The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing & Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing & Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Maxine Waters, Ranking Member
House Financial Services Committee
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Brown, Chairman McHenry, Ranking Member Scott, and Ranking Member Waters:

We recently marked the one-year anniversary of the collapse of Silicon Valley Bank and Signature Bank. We write on behalf of trade associations representing banks of every size. Recognizing that the regulators played a central role in last year's failures, we are concerned that investigations into the causes of last spring's banking crisis remain incomplete. Specifically, we have concerns regarding the regulators' post-failure actions and rulemakings.

As you are aware, the recent push for regulatory changes, including those related to the Basel III endgame, long-term debt requirements, and the FDIC governance proposal, allegedly stem from the failure of SVB. Still others, like proposed changes to debit card regulation, seem to have no policy justification whatsoever. Upon closer examination, however, it becomes clear that these measures would not have prevented the bank failures, nor would they foster a broad-based, diverse U.S. banking system that serves communities and business of all sizes and geographies. We believe this regulatory tsunami is not a rational response appropriate to current circumstances and warrants scrutiny.

For example:

Basel III Endgame – The Basel III endgame, which has been developed over the last decade, would not have prevented SVB's collapse. The key cause of SVB's failure was not capital inadequacy but rather a confluence of risk management failures, supervisory lapses, and market dynamics that traditional capital requirements alone could not address.

Long Term Debt – Similarly, the imposition of long-term debt requirements, while potentially reducing the cost of the failure to the Deposit Insurance Fund, would likely not have prevented SVB's failure once the bank's depositors lost confidence. The failure of SVB was multifaceted, and long-term debt requirements alone would not have addressed the underlying issues that led to its demise.

FDIC Governance Proposal – The FDIC governance proposal, though intended to improve governance and risk management practices within banks, would not have been a sufficient safeguard against SVB's failure. In fact, at no point in its proposal does FDIC acknowledge or explain how its continuous examination program - to which banks with $10 billion or more in assets are already subject - and other components of FDIC's and other regulators' existing regulatory and supervisory framework failed to identify and avoid, or at least mitigate, the risks that ultimately led to SVB's failure or any other recent large bank failure. It is imperative for regulators to prioritize addressing core risks to safety and soundness rather than focusing excessively on micromanaging process-related governance, as the latter may divert attention and resources from more critical areas. State regulators, represented by the Conference of State Bank Supervisors (CSBS), have strongly opposed FDIC's approach and have called for its withdrawal.[1]

Regulation II – After a decade of relative stability following the implementation of the Durbin amendment, the Fed has chosen to reopen a controversial regulation that will impose hard costs on banks of all sizes and raise costs for consumers by as much as $2 billion annually.[2] Slashing debit revenue, raising the cost of basic banking services, and reducing the security of our private sector payments system does nothing to strengthen the banking sector or our economy. This proposal simply puts the Fed in the position of shifting merchant costs onto banks and their customers at a time when prices are already too high.

In light of these observations, we strongly urge you to demand an independent review of recent banking agency rulemakings to assess their appropriateness and effectiveness in addressing risks within the banking sector. This review should focus on identifying gaps and shortcomings in the regulatory framework and should recommend targeted reforms that genuinely enhance the resilience and stability of financial institutions.

It is crucial that regulatory efforts be guided by a thorough understanding of the root causes of failures like SVB and a commitment to implement measures that address vulnerabilities effectively.

Instead, there has been a patchwork of agency reviews, yet serious questions remain about regulator and other official activity associated with the 2023 events (e.g., operations at the Fed discount window at the time of the failures) and the Federal regulatory response. We believe the actions of regulators should be subject to in-depth outside review, just as they expect of any bank they supervise following critical events.

Banks and their trade associations are not alone in seeking a truly independent review.

In May of last year, US Senators Jon Tester (D-MT) and Thom Tillis (R-NC) called for an independent investigation. They wrote President Biden stating that "an independent review is especially necessary given that several of the internal reviews already released determine supervisory actions and inactions played a key role in each of the collapses."

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[1] CSBS Comment Letter - FDIC Corporate Governance and Risk Management_FINAL.pdf.
[2] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4705853

“Self-reflection, while appreciated, is insufficient to ensure stressors to our financial system of this magnitude are not repeated,” Senators Tester and Tillis said.

Their bipartisan letter further argued that an independent assessment will help “ensure that well-run banks are not asked to once more make up for losses attributable to risky behavior by reckless executives and lackluster agency oversight.”

Federal Reserve Board Governor Michelle Bowman has for months been a common-sense voice advocating for an independent review.

In a January 8, 2024 speech to our colleagues at the South Carolina Bankers Association, Governor Bowman continued to remark that the agency reviews “suffered from serious shortcomings, including compressed timeframes for completion and the significantly limited matters that were within the scope of review.”

Governor Bowman further stated that “the findings of these limited reviews have also continued to influence proposals that had long been in the pipeline, especially those related to capital reforms.”

Regulators should not impose yet another layer of regulation on numerous banks that had nothing to do with the failures and whose condition and management are clearly distinguishable from the banks that failed. Any regulatory reforms should be evidence-based to safeguard the integrity and stability of our financial system. Regulators as well as banks should be held to high standards of accountability.

We trust that you will prioritize the interests of the public and press for a fully independent third-party review.

Sincerely,

American Bankers Association
Alabama Bankers Association
Alaska Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Connecticut Bankers Association
DC Bankers Association
Delaware Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Louisiana Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association
Missouri Bankers Association

Montana Bankers Association
Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
Utah Bankers Association
Vermont Bankers Association
Virginia Bankers Association
Washington Bankers Association
West Virginia Bankers Association
Wisconsin Bankers Association
Wyoming Bankers Association

CC: Chairman Powell, Vice Chairman Michael Barr, Chairman Martin Gruenberg, U.S. Sen. Jon Tester, U.S. Sen. Thom Tillis