

Clients & Friends Memo

Senate Banking Committee Considers the Nomination of Sarah Bloom Raskin for Vice Chair of Supervision at the Federal Reserve: How Her Confirmation May Affect Climate-Related Banking Regulations

February 17, 2022

On February 3, 2022, the U.S. Senate Committee on Banking, Housing, and Urban Affairs (the “Committee”) considered President Biden’s nomination of Sarah Bloom Raskin for Vice Chair for Supervision and a Member of the Board of Governors of the Federal Reserve System (the “Federal Reserve”), along with the nominations of Dr. Lisa Cook and Dr. Philip Jefferson to be members of the Board of Governors.¹ Ms. Raskin, a former deputy secretary of the U.S. Department of Treasury and former governor of the Federal Reserve Board, seemed to be more controversial than her fellow nominees given her past statements arguing that the Federal Reserve, and other bank regulators, should take a more active role in promulgating regulations aimed at climate-related financial risks.² The Committee was scheduled to vote on February 15, 2022 to move President Biden’s nominees out of committee to the full U.S. Senate, but Republican committee members boycotted the vote, delaying a full Senate vote.³

In a May 2020 op-ed, Ms. Raskin questioned efforts to amend the Federal Reserve’s Main Street Lending Program that would allow companies in the fossil fuel industry to receive loans from the Federal Reserve.⁴ She later opined that “. . . all US regulators can—and should—be looking at their

¹ *President Biden Nominates Sarah Bloom Raskin to Serve as Vice Chair for Supervision of the Federal Reserve, and Lisa Cook and Philip Jefferson to Serve as Governors*, WHITE HOUSE (Jan. 14, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/14/president-biden-nominates-sarah-bloom-raskin-to-serve-as-vice-chair-for-supervision-of-the-federal-reserve-and-lisa-cook-and-philip-jefferson-to-serve-as-governors/>; Jeanna Smialek et al., *Biden’s Pick for Bank Cop Faces Skeptical Senators at Hearing*, N.Y. TIMES (Feb. 3, 2020), <https://www.nytimes.com/2022/02/03/business/economy/federal-reserve-sarah-bloom-raskin.html>.

² Sarah Bloom Raskin, *Changing the Climate of Financial Regulation*, POST SYNDICATE (Sept. 10, 2021), <https://www.project-syndicate.org/onpoint/us-financial-regulators-climate-change-by-sarah-bloom-raskin-2021-09>;

³ David Morgan et al., *Biden’s Fed Nominees in Limbo After Republican Vote Boycott*, REUTERS (Feb. 15, 2022), <https://www.reuters.com/business/finance/senate-panel-vote-advancing-bidens-fed-picks-raskin-under-microscope-2022-02-15/>.

⁴ Sarah Bloom Raskin, *Why Is the Fed Spending So Much Money on a Dying Industry?*, N.Y. TIMES (May 28, 2020), <https://www.nytimes.com/2020/05/28/opinion/fed-fossil-fuels.html>.

existing powers and considering how they might be brought to bear on efforts to mitigate climate risk.”⁵

Ms. Raskin’s comments were of primary concern for Senate Republicans in her confirmation hearing before the Committee. Senator Pat Toomey, Ranking Member of the Committee, referred to her confirmation as “a referendum on the [Federal Reserve’s] independence,” and criticized her climate regulation views as having “devastating consequences not just for energy workers, but also for consumers.”⁶ Ms. Raskin acknowledged that “it is not the role of the Fed to be directing credit allocation. They do not choose winners and losers.”⁷ Instead, she emphasized that the policymaking of the Federal Reserve requires a collaborative process that assesses risk.⁸

Ms. Raskin’s nomination comes at a time when government regulators are making climate-related regulations a priority.⁹ Recently, Acting Chairman Martin J. Gruenberg of the Federal Deposit Insurance Corporation (“FDIC”) released the FDIC’s priorities for 2022, which introduced the agency’s focus on “[a]ddressing the financial risks that climate change poses to banking organizations and the financial system.”¹⁰ In its press release, the FDIC announced its intent to seek public comment on guidance to assist banks in navigating climate change risk, establish a working group on climate-related financial risks, and join the international Network of Central Banks and Supervisors for Greening the Financial System.¹¹ Additionally, in December 2021, the Office of the

⁵ Raskin, *Changing the Climate of Financial Regulation*, *supra* note 2.

⁶ *Hearing on the Nomination of Sarah Bloom Raskin Before the S. Comm. on Banking, Hous., and Urban Affairs*, 117th Cong. 1 (2022) (opening statement of Sen. Pat Toomey, Ranking Member).

⁷ *Hearing on the Nomination of Sarah Bloom Raskin Before the S. Comm. on Banking, Hous., and Urban Affairs*, 117th Cong. (2022) (testimony of Hon. Sarah Bloom Raskin, nominee to the Federal Reserve).

⁸ *Hearing on the Nomination of Sarah Bloom Raskin Before the S. Comm. on Banking, Hous., and Urban Affairs*, 117th Cong. 2-3 (2022) (opening statement of Hon. Sarah Bloom Raskin, nominee to the Federal Reserve); Smialek, *supra* note 1.

⁹ See, e.g., Jon Hill, *Fed’s Powell Sees Climate Stress Tests as ‘Important Priority’*, LAW360 (Jan. 11, 2022), <https://www.law360.com/articles/1454030> (Chairman Powell stating in his confirmation hearing that climate stress tests—which seek to ensure that significant financial institutions assess all material risks in their business models from climate change—“will be a key tool going forward”); see also Jason Halper *et al.*, *Investors and Regulators Turning up the Heat on Climate-Change Disclosures: Attempting to Make Sense of the State of Play in the US, EU, and UK*, CADWALADER, WICKERSHAM & TAFT LLP (Sept. 14, 2021), <https://www.cadwalader.com/resources/clients-friends-memos/investors-and-regulators-turning-up-the-heat-on-climate-change-disclosures-attempting-to-make-sense-of-the-state-of-play-in-the-us-eu-and-uk#> (discussing the increased focus on climate-change related disclosures); Jason Halper *et al.*, *Financial Stability Oversight Council Issues Key Report Declaring Climate Change as an Emerging Threat to U.S. Financial Stability*, CADWALADER, WICKERSHAM & TAFT LLP (Oct. 25, 2021), <https://www.cadwalader.com/resources/clients-friends-memos/financial-stability-oversight-council-issues-key-report-declaring-climate-change-as-an-emerging-threat-to-us-financial-stability#> (discussing the Financial Stability Oversight Council’s finding that climate change is an emerging threat to U.S. financial security and noting that, among other initiatives, financial regulators should “promote enhanced climate-related disclosures.”)

¹⁰ Press Release, Acting Chairman Martin J. Gruenberg, Acting Chairman Martin J. Gruenberg Announces FDIC Priorities for 2022 (Feb. 7, 2022), <https://www.fdic.gov/news/press-releases/2022/pr22015.html>.

¹¹ *Id.*

Comptroller of the Currency (the “OCC”) issued a formal Request for Information on its draft “Principles for Climate-Related Financial Risk Management for Large Banks.”¹² The OCC’s proposed principles, which would apply to banks with over \$100 billion in total consolidated assets, are designed to support the identification and management of climate-related financial risks.¹³ The OCC stated in its request that the principles will support large banks’ climate change efforts, noting that the “[b]anks are likely to be affected by both the physical risks and transition risks associated with climate change.”¹⁴

These announcements come just three months after former FDIC Chairman Jelena McWilliams—an appointee of President Trump—declined to sign off on the Financial Stability Oversight Council’s (“FSOC”) Report on Climate-Related Financial Risk,¹⁵ voicing her concern about the reliability of the report’s conclusions because “FSOC has not had an adequate opportunity to conduct sufficient analysis, fully consider broader macro consequences, and thoroughly evaluate the impact of its recommendations.”¹⁶ Acting Chairman Gruenberg’s priorities are consistent with other actions by the Biden administration to take a more aggressive approach to mitigate climate-related financial threats. These actions include issuing executive orders; creating the Special Presidential Envoy for Climate; establishing the White House Office of Domestic Climate Policy to coordinate domestic and foreign policy-making and oversee the implementation of such policies; forming the National Climate Task Force; directing Treasury Secretary Janet Yellen to utilize the Treasury Department’s Financial Stability Oversight Council to assess the risk climate change poses to the US financial system; instructing the Directors of the Office of Management and Budget and National Economic Council, with Secretary Yellen, to develop recommendations for the National Climate Task Force to integrate climate-related financial risk into federal financial management and financial reporting (particularly as applied to federal lending programs); and, instructing the Director of the OMB to assess, plan for, and reduce long-term fiscal exposure to climate-related financial risk.¹⁷

¹² *Risk Management: Principles for Climate-Related Financial Risk Management for Large Banks; Request for Feedback*, OFFICE OF THE COMPTROLLER OF THE CURRENCY, (Dec. 16, 2021), <https://www.occ.gov/news-issuances/bulletins/2021/bulletin-2021-62.html>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Halper, *Financial Stability Oversight Council Issues Key Report Declaring Climate Change as an Emerging Threat to U.S. Financial Stability*, *supra* note 9.

¹⁶ FDIC, Statement by FDIC Chairman Jelena McWilliams at the Financial Stability Oversight Council Meeting (October 21, 2021), <https://www.fdic.gov/news/speeches/2021/spoct2121.html>.

¹⁷ Jason Halper et al., *Investors and Regulators Turning up the Heat on Climate-Change Disclosures: Attempting to Make Sense of the State of Play in the US, EU, and UK*, CADWALADER, WICKERSHAM & TAFT LLP (Sept. 14, 2021), <https://www.cadwalader.com/resources/clients-friends-memos/investors-and-regulators-turning-up-the-heat-on-climate-change-disclosures-attempting-to-make-sense-of-the-state-of-play-in-the-us-eu-and-uk#>.

Government regulators and agencies continue to think critically about the impact of climate change in all regulated industries—including in the corporate and financial markets. Companies and financial institutions should be watchful of further regulatory developments to keep apprised of how climate-related policymaking may affect them. In particular, financial institutions subject to supervision by federal banking regulators should begin preparing or continue to identify climate-related risks that could adversely affect the institution's safety and soundness.

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