.

<sup>9</sup> New York Times, “Fed Ethics Office Warned Officials to Curb Unnecessary Trading During Rescue,” October 21, 2021, Jeanna Smialek, <https://www.nytimes.com/2021/10/21/business/economy/federal-reserve-ethics-trading.html?searchResultPosition=1>.

<sup>10</sup> Memorandum from Inspector General Mark Bialek to The Honorable Jerome Powell, July 11, 2022, <https://oig.federalreserve.gov/releases/board-closing-trading-activity-jul2022.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

accountable for their improper trading and disclosure failures, and in doing so, contributed to the Fed’s culture of corruption and impunity.

On top of this weak response to the problems you did find, you entirely failed to review several of the most disturbing reports about trading by Chair Powell and other Fed officials that emerged over the course of this scandal. Specifically:

- Your review did not address the fact that the Board of Governors’ ethics unit issued a warning against unnecessary trading to Fed officials on March 23, 2020,<sup>13</sup> and that Mr. Clarida made several trades after this warning.<sup>14</sup>
- Your review made no mention of the highly unusual timing of Mr. Clarida’s undisclosed, \$1 million to \$5 million sale of stock, and other transactions that the Vice Chair made in February 2020. Specifically, Mr. Clarida sold stock on February 24, 2020, then repurchased the same stock three days later at a lower price per share – one day before you announced that the Fed was prepared to act to support the pandemic-ravaged economy.<sup>15</sup>
- Your review failed to mention or address a \$1 million to \$5 million trade that Chair Powell made on October 1, 2020, “right before the Dow Jones Industrial Average suffered a significant drop.”<sup>16</sup>

These gaps in the review and your uncritical acceptance of explanations for clearly improper behavior render the findings of the Inspector General’s (IG) report simply not credible. And your failure to effectively carry out your duties as an “independent and objective oversight authority”<sup>17</sup> undermines the recommendations made in your April 2023 evaluation of the Fed’s personal investment and trading rules and conflict of interest monitoring processes. These problems raise questions about your own institutional weaknesses: in particular, the fact that the Fed IG is chosen by the Fed Chair, and can be removed from office by a vote of the Federal Reserve Board – an irresolvable conflict of interest given that your own role includes investigating and holding the Board accountable for any policy and implementation failures.<sup>18</sup>

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<sup>13</sup> New York Times, “Fed Ethics Office Warned Officials to Curb Unnecessary Trading During Rescue,” Jeanna Smialek, October 21, 2021, <https://www.nytimes.com/2021/10/21/business/economy/federal-reserve-ethics-trading.html>.

<sup>14</sup> New York Times, “Fed Ethics Office Warned Officials to Curb Unnecessary Trading During Rescue,” Jeanna Smialek, October 21, 2021, <https://www.nytimes.com/2021/10/21/business/economy/federal-reserve-ethics-trading.html>; Memorandum from Inspector General Mark Bialek to The Honorable Jerome Powell, July 11, 2022, <https://oig.federalreserve.gov/releases/board-closing-trading-activity-jul2022.pdf>.

<sup>15</sup> New York Times, “A Fed Official’s 2020 Trade Drew Outcry. It Went Further Than First Disclosed.,” Jeanna Smialek, January 6, 2022, <https://www.nytimes.com/2022/01/06/business/economy/richard-clarida-fed-stock-fund.html>; Memorandum from Inspector General Mark Bialek to The Honorable Jerome Powell, July 11, 2022, <https://oig.federalreserve.gov/releases/board-closing-trading-activity-jul2022.pdf>.

<sup>16</sup> The America Prospect, “Jerome Powell Sold More Than a Million Dollars of Stock as the Market Was Tanking,” Robert Kuttner, October 18, 2021, <https://prospect.org/economy/powell-sold-more-than-million-dollars-of-stock-as-market-was-tanking/>.

<sup>17</sup> Office of Inspector General, Introduction to the OIG, <https://oig.federalreserve.gov/introduction.htm>.

<sup>18</sup> Congressional Research Service, “Statutory Inspectors General in the Federal Government: A Primer,” Ben Wilhelm, February 8, 2023, <https://sgp.fas.org/crs/misc/R45450.pdf>.

In your April 2023 assessment, you make six recommendations to the Fed regarding the steps it can take to “enhance the design and effectiveness of the *Investment and Trading Policy* and strengthen the Board’s and the Reserve Banks’ approach to monitoring personal investment and trading activities for possible conflicts of interest.”<sup>19</sup> Among these is a recommendation to “[f]ormalize 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.”<sup>20</sup> That you have made such a recommendation to the Fed is striking, considering that, in your review of the Fed’s most recent trading scandals, you were unable to even *state* that Chair Powell and Mr. Clarida violated the Fed’s policies despite clear evidence they had done so, much less make recommendations about the consequences Chair Powell and Mr. Clarida should face for their actions.

Your failure to hold Chair Powell – at whose discretion you serve – accountable is the clearest possible example showing that your office lacks the tools necessary to effectively perform its important responsibilities as the Fed’s independent watchdog. That’s why I have introduced bipartisan legislation, S. 915, which would modify the Fed IG role to require that the IG be appointed by the President and confirmed by the Senate (the same structure in place at 30 federal agencies.)<sup>21</sup> I look forward to discussing these matters with you during the hearing of the Senate Committee on Banking, Housing, and Urban Affairs Subcommittee on Economic Policy taking place on Wednesday, March 17<sup>th</sup> at 2:30pm.

Sincerely,



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Elizabeth Warren  
United States Senator

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<sup>19</sup> Office of Inspector General for the Board of Governors of the Federal Reserve System and the Consumer Protection Bureau, “The Board Can Further Enhance the Design and Effectiveness of the FOMC’s Investment and Trading Rules,” p. 2, April 26, 2023, <https://oig.federalreserve.gov/reports/board-FOMC-investment-trading-rules-apr2023.pdf>.

<sup>20</sup> *Id.*, p. 3.

<sup>21</sup> Senator Elizabeth Warren, “Warren, Scott Lead Bipartisan Legislation to Establish Independent IG Oversight at the Federal Reserve,” press release, March 22, 2023, <https://www.warren.senate.gov/newsroom/press-releases/warren-scott-lead-bipartisan-legislation-to-establish-independent-ig-oversight-at-the-federal-reserve>; 5 U.S.C. App. § 12(2).