July 30, 2020

The Honorable Randal K. Quarles
Vice Chairman for Supervision
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Vice Chair Quarles,

Your requests for Congress to weaken the rules put in place after the 2008 financial crisis to protect our financial system are outrageous and irresponsible, and we are writing to seek an explanation for why – during a historic economic crisis – you are seeking to hand out regulatory favors to big banks that would harm the economy and increase systemic risks. Your efforts to weaken key safeguards of our nation's financial system at a time when millions of families' livelihoods are at risk is an abdication of your agency's mission of "foster[ing] the stability, integrity, and efficiency of the nation's monetary, financial, and payment systems."[1]

Congress is right now in the process of crafting legislation that will determine, among other things, whether millions of Americans are able to keep their homes, whether critical financial support for people out of work will continue, and whether families across the nation will be able to pay their bills on time and keep food on the table.[2] With the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Congress appropriated half a trillion dollars for the Federal Reserve System to stabilize our economy by providing support to struggling businesses and state and local governments;[3] you have proven unable or unwilling to fully utilize these tools.[4] Instead of using your authority to assist our most vulnerable communities, you have apparently chosen to press for changes to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) – signed into law by President Obama ten years ago this month – that Wall Street's army of lawyers and bank lobbyists have long sought and that would put our financial system in jeopardy.

According to recent reports, the stimulus bill now being drafted is "expected to include language that would give the Federal Reserve authority to relax a requirement surrounding capital levels at the biggest banks, essentially allowing firms to load up on riskier assets, according to three

[1] Board of Governors of the Federal Reserve System, "Strategic Plan 2020-23," December 2019, https://www.federalreserve.gov/publications/files/2020-2023-gpra-strategic-plan.pdf.
[2] Forbes, "Three Protections Besides Checks That Remain In Doubt in the Next Stimulus Bill," Ryan Derousseau, July 20, 2020, https://www.forbes.com/sites/ryanderousseau/2020/07/20/three-protections-beyond-stimulus-checks-that-savers-need-right-now/#29e9568b1db9.
[3] CARES Act, § 4003.
[4] Letter from Senators Warren, Van Hollen, and Cortez Masto to Secretary Mnuchin and Chairman Powell, July 10 2020, https://www.warren.senate.gov/imo/media/doc/2020.07.10%20Letter%20to%20Treasury%20and%20the%20Fed%20Re%20Racial%20Impact%20of%20Failing%20to%20Provide%20Aid1.pdf.

people familiar with the effort."[5] This legislative initiative represents "the culmination of a monthslong effort by industry lobbyists and a top Federal Reserve official" – Mr. Quarles.[6]

After witnessing the devastation caused by the 2008 crisis, Congress passed the Dodd-Frank Act to protect our financial system. Section 171 of that Act put in place a "capital floor" for banks so that regulators could not set capital requirements at levels that were not "quantitatively lower than the capital requirements that were in effect when the Dodd-Frank Act was enacted (July 10, 2010)." [7] Congress wrote this provision to ensure that, even under lax banking regulators, banks could absorb losses in the event of a downturn – "an insurance policy against future regulators allowing banks to drastically cut capital."[8]

Banks and their lobbyists vocally opposed those changes,[9][10] and have lobbied to weaken their capital requirements ever since. Thanks to your significant lobbying effort, they appear poised to receive their wish in the coming days. In a letter written in April, you urged Congress to modify Section 171 of the Dodd-Frank Act to "improve regulatory flexibility."[11] In response, the Republican legislation now being crafted reportedly contains a broad deregulatory measure that will accomplish the giant giveaway that banks have long sought by allowing the Federal Reserve Board of Governors (Fed) to weaken rules designed to "constrain risk-taking by ensuring banks have enough capital on hand in the event of a severe downturn."[12] This change would, in effect, allow the banking regulators to reduce capital requirements below their 2008 levels- the same inadequate levels at which the banking system was once brought to the precipice of collapse.

This effort represents the exact opposite of the actions you should be taking to shore up the financial system during a historic economic crisis. The banking system is already weaker because of recent actions you have taken -- as well as safeguards you have failed to put in place – to allow banks to engage in riskier behavior. In fact, the first regulatory action you took during

[5] New York Times, "Republican Stimulus Package May Come With a Benefit for Big Banks," Emily Flitter, Jeanna Smialek, and Peter Eavis, July 27, 2020, https://www.nytimes.com/2020/07/27/business/bank-regulations-rollback-stimulus-bill.html.

[6] New York Times, "Republican Stimulus Package May Come With a Benefit for Big Banks," Emily Flitter, Jeanna Smialek, and Peter Eavis, July 27, 2020, https://www.nytimes.com/2020/07/27/business/bank-regulations-rollback-stimulus-bill.html.

[7] Congressional Research Service, "Overview of the Prudential Regulatory Framework for U.S. Banks: Basel III and the Dodd-Frank Act," Darryl E. Getter, July 27, 2016, https://www.crs.gov/Reports/R44573?source=search&guid=866a6dc44bf34741b2ba2e0062bdcdd5&index=1.

[8] Wall Street Journal, "U.S. Approves Minimum Capital Standard for Big Banks," Alan Zibel, June 14, 2011, https://www.wsj.com/articles/SB10001424052702303848104576385593574391846.

[9] Think Progress, "Banks Take Aim at Collins Amendment Mandating Minimum Capital Requirements," Pat Garofalo, June 8, 2020, https://thinkprogress.org/banks-take-aim-at-collins-amendment-mandating-minimum-capital-requirements-d0cb09312187/

[10] Reuters, "U.S. regulators approve bank capital floor," Dave Clarke, June 14, 2011, https://www.reuters.com/article/us-financial-regulation-fdic/u-s-regulators-approve-bank-capital-floor-idUSTRE75D3FG20110614.

[11] Letter from Vice Chair for Supervision Randal Quarles to Chairman Crapo, April 22, 2020, https://www.banking.senate.gov/imo/media/doc/Fed%20Response%20to%20Crapo%204.8.20%20Letter.pdf.

[12] New York Times, "Republican Stimulus Package May Come With a Benefit for Big Banks," Emily Flitter, Jeanna Smialek, and Peter Eavis, July 27, 2020, https://www.nytimes.com/2020/07/27/business/bank-regulations-rollback-stimulus-bill.html.

this crisis enabled banks to pay out higher dividends after breaching their capital buffers.[13] Then, in April, the Fed weakened the supplementary leverage ratio, a key capital requirement for the large banks, at the holding company level and joined the other banking agencies in making a similar change at the bank level in May.[14] And in a move that former regulators of both parties have recognized as reckless, you still have not fully prohibited banks from distributing capital to their shareholders.[15] These actions increase the risks to our economy and make it less likely that banks will be able to continue lending to small businesses and households throughout the crisis–hurting the nation's ability to climb out of the COVID-19 recession.[16] And they demonstrate that you do not need and should not be given additional authority to weaken banking rules.

Our financial system is in a vulnerable position as this recession continues, and we face an uncertain trajectory of a pandemic that our government has failed to control. Congress and the Fed should both be focused on finding solutions to assist those most vulnerable and those whose livelihoods are in jeopardy, not handing out regulatory favors to big bank shareholders and executives. Using the cover of a pandemic to join hands with banks engaged in a naked power grab is disgraceful and counterproductive to efforts to restart the economy. Instead of gutting rules that keep our banks safe, we urge you to turn your attention to addressing this unprecedented crisis.

Sincerely,

Elizabeth Warren
United States Senator

Sherrod Brown
United States Senator

[13] Center for American Progress, "Bank Capital and the Coronavirus Crisis," Gregg Gelzinis, May 12, 2020, https://www.federalreserve.gov/newsevents/pressreleases/bcreg20200317a.htm.
[14] Letter from Senators Warren and Brown to Banking Regulators, June 22, 2020, https://www.warren.senate.gov/oversight/letters/warren-and-brown-urge-regulators-reverse-rule-that-weakens-capital-requirements-and-makes-banks-more-vulnerable-to-collapse-during-this-crisis.
[15] *Id.*
[16] Mercatus Center, "Thomas Hoenig on Bank Capitalization and Fed Policy after COVID-19," David Beckworth, May 25, 2020, https://www.mercatus.org/bridge/podcasts/05252020/thomas-hoenig-bank-capitalization-and-fed-policy-after-covid-19.