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CAPITAL MARKETS AND
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October 12, 2016

The Honorable Janet Yellen
Chair
The Federal Reserve System
20th Street and Constitution Ave, N.W.
Washington, D.C. 20551

Dear Chair Yellen:

During the House Financial Services Committee hearing on September 28th, 2016, I asked you a series of questions related to conflicts of interest that could arise for Federal Reserve governors or other members of the Federal Open Market Committee (“FOMC”) when carrying out their official duties. Specifically, I raised my concerns regarding sitting Federal Reserve governors openly engaging in political activity, and asked whether you believe a sitting governor would be conflicted in carrying out their official duties if they were actively seeking a high-level Executive Branch position in a future administration.

You testified that you were “not aware” such a scenario would constitute a conflict of interest, but that you would have to consult Federal Reserve counsel in order to provide Congress with a complete answer. Given the outsized role that the Federal Reserve plays in our economy – and the increasing dependence of our financial markets on decisions made by the FOMC – the mere appearance of an unresolved conflict or impropriety on the part of a sitting Federal Reserve governor could destroy confidence in an institution that is already viewed with great skepticism by the American public.

At the hearing, I cited revelations earlier this year that Federal Reserve Governor Lael Brainard had made the maximum allowable contribution to Hillary for America, the principal presidential campaign fund for Hillary Clinton.¹² There have also been several news reports over the last few months stating that Governor Brainard is on the “short list” for a high-level position in a potential Clinton Administration, including possibly Treasury Secretary.³

¹ See e.g. “Top Federal Reserve Official Donates to Hillary Clinton’s Campaign” <https://www.washingtonpost.com/news/wonk/wp/2016/04/21/top-federal-reserve-official-donates-to-hillary-clintons-campaign/>

² <http://docquery.fec.gov/cgi-bin/qind/>

³ See e.g. “Here’s Who Hillary Clinton May Make Treasury Secretary” <http://fortune.com/2016/07/28/clinton-treasury-secretary-2/>; “Clinton Treasury Secretary Contender Could Send Key Signal About Crucial Fed Meeting”

Governor Brainard's close ties with the Clinton campaign raise a number of important questions regarding the debate amongst FOMC members in the weeks leading up to the September 20th FOMC meeting. Several members openly differed as to whether the federal funds rate should be increased at that meeting, and three voting members ended up dissenting to the decision to hold rates steady – the most dissents at an FOMC meeting in nearly two years. Due largely to the public debate amongst FOMC members as to the proper course of action for the FOMC, the September meeting was widely reported to be consequential not just for financial markets but for the upcoming presidential election.⁴ The importance of voting members - particularly those who could have a personal stake in a Clinton victory - entering that meeting with an unbiased mind cannot be overstated.

You correctly testified at the September 28th hearing that Governor Brainard's donations to the Clinton campaign are not prohibited under the Hatch Act or any other applicable Federal law. However, the Federal Reserve goes to great lengths to protect and defend its monetary policy "independence," and both you and your predecessor have assured the public on numerous occasions that the FOMC's decisions are not improperly influenced by political considerations. The relevant questions therefore do not revolve around what is legally permissible activity for Federal Reserve employees to engage in. Rather, the most serious question is whether the Federal Reserve's vaunted independence is compromised in the eyes of the public when a sitting governor openly engages in political activity, and could personally benefit from the outcome of the November elections.

Given the magnitude of this issue and its importance to public confidence in the Federal Reserve, please provide answers to the following questions **by no later than October 19th, 2016**:

1. Do you believe that the Federal Reserve's monetary policy independence is in any way compromised in the eyes of the public when a sitting governor – or any member of the FOMC – contributes to a political campaign?
2. Do you believe there is any scenario where FOMC members should recuse themselves from participating or voting in FOMC meetings if they contribute to political campaigns while they are members of the FOMC?
3. Do you believe FOMC members should recuse themselves from participating or voting in FOMC meetings if they have been in discussions or negotiations for high-level Executive Branch positions in a current or future administration while they are members of the FOMC?

<http://www.marketwatch.com/story/clinton-treasury-secretary-contender-is-key-vote-at-crucial-fed-meeting-2016-09-01>

⁴ See e.g. Politico, "Yellen Helps Clinton Dodge a Bullet" <http://www.politico.com/story/2016/09/hillary-clinton-janet-yellen-federal-reserve-228491>; LA Times, "Is the Fed Politically Biased? Look at Its Interest-Rate Decisions as Elections Near" <http://www.latimes.com/business/la-fi-federal-reserve-election-20160919-snap-story.html>; MarketWatch, "A Fed Rate Hike and Other Important Decisions Getting Put Off Until After the Election" <http://www.marketwatch.com/story/besides-a-rate-hike-heres-what-else-is-pushed-back-beyond-election-day-2016-09-22>

4. While contributions to a political campaign by Federal Reserve employees are legal under the Hatch Act, does the Federal Reserve have any kind of internal policies or procedures to determine when an FOMC member should recuse themselves from voting at FOMC meetings or from other matters pending before the Federal Reserve due to their political activity? If not, do you believe the Federal Reserve should establish such policies or procedures?

5. A Bloomberg news article written after the September 28th hearing stated that a spokesperson for the Federal Reserve claimed Governor Brainard has not “been in conversations with either [presidential] political *campaign*.”⁵

- Has Governor Brainard been in discussions or negotiations with Secretary Clinton’s transition team, or with any individuals who would be in a position of recommending cabinet members or other candidates for senior administration positions should Secretary Clinton win the election in November?
- Has Governor Brainard submitted a resume or any personal background materials to anyone who would be in a position of vetting candidates for senior positions in a Clinton administration?
- Do you believe it would be appropriate for a sitting Federal Reserve governor or FOMC member to engage in such discussions or to accept an offer to serve in a future administration, without first recusing themselves from FOMC or other Federal Reserve matters? Do you believe such discussions or negotiations constitute a conflict of interest and could compromise the Federal Reserve’s independence in the eyes of the public? *(It should be noted that such a scenario is not without precedent. In his 2014 memoir, former Treasury Secretary Timothy Geithner recounts discussing with then-Senator Barack Obama the possibility of serving in an Obama Administration while he was President of the New York Federal Reserve.⁶ That meeting took place on October 17th, 2008. Twelve days later, Geithner participated in an FOMC meeting in which the Committee unanimously decided to reduce the federal funds rate by fifty basis points.)*

6. After news reports appeared mentioning Governor Brainard as being on the “short list” for a high-level Executive Branch position, should she have publicly stated that she will not entertain conversations regarding a position in a Clinton administration without first recusing herself from FOMC matters, or until she is no longer employed by the Federal Reserve? Would such a statement have helped preserve Federal Reserve independence?

7. Subpart F of the Standards of Ethical Conduct for Employees of the Executive Branch lays out a number of prohibitions and requirements for recusal if the official duties of an

⁵ <http://www.bloomberg.com/news/articles/2016-09-28/yellen-cornered-by-lawmaker-in-heated-exchange-over-fed-politics> (emphasis added)

⁶ Tim Geithner, *Stress Test: Reflections on Financial Crises* pg. 242

Executive Branch employee conflict with the interests of an entity they are seeking employment with.⁷

- What codes of ethical conduct does the Federal Reserve have in place to govern employee conduct when they are seeking outside employment? Please provide a copy of any such codes or policies of ethical conduct.

Thank you in advance for your responsiveness to these requests. If for some reason the October 19th deadline cannot or will not be met, or should you have any questions regarding this letter, please have your staff contact Brian O'Shea in my office at 202-225-4465.

Sincerely,



Scott Garrett

Chairman

Subcommittee on Capital Markets and Government Sponsored Enterprises

⁷[https://oge.gov/Web/oge.nsf/0/076ABBBFC3B026A785257F14006929A2/\\$FILE/SOC%20as%20of%2081%20FR%2048687.pdf](https://oge.gov/Web/oge.nsf/0/076ABBBFC3B026A785257F14006929A2/$FILE/SOC%20as%20of%2081%20FR%2048687.pdf)