Congress of the United States
Washington, DC 20515

April 13, 2018

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitutions Ave., NW
Washington, D.C. 20551

The Honorable Randal Quarles
Vice Chairman for Supervision
Board of Governors of the Federal Reserve System
20th Street and Constitutions Ave., NW
Washington, D.C. 20551

Dear Chairman Powell and Vice Chairman Quarles:

The Federal Reserve's input to bank holding companies on effective senior management, the management of business lines, and independent risk management and controls for large financial institutions is valuable but the Federal Reserve should exercise extreme caution and rarely substitute its will over the will of shareholders and boards of directors.

The Federal Reserve's proposed guidance on Supervisory Expectations for the Board of Directors (Docket No. OP-1570)("Guidance") has the potential to further empower the Federal Reserve to manage to address the regulatory overreach into the boardroom that has placed undue burdens on bank boards.

Boards of directors continue to spend far too much time on matters that do not relate to their core functions to oversee management on behalf of shareholders. Although the proposed guidance purports to distinguish between the role of the board (one of oversight and guidance) and the role of management (day-to-day functions), it continues to inappropriately blur these lines by creating numerous new requirements that a board "ensure," "establish," "approve," "set," "develop," or "detail" items that simply do not reflect a board's oversight of and guidance to management. As such, these terms would impose new legal and managerial requirements on a board that would have the board direct a bank holding company's daily business decisions.

Additionally, the proposed guidance is overly prescriptive and does not seek to tailor the guidance to bank holding companies based on activities or size. Instead, it takes a granular "check the box" or "one-size-fits-all" approach in order for the Federal Reserve to consider a board to be "effective." This is particularly problematic as the Federal Reserve attempts to regulate through the use of "examples" set forth in the proposed guidance. Realigning supervisory expectations for boards of directors is critical, nonetheless, just because a topic may relate to a core board function, for example the oversight of strategy, it does not necessitate that the Federal Reserve regulate these areas. The Federal Reserve cannot assume the legal duties of care and loyalty from an elected board of directors.

This proposed guidance must not become another supervisory tool for examiners, who generally lack expertise in corporate governance, to demand additional obligations for boards. Shareholders elect a board to then appoint and oversee management to operate the business.

The Federal Reserve must revise the proposed guidance to specifically acknowledge that there is no "one-size-fits-all" or "gold standard" approach to corporate governance and expressly allow boards of directors and management of bank holding companies the necessary discretion to operate in a manner they deem most appropriate given their business, structure and practices.

We appreciate your willingness to consider our comments. We expect that the Federal Reserve will improve the the proposed guidance so that upon its adoption those institutions that are subject to the Federal Reserve's oversight will have the legal clarity and certainty that smart regulation demands. Clear and specific guidance would reduce examiner discretion and prevent the micromanagement of private companies by the federal government.

Sincerely,

Andy Barr
Chairman
Subcommittee on Monetary Policy and Trade

Bill Huizenga
Chairman
Subcommittee on Capital Markets, Securities, and Investment

Sean Duffy
Chairman
Subcommittee on Housing and Insurance