

United States Senate

WASHINGTON, DC 20510

February 5, 2024

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

Dear Secretary Yellen,

Section 123 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”)¹ requires the Financial Stability Oversight Council (“FSOC” or “the Council”) to report to Congress every five years on the economic impact of financial services regulatory changes, including rules, guidance, and other agency actions, intended to reduce systemic risk. The report must estimate the costs and benefits of such regulations on the efficiency of capital markets, the financial sector and economic growth and include recommendations on how to minimize said economic impact.

FSOC delivered its first report on this topic to Congress in 2011² and produced its most recent report in March of 2016.³ Currently, FSOC is three years late in delivering its subsequent iteration of the report, having missed its 2021 deadline. As chairperson of the FSOC, it is your duty to ensure the Council meets its statutory obligations.

This report is only made more critical when one considers the magnitude of ongoing rulemaking activities by financial services regulators which use systemic risk considerations as a basis for regulatory action. In the notice of proposed rulemaking commonly referred to as “Basel III Endgame,” the Office of the Comptroller of the Currency (“OCC”), the Board of Governors of the Federal Reserve System (“Board”) and the Federal Deposit Insurance Corporation (“FDIC”) cite the demonstrated “impact individual banking organizations can have on the stability of the U.S. banking system” as motivation for the proposal.⁴ Financial stability concerns are also cited as a basis for the Securities and Exchange Commission’s (“SEC”) rule on Cybersecurity Risk

¹ 12 U.S.C. 5333.

² *Study of the Effects of Size and Complexity of Financial Institutions on Capital Market Efficiency and Economic Growth*, January 2011, <https://home.treasury.gov/system/files/261/Study%20of%20the%20Effects%20of%20Size%20and%20Complexity%20of%20Financial%20Institutions%20on%20Capital%20Market%20Efficiency%20and%20Economic%20Growth%20-%20January%2C%202011.pdf>

³ *Study of the Effects of Size and Complexity of Financial Institutions on Capital Market Efficiency and Economic Growth Carried Out at the Direction of the Chairperson of the Financial Stability Oversight Council*, March 2016, <https://home.treasury.gov/system/files/261/Study%20of%20the%20Effects%20of%20Size%20and%20Complexity%20of%20Financial%20Institutions%20on%20Capital%20Market%20Efficiency%20and%20Economic%20Growth%20-%20March%2C%202016.pdf>

⁴ Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity, 88 F.R. 64028 (published September 18, 2023), <https://www.federalregister.gov/documents/2023/09/18/2023-19200/regulatory-capital-rule-large-banking-organizations-and-banking-organizations-with-significant>

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Management, Strategy, Governance and Incident Disclosure⁵ and the Consumer Financial Protection Bureau's ("CFPB") rulemaking stemming from Section 1071 of the Dodd-Frank Act⁶ among many others that will have an impact on capital markets and the financial sector.

The Dodd-Frank Act does not limit the report required by Section 123 to discussions of rulemakings pursuant to the Dodd-Frank Act, and therefore we expect the scope of the next iteration of the report to include all proposed and implemented rulemakings since 2016 which invoke financial stability as a motivation or policy goal.

We ask that you direct the Council to comply with its overdue obligation to Congress immediately. By February 7th, 2024, please respond with your commitment to produce this report and the date by which it will be delivered to Congress, no later than 180 days from today.

Sincerely,



Cynthia Lummis
United States Senator



Mike Crapo
United States Senator



M. Michael Rounds
United States Senator



Thom Tillis
United States Senator



Bill Hagerty
United States Senator



JD Vance
United States Senator

⁵ Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure, 88 FR 51896 (published August 4, 2023), <https://www.federalregister.gov/documents/2023/08/04/2023-16194/cybersecurity-risk-management-strategy-governance-and-incident-disclosure>

⁶ Small Business Lending under the Equal Credit Opportunity Act (Regulation B), 88 FR 35150 (published May 31, 2023), <https://www.federalregister.gov/documents/2023/05/31/2023-07230/small-business-lending-under-the-equal-credit-opportunity-act-regulation-b>

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Katie Boyd Britt
United States Senator



Kevin Cramer
United States Senator



Steve Daines
United States Senator