

# United States Senate

WASHINGTON, DC 20510

May 16, 2023

Mr. Mark Bialek  
Inspector General  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue NW  
Washington, DC 20551

Dear Mr. Bialek:

We are writing in response to your letter from April 26, 2023 opposing bipartisan changes to the Federal Reserve’s Inspector General (Fed IG) – the office you currently hold – by making it a Senate-confirmed position.<sup>1</sup> Both the tone and content of your letter were disturbing: you provided a misleading series of arguments and misrepresented your own success as Inspector General in what ultimately appeared to be a self-preservation effort to retain your current position and your salary of over \$350,000 annually.<sup>2</sup> Your letter failed to make an effective case against our legislation and was not a wise use of taxpayer dollars. We look forward to hearing more from you on this matter at the upcoming Senate Banking, Housing, and Urban Affairs’ Economic Policy Subcommittee hearing that Sen. Warren will chair on May 17, 2023.

Presently, you serve as a “Designated Federal Entity” (DFE) Inspector General, meaning you are appointed by your agency head. You were appointed in 2011 by then-Federal Reserve (Fed) Chair Ben Bernanke.<sup>3</sup> Our legislation, S. 915, would modify the Fed IG role to require that the IG be appointed by the President and confirmed by the Senate (known as a PAS IG)<sup>4</sup> – the same structure in place at approximately half of federal agencies.<sup>5</sup> This is not a novel idea – more than 20 years ago, in 2002, the Government Accountability Office reported that Inspectors General chosen by their agency heads could strengthen their “independence and effectiveness” through conversion to a presidentially-appointed and Senate-confirmed position, and specifically recommended this change for the Fed IG.<sup>6</sup>

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<sup>1</sup> Letter from Mark Bialek, Federal Reserve Inspector General, to Senators Rick Scott and Elizabeth Warren, April 26, 2023, <https://oig.federalreserve.gov/releases/inspector-general-letter-s915-pas-apr2023.htm>.

<sup>2</sup> Forbes, “Why So Secret? The Federal Reserve Hides Nearly All 23,000 Employee Salaries,” Adam Andrzejewski, October 26, 2021, <https://www.forbes.com/sites/adamandrzejewski/2021/10/26/why-so-secret-the-federal-reserve-hides-nearly-all-23000-employee-salaries/?sh=7df8d1181366>.

<sup>3</sup> Board of Governors of the Federal Reserve System, “Mark Bialek appointed inspector general of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection, effective July 25,” press release, June 30, 2011, <https://www.federalreserve.gov/newsevents/pressreleases/other20110630a.htm>.

<sup>4</sup> Government Accountability Office, “Inspectors General: Independence Principles and Considerations for Reform,” June 8, 2020, <https://www.gao.gov/assets/gao-20-639r.pdf>.

<sup>5</sup> Senator Elizabeth Warren, “Warren, Scott Lead Bipartisan Legislation to Establish Independent IG Oversight at the Federal Reserve,” press release, March 22, 2023, <https://www.warren.senate.gov/newsroom/press-releases/warren-scott-lead-bipartisan-legislation-to-establish-independent-ig-oversight-at-the-federal-reserve>; S. 915; Council of the Inspectors General on Integrity and Efficiency, “About Oversight.gov,” <https://www.oversight.gov/about>.

Your letter, which opposed our legislation and was released to the public, was sent to us on April 26, 2023. The misrepresentations, distortions, and disturbing assertions in that letter include<sup>7</sup>:

- **Your assertion that “as a DFE IG, we are subject to the same removal provision as PAS IGs.”** This is utterly false. As you note later in your letter, PAS IGs are subject to removal only by the President, while you can be removed by your agency head – in this case, Chair Powell (subject to a vote of the Board of Governors). This is a significant difference. An IG that can be removed by their agency head has an obvious conflict of interest when it comes to investigating wrongdoing in their agency. Your failure to even consider this inherent conflict in your own position – the crux of the case for making the Fed IG a Senate-confirmed position – represents a disturbing oversight.
- **Your assertion that you are “currently providing the rigorous and independent oversight that Congress is seeking.”** This assertion is troubling given the ongoing series of scandals related to stock trading and other conflicts of interest that have overtaken the Fed.<sup>8</sup> Make no mistake – it is Chair Powell and the Board of Governors and Reserve Bank leadership who have acted inappropriately. But your job as Inspector General is to reveal and prevent these ethics breaches from interfering with the Fed’s work and its credibility, and you have utterly failed in that regard.

Since 2020, the Fed has been embroiled in the largest ethics scandal in its history.<sup>9</sup> In September 2021, reports revealed that the presidents of the Boston and Dallas Federal Reserve Banks and other senior Fed policymakers engaged in extensive trading of stocks and other financial assets while the Fed took extraordinary actions to address the economic fallout of the COVID-19 pandemic.<sup>10</sup>

Soon after, you announced your own investigation of this matter.<sup>11</sup> But your investigation was not a credible effort. It revealed improper trading involving Chair Powell’s accounts, and revealed that Vice Chair Clarida did not meet all disclosure requirements for his trading activities.<sup>12</sup> But you then credulously accepted Mr. Clarida’s claim that the failures were “inadvertent” and – despite the fact that Chair Powell’s “spouse notified the financial advisor that the trust would be writing charitable donation checks and requested to be informed when the funds became available” – reported that there was “no evidence”

<sup>6</sup> Government Accountability Office, “Inspectors General: Office Consolidation and Related Issues,” August 2002, pp. 4, 55, <https://www.gao.gov/assets/gao-02-575.pdf>.

<sup>7</sup> Letter from Mark Bialek, Federal Reserve Inspector General, to Senators Rick Scott and Elizabeth Warren, April 26, 2023, <https://oig.federalreserve.gov/releases/inspector-general-letter-s915-pas-apr2023.htm>.

<sup>8</sup> Reuters, “A year after trading scandal, Fed is again under ethics spotlight,” Michael S. Derby, November 1, 2022, <https://www.reuters.com/markets/us/year-after-trading-scandal-fed-is-again-under-ethics-spotlight-2022-11-01/>.

<sup>9</sup> *Id.*; New York Times, “Fresh Fed financial disclosures omit the officials who ignited ethics scandal,” June 24, 2022, Jeanna Smialek, <https://www.nytimes.com/2022/06/24/business/fed-financial-disclosures-ethics.html>.

<sup>10</sup> Wall Street Journal, “Dallas Fed’s Robert Kaplan Was Active Buyer and Seller of Stocks Last Year,” Michael S. Derby, September 7, 2021, <https://www.wsj.com/articles/dallas-feds-robert-kaplan-was-active-buyer-and-seller-of-stocks-last-year-11631044094>.

<sup>11</sup> CNBC, “Inspector General probing whether Fed official trades broke ethics rules of the law,” Thomas Franck, October 4, 2021, <https://www.cnbc.com/2021/10/04/office-of-inspector-general-to-review-whether-fed-officials-trading-activity-broke-ethics-rules-or-the-law.html>.

<sup>12</sup> Memorandum from Inspector General Mark Bialek to The Honorable Jerome Powell, July 11, 2022, <https://oig.federalreserve.gov/releases/board-closing-trading-activity-jul2022.pdf>.

that Chair Powell or his wife were aware of the transaction.<sup>13</sup> Ultimately, you took no action. These were not the only problems with your investigation: it failed to address other questionable trades made by Chair Powell and Mr. Clarida, and did not investigate the implication of warnings about improper trading sent by Fed ethics officials.<sup>14</sup>

Just months after you concluded your investigation, yet another Fed official was found to be violating Fed trading rules,<sup>15</sup> and another Fed president spoke behind closed doors to a banking industry audience, giving them a secret, inside look into the agency's thinking.<sup>16</sup> And you stood by and took no action to address the Federal Reserve's ongoing stonewalling and refusal to turn key information about the scandal over to Congress.<sup>17</sup> This is a record of failure, not a justification for the status quo.

- **Your assertion that “converting [the Federal Reserve Inspector General] into a PAS IG could lead to ... difficulty in attracting quality candidates to the position ... [and] would set the position’s compensation at [a] level ... which is lower than the pay scale ... necessary ... to attract and retain talent.”** This assertion appears to be an act of greedy self-preservation on your part, not a legitimate reason to modify the Inspector General’s role. The pay scale of this proposed PAS position would be over \$200,000 annually.<sup>18</sup> While this would represent a cut from your current salary of over \$350,000,<sup>19</sup> it is absurd to assert that there would be no willing takers for a prestigious Inspector General position with a salary that would pay them more than nearly 90 percent of American households.<sup>20</sup>

The falsehoods and failures highlighted in your letter make it clear that, at present, the Office of the Inspector General of the Federal Reserve does not have the full suite of tools needed to be a neutral and effective agency watchdog. Our legislation represents an opportunity to restore

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<sup>13</sup> Memorandum from Inspector General Mark Bialek to The Honorable Jerome Powell, July 11, 2022, <https://oig.federalreserve.gov/releases/board-closing-trading-activity-jul2022.pdf>.

<sup>14</sup> Letter from Senator Elizabeth Warren to the Honorable Jerome Powell, August 11, 2022, <https://www.warren.senate.gov/imo/media/doc/2022.08.10%20Letter%20to%20Chair%20Powell%20re%20Fed%20trading%20scandal%20and%20OIG%20report%20-%20new.pdf>.

<sup>15</sup> New York Times, “After Trading Scandal, a Fed President Corrects His Financial Reports,” Jeanna Smialek, October 14, 2022, <https://www.nytimes.com/2022/10/14/business/federal-reserve-atlanta-raphael-bostic-trading.html>.

<sup>16</sup> New York Times, “A Fed President Spoke at an Invite-Only, Off-the-Record Bank Client Event,” Jeanna Smialek, October 20, 2022, <https://www.nytimes.com/2022/10/20/business/economy/james-bullard-citi-private-event.html>.

<sup>17</sup> Letter from Senator Elizabeth Warren to the Honorable Jerome Powell, August 11, 2022, <https://www.warren.senate.gov/imo/media/doc/2022.08.10%20Letter%20to%20Chair%20Powell%20re%20Fed%20trading%20scandal%20and%20OIG%20report%20-%20new.pdf>.

<sup>18</sup> Letter from Mark Bialek, Federal Reserve Inspector General, to Senators Rick Scott and Elizabeth Warren, April 26, 2023, <https://oig.federalreserve.gov/releases/inspector-general-letter-s915-pas-apr2023.htm>; Office of Personnel Management, Rates of Basic Pay for the Executive Schedule, January 2023, <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/EX.pdf>.

<sup>19</sup> Forbes, “Why So Secret? The Federal Reserve Hides Nearly All 23,000 Employee Salaries,” Adam Andrzejewski, October 26, 2021, <https://www.forbes.com/sites/adamandrzejewski/2021/10/26/why-so-secret-the-federal-reserve-hides-nearly-all-23000-employee-salaries/?sh=7df8d1181366>.

<sup>20</sup> Brookings Institution, “Who are the rich and how might we tax them more?” David Wessel, October 15, 2019, <https://www.brookings.edu/policy2020/votervital/who-are-the-rich-and-how-might-we-tax-them-more/>.

independence and authority to the IG's office. We look forward to your appearance before the Subcommittee on Economic Policy this week to discuss these efforts.

Thank you for your attention to this matter.

Sincerely,



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Elizabeth Warren  
United States Senator



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Rick Scott  
United States Senator