October 5, 2021

The Honorable Sherrod Brown  
The Honorable Pat Toomey  
Chair  
Ranking Member  
Committee on Banking, Housing,  
Committee on Banking, Housing,  
and Urban Affairs  
and Urban Affairs  
United States Senate  
United States Senate  
Washington, DC 20510  
Washington, DC 20510

Dear Chairman Brown and Ranking Member Toomey:

We, the undersigned scholars who study financial regulation, write to express our support for the nomination of Professor Saule T. Omarova to serve as the Comptroller of the Currency. Our ranks include members of both parties, former financial industry executives, and former senior financial regulators. We believe Professor Omarova has the right combination of expertise, wisdom, independence, and courage to be an outstanding Comptroller.

Professor Omarova is the Beth and Marc Goldberg Professor of Law at Cornell Law School. She was previously the George R. Ward Associate Professor of Law at the University of North Carolina School of Law. Prior to embarking on an academic career, Professor Omarova practiced banking law at the top banking law firm, Davis, Polk & Wardwell LLP, and then worked in the Treasury Department during the George W. Bush administration as Special Advisor for Regulatory Policy to the Under Secretary for Domestic Finance, Randal K. Quarles.

Professor Omarova is a lawyer’s lawyer. She is widely acknowledged to be one of the leading scholars of financial regulation in the world. There are few other scholars—or attorneys—who can match the depth of Professor Omarova’s technical knowledge about American banking regulation or have her breadth of policy knowledge.

This is reflected in her scholarship, which has plumbed the detailed inner workings of federal financial regulatory agencies, including the Office of the Comptroller of the Currency (the “OCC”). For example, her diligently researched scholarship has shown how the OCC left the national banking system vulnerable to the 2008 financial crisis by enabling national banks to get into the risky derivatives business not through formal rulemaking, but through a series of opinion letters, each of which was boot-strapped on the previous one.¹ Similarly, she has shown how Federal Reserve Board (the “Fed”) contributed to the increase of risk in the banking system through opinion letters that undermined the Federal Reserve Act’s limitations on banks’ transactions with their non-bank affiliates.² This is scholarship that could only have been undertaken by someone with an intimate knowledge of how bank regulation actually operates.

on the ground. Through these works, moreover, Professor Omarova evinced deep respect for the statutory constraints that Congress placed on federal banking regulators.

Throughout her career, Professor Omarova has emphasized the importance of preserving financial stability, maintaining the safety and soundness of our banking system, and assuring responsible and ethical treatment of customers and communities. She is also a strong supporter of a “level playing field” that would ensure consistent regulatory treatment for all institutions that engage in the business of banking. She has opposed efforts by technology firms to engage in the banking business on terms that are different from those governing traditional bank holding companies.

Professor Omarova is cast from a different mold than previous Comptrollers. She would be the first female Comptroller, the first Asian-American and non-white Comptroller, and the first immigrant Comptroller. Moreover, unlike many previous Comptrollers, Professor Omarova is neither a bank lobbyist nor a current bank lawyer. She does not come from a practice representing clients. Not only is she refreshingly independent and unconflicted—something bank lobbyists find threatening—but she comes to the job with a uniquely deep appreciation for the opportunities made possible by the US financial system.

Professor Omarova grew up in a society lacking free markets—Soviet Kazakhstan. Similar to FDIC Chair Jelena McWilliams, she knows first-hand what it is like to live in communities that lack adequate banking services, a problem shared by many rural and urban communities in the United States. Her interest in bank regulation reflects her understanding of how important a vibrant, fair, competitive, and accessible banking system is for ensuring opportunities for both consumers and businesses.

She also knows what it is like to live in a society that lacks rule of law protections, and this experience has given her a deep personal commitment to the faithful and predictable interpretation and principled implementation of the statutes governing the banking industry. At the same time, she is keenly aware of the diversity of institutions in the US banking system and the need for regulatory flexibility to account for institutional circumstances—particularly for community banks and community development institutions—in lieu of one-size-fits-all rules.

Certain industry associations have unfairly accused Professor Omarova of holding “radical” views based on academic writings imagining an alternative structure for a financial system involving direct retail deposits at the Fed accessed through a central bank’s digital currency. Such claims are a deliberate misrepresentation of Professor Omarova and her work. We know Professor Omarova as a careful, cautious, and thoughtful scholar whose conclusions are based on evidence, not ideology.

Her supposedly controversial scholarship—dealing with issues that are entirely outside of the OCC’s regulatory ambit—is actually part of a venerable academic tradition of intellectual thought “exercises” (as she herself terms it) that explore the achievements and shortcomings
of the U.S. financial system by considering the trade-offs involved in alternative potential systems in order to “understand … how far we are prepared to go, and what choices await us on that path.” Moreover, it is hard to see her academic articles evaluating such proposals as “radical” and unjustified when the Fed is studying the issue of a central bank digital currency and numerous other countries are pursuing central bank digital currency projects.

Professor Omarova is a superbly qualified nominee who is ready to hit the ground running on day one at the OCC. She would bring a highly-informed perspective and a prudent and steady hand to the OCC at a time of substantial transformation in the institutional landscape of financial institutions.

For these reasons, we believe that Professor Omarova would make an outstanding Comptroller of the Currency, and we urge you to support her nomination.

Sincerely,

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