Federal Reserve Accountability and Transparency (FRAT) Act of 2014 (H.R. 3928)

With the passage of the 3,000-page Dodd-Frank Act, the Federal Reserve was granted an unprecedented amount of new prudential regulatory authority. The central bank has adopted a new mission of ensuring financial stability and serving as a macro-prudential regulator over our nation's entire financial system. While some raise questions about the appropriateness of granting such vast authority to a single regulatory body—especially an authority charged with the conduct of monetary policy—everyone should agree that great power must be accompanied by robust oversight. Unfortunately, there has not been a corresponding increase of much-needed accountability and transparency at the Federal Reserve. The Fed's regulatory activities take place behind a fraternity-like veil of secrecy, obstructing openness, and preventing proper accountability.

The Fed has used the cloak of its independent monetary policy authority to hide its regulatory activities. To address this, the Federal Reserve Accountability and Transparency Act would re-establish Congress's robust oversight over the agency's prudential rulemaking functions. The legislation would address specific problems faced by Congress, the press, and the American people.

<u>Require economic analysis for all Fed regulations.</u>

PROBLEM: In the wake of Dodd-Frank, the Fed has stood at the forefront of major rulemakings, impacting our entire country's financial system and economy. The Fed currently is exempt from conducting straightforward and commonsense economic analysis on new rules.

SOLUTION: This legislation would require the Fed to conduct robust economic analysis on all proposed rules. Almost every other agency in Washington is required to conduct similar analysis. Given the ongoing economic malaise, it is critical that the Fed weigh a regulation's costs and benefits to ensure an appropriate regulatory balance.

<u>Clarify the Fed's blackout policy.</u>

PROBLEM: The Fed has a blackout policy governing when its officials and staff are prohibited from speaking publicly around times of sensitive monetary policy discussions. This is appropriate. However, the Fed has used this stated policy as a way to avoid Congressional oversight on regulatory matters that fall outside of monetary policy decisions made during the Federal Open Market Committee (FOMC) meetings.

SOLUTION: The legislation would set the Fed's FOMC blackout period in statute. The FOMC blackout period would begin immediately after midnight on the day that is one-week before the meeting and ends at midnight on the day after the meeting takes place. This blackout period explicitly excludes Congressional testimony regarding the Fed's supervisory and prudential functions.

Enhance accountability and transparency of Fed employees: pay, ethics standards, and financial disclosures.

PROBLEM: With a national debt of more than $17 trillion, the federal government must tighten its belt during these challenging economic times. Fed employee salaries are some of the highest in the federal government. In addition, with the Fed exercising more control over our nation's financial markets, we must ensure that proper internal controls are in place to ensure the accountability of Fed employees.

SOLUTION: The legislation would require that Fed staff pay cannot be higher than 99 percent of the chairman's salary. This provision would mirror the Congressional staff pay limitation. The legislation also would require that Fed staff compensation be posted on searchable website, along with any required financial disclosures made by Fed staff. In addition, as the Fed increases its regulatory reach into the capital markets, the legislation would require the Fed to adopt many of the Securities and Exchange Commission's policies of guarding against conflicts of interest and accountability of employee financial transactions. The legislation includes prohibitions on the holding and trading of certain securities, disclosure of trading activities and brokerage accounts, and prohibitions on outside employment. The bill would instruct the Government Accountability Office (GAO) to conduct a study on federal banking pay scales and Fed funding through the Congressional appropriations process.

Increase oversight of Fed's vice-chairman for supervision.

PROBLEM: The Dodd-Frank Act created the position of vice-chairman of supervision at the Fed. This position was created to provide for increased oversight of the Fed's prudential rulemaking authority. This position has been left vacant since its inception, but the prudential rulemaking continues unabated without proper Congressional oversight.

SOLUTION: If the position of vice-chairman for supervision is vacant, this legislation would require the oversight responsibilities, including testifying before Congress, of that position transfer to the Fed's vice-chairman. The vice-chairman for supervision must provide written testimony that includes the status of all pending and anticipated rulemakings under Dodd-Frank and testify before Congress semiannually.

Improve the Fed's responsiveness to Congress.

PROBLEM: Over the last several years, the Fed has taken unprecedented actions with both their monetary policy and prudential regulatory developments. Given the Fed's dominance over the function of U.S. economy and financial markets, we must ensure that the Fed is responsive to Congress's oversight. Unfortunately, this has not been the case.

It has been frequent Fed policy to take as long as four to six months to answer questions-for-the-record (QFR's) submitted by members of Congress after formal testimony by Fed officials. This is completely unacceptable. Also, it has become common Fed practice to drag their feet when asked by members of Congress or their staff for briefings on various regulatory matters being considered by the central bank. Even when those briefings occur, there is a lack of substantive discussion and transparency from Fed officials about their intentions on specific policy matters. Given that the Fed's prudential rulemaking powers are derived from Congress, the Fed must maintain responsiveness and transparency when working with members of Congress and their staff.

SOLUTION: In regards to QFR's, not later than six weeks after a hearing date, the Fed must respond in writing to committee questions. If the deadline cannot be met, the Fed chairman must provide a written explanation to the committee as to the reason for the delay, as well as an expected response date for the committee's questions.

In regards to the meeting requests, the Fed must respond within three business days to meeting requests from a member or staff member serving on House Financial Services, Senate Banking, Housing, and Urban Affairs, House Budget Committee, or Senate Budget Committee. A response from the Fed must include a confirmation that the meeting request has been received, a statement as to whether the staff meeting can accommodated, and meeting dates/availability of Fed staff and officials. If the meeting cannot be accommodated within a period of two weeks from the response deadline, the Fed Chairman must respond with a detailed explanation to the committee chairman as to why the meeting cannot be accommodated. If either the QFR or meeting request timeline is missed, a staff salary freeze will be put in place until compliance. During Congressional testimony, the chairman must remain before the Committee until all interested Committee members have used their allotted time, but no later than 5 p.m. on the hearing day.

Enhance transparency in regulation.

PROBLEM: One of the main tools the Fed uses in its prudential oversight of large bank holding companies is the periodic stress tests it conducts. Concerns have been raised about the lack of transparency in how the Fed designs the stress tests and the assumptions that it uses. In addition, since the financial crisis, the Fed has also been sued for failing to provide information under the Freedom of Information Act for disclosures about its stress testing process.

SOLUTION: To ensure proper transparency with the stress testing process, this legislation would require the Fed to issue regulations, after providing for public notice and comment, to implement Section 165 Dodd-Frank stress test scenarios. In addition, the Fed must disclose results of resubmitted stress tests and the aggregate number of supervisory letters sent to the largest bank holding companies. The Fed must submit to the House Financial Services Committee and Senate Committee on Banking, Housing, and Urban Affairs an un-redacted copy—with appropriate safeguards—of the Board of Governors' Review of Regulatory Supervisory Audit and the Board of Governors' 2003-2008 Performance Review. The Fed will also have to disclose this audit to Congress each year going forward.

Empower regional Fed banks.

PROBLEM: Since the passage of the original Federal Reserve Act of 1913, there has been a marked centralization of Fed power from the regional banks to the Fed Board of Governors in Washington. The centralization of power reduces the benefit of having a broad and diverse citizenry contribute productively to the policy process. When power is centralized, too often a one-size-fits-all approach is employed, creating negative economic effects for the country.

SOLUTION: Class C directors—or those appointed by the Fed Board of Governors—are eliminated. Two new positions are allocated to Class B (those who represent the public) and one to Class A (representative of the stockholding banks). This legislation also would eliminate of Fed veto power over appointment of regional bank president and vice-president.

Increase accountability and transparency in international negotiations.

PROBLEM: The Fed is increasingly participating in international negotiations regarding financial regulation. The U.S. financial system does not mirror the systems of our international partners, especially the European Union. The Fed negotiates global financial agreements, often without receiving appropriate insight from U.S market participants about what is critical for U.S. competitiveness. One glaring example of this was in the Basel III negotiations. The Basel III agreements were designed primarily with large international banks in mind, not regional and local community banks that play an important role in the US banking system. The Basel III regime rules frequently are punitive to community banks and put these smaller institutions at further disadvantage compared to their large global competitors.

SOLUTION: Prior to the Fed negotiating international agreements, this legislation would require the Fed to publish a notice of consultation that details the topic matter, scope, and goals of any bilateral or multinational agreements. In addition, the Fed would be required to solicit public comment, and issue a public report on the topics discussed during negotiations, as well as any revised or new rulemakings as a result of negotiations. The Fed would also be required to consult with relevant committees and notify the public before the Fed finalizes any international agreement. These provisions would provide interested parties a formal mechanism to ensure their concerns are taken into consideration prior to the finalization of international agreements. This is a similar process to how U.S. trade negotiations are carried out. This legislation would also establish a two-year authorization for the Fed's international travel.

Increase accountability of Fed multi-agency councils.

PROBLEM: Today, much of the new prudential regulatory activity occurs at multi-agency councils that consist of many of the domestic financial regulatory agencies. Two of those are the Federal Financial Institutions Examination Council (FFIEC) and the Financial Stability Oversight Council (FSOC). If decisions are made in these venues as opposed to the Fed, this could create an inappropriate loophole around some of the safeguards this legislation is attempting to put in place.

SOLUTION: The legislation would apply economic analysis requirements, enhanced ethics standards and reporting requirements, and staff salary disclosure to employees of the FIEC and the FSOC. This will ensure that appropriate accountability and transparency measures are also included when the Fed is participating on these inter-agency councils.