Congress of the United States
Washington, DC 20515

August 2, 2022

Mr. Martin Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Mr. Gruenberg:

Under former Chairman Jelena McWilliams, the Federal Deposit Insurance Corporation (FDIC) embarked on a multi-year effort to establish, fund, staff, and operationalize the Office of Supervisory Appeals (OSA) – an initiative that received an overwhelming level of support from the public via the notice and comment process. The OSA stood as a committee beyond the reach of the FDIC's political appointees, composed of former, non-current FDIC employees with significant exam experience and tasked with handling the appeals process for supervised entities.

Recently, just a few months after the OSA was established, you eliminated the OSA and reinstated the FDIC's Supervision Appeals Review Committee (SARC), effective immediately. You did so without notice and opportunity for public comments in advance. Instead, the FDIC opened a public comment period after the change took effect, which created the appearance that the agency had no genuine intention to seek or respond to input from stakeholders.

As you are aware, FDIC examinations may be flawed and can have severe consequences for banks. The examinations often lead to an appeals process. In 1994, Congress required the FDIC to establish an independent process to protect appellants from bias and retaliation by FDIC staff for seeking to revisit an examination. The FDIC's initial final appeals body, the SARC, was composed of FDIC political insiders and was underutilized by regulated entities for fear of retaliation by FDIC examiners. The OSA was therefore widely supported for its independence and emphasis on transparency.

We are concerned that your move to disband the OSA and reinstitute the SARC without prior input from the public may be in violation of the Administrative Procedure Act. Additionally, we are concerned that this move unfairly advantages the FDIC versus the entities it regulates during the appeals process by exposing the process to politicization.

To help us understand how and why the FDIC disbanded the OSA and replaced it with the SARC, we ask you to please respond to the following questions as soon as possible:

1. What entities or persons did the FDIC consult with when considering disbanding the OSA?
2. Why did the FDIC not provide a notice and comment period in advance of the decision to dismantle the OSA?

3. Did the FDIC perform a cost-benefit analysis prior to disbanding the OSA and replacing it with the SARC? If so, what did that analysis illuminate?
4. Will the FDIC make public the comments provided to the FDIC in connection with the reintroduction of the SARC? How will the FDIC respond to public feedback relating to the reintroduction of the SARC?
5. During your tenure, has the FDIC tested the effectiveness of examination methods through a pilot program? In what areas can the FDIC reform its process?

Thank you for your attention to this important matter. Your response will help us understand how and why the FDIC may be politicizing the examination appeals process. Please contact Lizzy Fallon at Lizzy.Fallon@mail.house.gov to make arrangements to respond or with any questions about this request.

Sincerely,

Tom Emmer
Member of Congress

Warren Davidson
Member of Congress

Ted Budd
Member of Congress

Bill Posey
Member of Congress

Roger Williams
Member of Congress

Ann Wagner
Member of Congress

Blaine Luetkemeyer
Member of Congress

William Timmons
Member of Congress

Andy Barr
Member of Congress
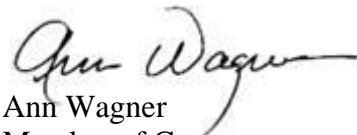
Alex Mooney
Member of Congress

French Hill
Member of Congress

Bill Huizenga
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John Rose
Member of Congress

Lance Gooden
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Bryan Steil
Member of Congress

Trey Hollingsworth
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Van Taylor
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Pete Sessions
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Barry Loudermilk
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Lee Zeldin
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Anthony Gonzalez
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Frank Lucas
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Ralph Norman
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