

## APPENDIX

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Appendix A

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United States Court of Appeals  
For the First Circuit

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No. 24-1796

MARK ANDREW BAUERSACHS,

Plaintiff – Appellant,

v.

FEDERAL RESERVE BOARD OF GOVERNORS;  
JEROME H. POWELL; PHILLIP N. JEFFERSON;  
MICHAEL S. BARR; MICHELLE W. BOWMAN;  
LISA D. COOK; ADRIANA D. KUGLER;  
CHRISTOPHER J. WALLER,

Defendants – Appellees.

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Before

Barron, Chief Judge,

Kayatta and Gelpí, Circuit Judges.

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JUDGMENT

Entered: October 7, 2025

This appeal is from orders in the District Court for the District of Massachusetts. In relevant part, the district court granted a motion to dismiss under Federal Rule of Civil Procedure 12(b)(1) for lack of subject-matter jurisdiction, entered an order of dismissal, and denied a motion for reconsideration under Federal Rule of Civil Procedure 59I. This appeal followed. There was full briefing. We have jurisdiction under 28 U.S.C. § 1291.

“We review de novo a district court’s dismissal for lack of subject matter jurisdiction under” Federal Rule of Civil Procedure 12(b)(1). See Murphy v. United States, 45 F.3d 520, 522 (1<sup>st</sup> Cir. 1995). We read the appellant’s pro se filings liberally. See Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam).

The appellant by the specific arguments raised and developed in this appeal has not shown error in the district court’s conclusion that there was no waiver of sovereign immunity for the appellant’s claims. The appellant appears to accept that a waiver of sovereign immunity is necessary for his claims. The appellant relies on a waiver under the Administrative Procedure Act (the “APA”). See 5 U.S.C. § 702. Accordingly, we do not reach the district court’s conclusions on other potential sovereign immunity waivers.

The appellant’s claims appear to be for monetary relief (though he contends that he seeks equitable restitution, not legal damages). To support a waiver of sovereign immunity for his claims, the appellant relies principally on Bowen v. Massachusetts, 487 U.S. 879 (1988), and Clark v. Library of Cong., 750 F.2d 89 (D.C. Cir. 1984). Neither decision is of help to his appeal. First, the decision in Bowen does not support the appellant’s argument that his claims for equitable restitution fall within the APA waiver for claims “seeking relief other than money damages.” See Dep’t of Army v. Blue Fox, Inc., 525 U.S. 255, 261 (1999) (noting that “Bowen’s analysis of § 702 [] did not turn on distinctions between ‘equitable’ actions and other actions, nor could such a distinction have driven the Court’s analysis in light of § 702’s language”). Second, to the extent that the decision in

Clark is relevant, it is not in conflict with this analysis or with this court's precedents on the APA waiver's scope. Thus, neither decision supports the appellant's arguments, and he does not otherwise show how the APA waiver authorizes his claims for relief, or why there was no sovereign immunity.

The appellant has waived for lack of development any other challenge to the district court's conclusion that sovereign immunity barred all his claims. See United States v. Nishnianidze, 342 F.3d 6, 18 (1<sup>st</sup> Cir. 2003) (pro se appellants may waive challenges through a failure to develop them on appeal). We do not reach the issues of Article III standing or whether the operative complaint states a plausible claim for relief.

The judgment is **AFFIRMED**. See Local Rule 27.01.

By the Court: Anastasia Dubrovsky, Clerk

cc:

Mark Andrew Bauersachs, Donald Campbell Lockhart, Rayford A. Farquhar, Katherine Ann Pomeroy, Yvonne Facchina Mizusawa

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Appendix B

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United States District Court  
District of Massachusetts (Boston)

No. 1:24-cv-10869-RGS

MARK ANDREW BAUERSACHS,

Plaintiff – Appellant,

v.

FEDERAL RESERVE BOARD OF GOVERNORS;  
JEROME H. POWELL; PHILLIP N. JEFFERSON;  
MICHAEL S. BARR; MICHELLE W. BOWMAN;  
LISA D. COOK; ADRIANA D. KUGLER;  
CHRISTOPHER J. WALLER,

Defendants – Appellees.

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Before

Judge Richard G. Stearns

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ELECTRONIC ORDER

Dkt # 34, Entered 08/26/2024

Judge Richard G. Stearns: ELECTRONIC ORDER entered denying [Dkt #] 32 Motion for Reconsideration re [Dkt #] 30 Order on Motion to Dismiss/Lack of Jurisdiction, [Dkt #] 31 Order Dismissing Case filed by Mark Andrew Bauersachs.

Pro se plaintiff Mark Bauersachs, a “62-year-old retiree living on a defined-benefit pension in the private sector without cost-of-living adjustments (COLAs)” filed this action against defendant Board of Governors of the Federal Reserve System and each of its seven members in their official capacities and as a

voting member of the Federal Open Market Committee (FOMC). The court dismissed the Amended Complaint finding that it lacked subject-matter jurisdiction over Bauersachs's claims against defendants (the United States) as there was no waiver of sovereign immunity. Bauersachs now moves under Fed. R. Civ. P 59I asserting that because his claims are "purely equitable" and the Federal Reserve Board of Governors decision/acts are "*ultra vires*", the court's decision is in error.

The court disagrees. Bauersachs's suit is filed to restore losses to his non-COLA pension allegedly affected by the Board's decisions. See Am. Compl. § 6 ("[S]o the Board owes restitution in a dollar amount equal to Plaintiff's fixed-income pension after taxes multiplied by consumer inflation measured by CPI-W or PCE price index, thereby restoring the purchasing power of the Plaintiff's pension lost to the FAIT regime."). Moreover, Bauersachs's complained of decision – FOMC's approval in August of 2020 of "a patently unlawful inflation targeting regime called Flexible Average Inflation Targeting (FAIT) authorized an 'expansion of] the money supply... [which] cause[d] up to 14.1% consumer price inflation over three years.'" Compl. 1, 52-53, Ex. 1-4.1; see also Am. Compl. 1, 29 (claiming "17.8% inflation in three years") Dkt #21, -- are within FOMC's powers under 12 U.S.C. § 225a. Bauersachs's motion asking the court to alter or amend the judgment in this case is DENIED.

(mkz) (Entered: 08/26/2024)

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Appendix C

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United States District Court  
District of Massachusetts (Boston)

No. 1:24-cv-10869-RGS

MARK ANDREW BAUERSACHS,  
Plaintiff – Appellant,

v.

FEDERAL RESERVE BOARD OF GOVERNORS;  
JEROME H. POWELL; PHILLIP N. JEFFERSON;  
MICHAEL S. BARR; MICHELLE W. BOWMAN;  
LISA D. COOK; ADRIANA D. KUGLER;  
CHRISTOPHER J. WALLER,

Defendants – Appellees.

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Before

Judge Richard G. Stearns

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ELECTRONIC ORDER

Dkt # 30, Entered 08/09/2024

Judge Richard G. Stearns: ELECTRONIC ORDER entered granting 24 Motion to Dismiss for Lack of Jurisdiction as sovereign immunity shields the defendants from these claims.

Pro se plaintiff Mark Bauersachs, a “62-year-old retiree living on a defined-benefit pension in the private sector without cost-of-living adjustments (COLAs)” filed this action against defendant Board of Governors of the Federal Reserve System and each of its seven members in their official capacities and as a

voting member of the Federal Open Market Committee (FOMC). Compl. 1 (Dkt #1). Bauersachs asserts that the FOMC's approval in August of 2020 of "a patently unlawful inflation targeting regime called Flexible Average Inflation Targeting (FAIT) authorized an expansion of the money supply... [which] cause[d] up to 14.1% consumer price inflation over three years." Compl. 1, 52-53, Ex. 1-4.1; *See also* Am. Compl. 1, 29 (claiming "17.8% inflation in three years") Dkt #21. Bauersachs alleges that "the FAIT regime intentionally caused [his] pension... to lose \$25,300 a year in lost purchasing power amounting to \$657,800 of actual harm... over [his] remaining life span." *Id.* 28. Bauersachs asserts that the FAIT regime violates 12 U.S.C. § 225a and the equal protection clause for pensions like his which are not adjusted for inflation under the terms of his former employer's plan. *Id.* 1, 11. He asks the court to declare FOMC's "*ultra vires*" acts unlawful under 5 U.S.C. §§ 702 and 706 and to void them.

Defendants moved to dismiss the Complaint, and Bauersachs submitted a 104 page/207 paragraph Amended Complaint in response. Defendants again move to dismiss on the same grounds that Bauersachs has no "concrete and particularized" injury for Article III standing to sue, and, notwithstanding, the court lacks subject matter jurisdiction to act on Bauersachs's claims as defendants are immune from suit as government actors making decisions in their official capacities. After review of the Amended Complaint, the court will dismiss it. "Absent a waiver, sovereign immunity shields the Federal Government and its agencies from suit." *FDIC v. Meyer*, 510 U.S. 471, 475 (1994); *see also Davallou v. United States*, 998 F.3d 502, 504 (1st Cir. 2021) ("Federal courts lack subject-matter jurisdiction over claims against the

United States absent a waiver of sovereign immunity.”). As to the federal government and its instrumentalities, sovereign immunity is presumed and is overcome only with an express and unequivocal waiver. *See United States v. Nordic Village, Inc.*, 503 U.S. 30, 33-34 (1992). Waiver can be found in either a specific statute governing a governmental entity, or in Congressional waivers. *See Research Triangle Inst. V. Bd. Of Governors of the Fed. Reserve Sys.*, 132 F.3d 985, 987-988 (4<sup>th</sup> Cir. 1997). Bauersachs asserts a violation of 28 U.S.C. § 225a, which has no such waiver. *See Love v. Federal Reserve Board of Governors*, No. 15-cv-1077, 2015 WL 3649376, at \*1 (D. Kan. June 11, 2015) (plaintiff claims that the Board’s monetary policy decisions caused him \$150,000 in damages as a result of “loss of interest on his savings and inflation.” The court in *Love* dismissed the complaint, holding that “[a]s a government agency, the Board has sovereign immunity which has not been waived.”). Nor does the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680 (FTCA), (which provides a right of action for those injured by wrongful or negligent acts of federal employees), provide a waiver. In fact, the FTCA expressly excludes from its waiver of sovereign immunity “[a]ny claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.” 28 U.S.C. § 2680(i). The FTCA’s exclusion for injury or damage resulting from “regulation of the monetary system” has been held to “paint with a..., broad[] brush,” *Dolan v. USP*, 546 U.S. 481, 489-90 (2006), and bars Bauersachs’s claims for monetary injury allegedly resulting from the Board’s, Board members’, and FOMC’s monetary policy actions. *See Handy v. Bernanke*, 2012 WL 7964216, at \*2 (E.D. Va. Jan. 26, 2012) (“Congress has

not waived governmental immunity as to common-law torts arising from the allegedly misguided practices of the Federal Reserve”) (citing 28 U.S.C. §§ 2680(i) and (n)).

As defendants are immune from plaintiff's claims, the court lacks subject matter jurisdiction over this action; the motion to dismiss is ALLOWED. The case is DISMISSED; the Clerk is directed to close it.

(mkz) (Entered: 08/09/2024)

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Appendix D

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United States Court of Appeals  
For the First Circuit

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No. 24-1796

MARK ANDREW BAUERSACHS,  
Plaintiff – Appellant,

v.

FEDERAL RESERVE BOARD OF GOVERNORS;  
JEROME H. POWELL; PHILLIP N. JEFFERSON;  
MICHAEL S. BARR; MICHELLE W. BOWMAN;  
LISA D. COOK; ADRIANA D. KUGLER;  
CHRISTOPHER J. WALLER,

Defendants – Appellees.

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Before Barron, Chief Judge,  
Kayatta, Gelpí, Montecalvo,  
Rikelman, Aframe, and Dunlap, Circuit Judges.

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ORDER OF COURT

Entered: December 9, 2025

The petition for rehearing having been denied by the panel of judges who decided the case, and the petition for rehearing en banc having been submitted to the active judges of this court and a majority of the judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and petition for rehearing en banc be denied.

By the Court: Anastasia Dubrovsky, Clerk

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cc: Mark Andrew Bauersachs, Donald Campbell  
Lockhart, Rayford A. Farquhar, Katherine Ann  
Pomeroy, Yvonne Facchina Mizusawa

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Appendix E

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89 STAT. 1194 -- March 24, 1975  
House Concurrent Resolution 133  
USC prec. title 1

**BOARD OF GOVERNORS OF THE FEDERAL  
RESERVE SYSTEM FEDERAL OPEN MARKET  
COMMITTEE-HEARINGS**

Whereas article I, section 8, of the Constitution provides that Congress shall have the money power, namely "to coin money and regulate the value thereof";

Whereas Congress established the Federal Reserve Board as its agent, and delegated to its agent the day-to-day responsibility for managing the money supply;

Whereas the United States economy is now suffering from excessively high unemployment and a decline in production and the gross national product, together with inflation; and

Whereas the economy's performance in part is affected by changes in the rate of growth of the monetary and credit aggregates: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),*

That it is the sense of Congress that the Board of Governors of the Federal Reserve System and the Federal Open Market Committee—

- (1) pursue policies in the first half of 1975 so as to encourage lower long term interest rates and expansion in the monetary and credit aggregates appropriate to facilitating prompt economic recovery; and

(2) maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long term interest rates.

Pursuant to this resolution, and taking into account the international flows of funds and conditions in the international money and credit markets, the Board of Governors shall consult with Congress at semi-annual hearings before the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking, Currency and Housing of the House of Representatives about the Board of Governors' and the Federal Open Market Committee's objectives and plans with respect to the ranges of growth or diminution of monetary and credit aggregates in the upcoming twelve months. Nothing in this resolution shall be interpreted to require that such ranges of growth or diminution be achieved if the Board of Governors and the Federal Open Market Committee determine that they cannot or should not be achieved because of changing conditions. The Board of Governors shall report to the Congress the reasons for any such determination during the next hearings held pursuant to this resolution.

Passed March 24, 1975.

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**Appendix F**

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2023 U.S. Code  
Title 12 – Banks and Banking  
Chapter 3 – Federal Reserve System  
Subchapter I – Definitions, Organization, and  
General Provisions Affecting System

**12 U.S.C. § 225a – Maintenance of long run growth  
of monetary and credit aggregates**

The Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates.

(Dec. 23, 1913, ch. 6, §2A, as added Pub. L. 95–188, title II, §202, Nov. 16, 1977, 91 Stat. 1387; amended Pub. L. 95–523, title I, §108(a), Oct. 27, 1978, 92 Stat. 1897; Pub. L. 100–418, title III, §3005(c), Aug. 23, 1988, 102 Stat. 1375; Pub. L. 106–569, title X, §1003(a), Dec. 27, 2000, 114 Stat. 3028.)

**Editorial Notes  
CODIFICATION**

Another section 202 of Pub. L. 95–188 amended section 302 of this title.

**AMENDMENTS**

2000—Pub. L. 106–569 struck out provisions after first sentence relating to annual reports to Congress, transmittal of reports to Congressional Committees,

consultations with Committees, report of Committee, changing conditions affecting achievement of objectives and plans, and explanation for deviations from objectives and plans.

1988—Pub. L. 100-418 inserted “, including an analysis of the impact of the exchange rate of the dollar on those trends” after “the Nation” in cl. (1).

1978—Pub. L. 95-523 substituted provisions relating to independent written reports of the Board of Governors to the Congress for provisions relating to the consultations of the Board of Governors with Congress at semiannual hearings, substituted “the objectives and plans with respect to the ranges” for “such ranges”, inserted “of the monetary and credit aggregates disclosed in the reports submitted under this section” after “growth or diminution”, and inserted proviso respecting the inclusion of an explanation of reasons for revisions or deviations in subsequent consultations and reports.

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**Appendix G**

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2020 U.S. Code  
Title 5 – Government Organization and Employees  
Part III – Employees  
Subpart G – Insurance and Annuities  
Chapter 84 – Federal Employees’ Retirement System  
Subchapter VI – General and Administrative  
Provisions

5 U.S.C. § 8462 – Cost-of-living adjustments

- (a) For the purpose of this section—
- (1) the term “base quarter”, as used with respect to a year, means the calendar quarter ending on September 30 of such year;
  - (2) the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter; and
  - (3) the term “percent change in the price index”, as used with respect to a year, means the percentage derived by—
    - (A) reducing— (i) the price index for the base quarter of such year, by (ii) the price index for the base quarter of the preceding year in which an adjustment under this subsection was made;
    - (B) dividing the difference under subparagraph (A) by the price index referred to in subparagraph (A)(ii); and
    - (C) multiplying the quotient under subparagraph (B) by 100.
- (b)(1) Except as provided in subsection (c), effective December 1 of any year in which an adjustment under this subsection is to be made, as

determined under paragraph (2), each annuity payable from the Fund under this chapter (other than an annuity under section 8443) having a commencing date not later than such December 1 shall be adjusted as follows:

(A) If the percent change in the price index for the year does not exceed 3 percent, each annuity subject to adjustment under this sub section shall be increased by the lesser of—

(i) the percent change in the price index (rounded to the nearest one-tenth of 1 per cent); or

(ii) 2 percent.

(B) If the percent change in the price index for the year exceeds 3 percent, each annuity subject to adjustment under this subsection shall be increased by the excess of—

(i) the percent change in the price index (rounded to the nearest one-tenth of 1 per cent), over

(ii) 1 percent.

(2) An adjustment under this subsection shall be made in a year only if the price index for the base quarter of such year exceeds the price index for the base quarter of the preceding year in which an adjustment under this subsection was made.

(3) An annuity under this chapter shall not be subject to adjustment under section 8340. Nothing in the preceding sentence shall affect the computation of any amount under section 8443(a)(2).

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) The first increase (if any) made under subsection (b) to an annuity which is payable from the Fund to an annuitant or survivor (other than a child under section 8443) whose annuity has not been increased under this sub section or subsection (b) shall be equal to the product (adjusted to the nearest one-tenth of 1 percent) of—

(A) one-twelfth of the applicable percent change computed under subsection (b), multiplied by

(B) the number of months (not to exceed 12 months, counting any portion of a month as a month)—

(i) for which the annuity was payable from the Fund before the effective date of the increase; or

(ii) in the case of a survivor of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.

(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (other than a widow or widower whose annuity is computed under section 8442(g) or a child under section 8443) shall be increased by the total percentage by which the deceased annuitant's annuity had been increased under this section during the period beginning on the date the deceased annuitant's annuity commenced and ending on the date of the deceased annuitant's death.

(3)(A) An adjustment under subsection (b) for any year shall not be effective with respect to the annuity of an annuitant who is under 62 years of

age as of the date on which such adjustment would otherwise first take effect.

(B)(i) Except as provided in clause (ii), this paragraph applies only with respect to an annuitant under section 8412, 8413, or 8414.

(ii) This paragraph does not apply with respect to an annuitant under subsection (d) or I of section 8412 or (in the case of an annuitant separated from service as a military reserve technician as a result of disability) under section 8414I.

(4) The first increase (if any) made under subsection (b) to an annuity which is payable from the Fund to a widow or widower whose annuity is computed under section 8442(g) shall be equal to the product (adjusted to the nearest one-tenth of 1 percent) of—

(A) one-twelfth of the applicable percent change computed under subsection (b), multiplied by

(B) the number of months (not to exceed 12 months, counting any portion of a month as a month) since—

(i) the effective date of the adjustment last made under this section in the annuity of the annuitant on whose service on the widow's or widower's annuity is based; or

(ii) if the annuity of the annuitant (referred to in clause (i)) has not been increased under this section, the commencement date of such annuitant's annuity (determined subject to section 8452(a)(1)(B)).

(d) The monthly installment of an annuity after adjustment under this section shall be rounded to the next lowest dollar. However, the monthly

installment shall, after adjustment, reflect an increase of at least \$1.

(e) The \$15,000 amount referred to in section 8442(b)(1)(A)(ii) shall be increased at the same time that, and by the same percent as the percentage by which, annuities under subchapter III of chapter 83 are increased.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 572; amended Pub. L. 99-556, title I, § 117(b), Oct. 27, 1986, 100 Stat. 3134.)

### Editorial Notes

### AMENDMENTS

1986—Subsec. (b)(3). Pub. L. 99-556 inserted provision relating to the computation of any amount under section 8443(a)(2).

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**Appendix H**

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**Federal Reserve Board of Governors****Statement on Longer-Run Goals and Monetary  
Policy Strategy Adopted effective January 24, 2012;  
as amended effective August 27, 2020**

1. The Federal Open Market Committee (FOMC) is firmly committed to fulfilling its statutory mandate from the Congress of promoting maximum employment, stable prices, and moderate long-term interest rates. The Committee seeks to explain its monetary policy decisions to the public as clearly as possible. Such clarity facilitates well-informed decision-making by households and businesses, reduces economic and financial uncertainty, increases the effectiveness of monetary policy, and enhances transparency and accountability, which are essential in a democratic society.

2. Employment, inflation, and long term interest rates fluctuate over time in response to economic and financial disturbances. Monetary policy plays an important role in stabilizing the economy in response to these disturbances. The Committee's primary means of adjusting the stance of monetary policy is through changes in the target range for the federal funds rate. The Committee judges that the level of the federal funds rate consistent with maximum employment and price stability over the longer run has declined relative to its historical average. Therefore, the federal funds rate is likely to be constrained by its effective lower bound more frequently than in the past. Owing in part to the proximity of interest rates to the effective lower

bound, the Committee judges that downward risks to employment and inflation have increased. The Committee is prepared to use its full range of tools to achieve its maximum employment and price stability goals.

3. The maximum level of employment is a broad based and inclusive goal that is not directly measurable and changes over time owing largely to nonmonetary factors that affect the structure and dynamics of the labor market. Consequently, it would not be appropriate to specify a fixed goal for employment; rather, the Committee's policy decisions must be informed by assessments of the shortfalls of employment from its maximum level of employment, recognizing that such assessments are necessarily uncertain and subject to revision. The Committee considers a wide range of indicators in making these assessments.

4. The inflation rate over the longer run is primarily determined by monetary policy, and hence the Committee has the ability to specify a longer-run goal for inflation. The Committee reaffirms its judgment that inflation at the rate of 2 percent, as measured by the annual change in the price index for personal consumption expenditures, is most consistent over the longer run with the Federal Reserve's statutory mandate. The Committee judges that longer-term inflation expectations that are well anchored at 2 percent foster price stability and moderate long-term interest rates and enhance the Committee's ability to promote maximum employment in the face of significant economic disturbances. In order to anchor longer term inflation expectations at this level, the Committee seeks to achieve inflation that averages 2 percent over time, and therefore judges that, following periods when

inflation has been running persistently below 2 percent, appropriate monetary policy will likely aim to achieve inflation moderately above 2 percent for some time.

5. Monetary policy actions tend to influence economic activity, employment, and prices with a lag. In setting monetary policy, the Committee seeks over time to mitigate shortfalls of employment from the Committee's assessment of its maximum level and deviations of inflation from its longer-run goal. Moreover, sustainably achieving maximum employment and price stability depends on a stable financial system. Therefore, the Committee's policy decisions reflect its longer-run goals, its medium-term outlook, and its assessments of the balance of risks, including risks to the financial system that could impede the attainment of the Committee's goals.

6. The Committee's employment and inflation objectives are generally complementary. However, under circumstances in which the Committee judges that the objectives are not complementary, it takes into account the magnitude of the employment shortfalls and inflation deviations and the potentially different time horizons over which employment and inflation are projected to return to levels judged consistent with its mandate.

7. The Committee intends to review these principles and to make adjustments as appropriate at its annual organizational meeting each January, and to undertake roughly every five years a thorough public review of its monetary policy strategy, tools, and communication practices.

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Appendix I

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For release on delivery  
9:00 a.m. EST  
November 8, 2021

Flexible Average Inflation Targeting and  
Prospects for U.S. Monetary Policy

Remarks by

Richard H. Clarida

Vice Chair

Board of Governors of the Federal Reserve System

at the

Symposium on Monetary Policy Frameworks  
The Brookings Institute

Washington, D.C.  
(via webcast)

November 8, 2021

[Excerpt on Page 4]

### Prospects for U.S. Monetary Policy

In September 2020, the FOMC introduced—and since then has reaffirmed—outcome-based, threshold guidance that specifies three conditions that the Committee expects will be met before it considers increasing the target range for the federal funds rate, currently 0 to 25 basis points<sup>5</sup>. This guidance in September of last year brought the forward guidance on the federal funds rate in the statement into alignment with the new flexible average inflation targeting framework adopted in August 2020.<sup>6</sup>

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5. The FOMC statements containing the guidance (see the fourth paragraph in each statement) are available on the Board's website at <https://www.federalreserve.gov/monetarypolicy/fomccalendars.htm>.

6 The revised Statement on Longer-Run Goals and Monetary Policy Strategy, unanimously approved on August 27, 2020, <https://www.federalreserve.gov/monetarypolicy/review-of-monetary-policy-strategy-tools-and-communications-statement-on-longer-run-goals-monetary-policy-strategy.htm>. For a discussion of the elements that motivated the launch of the review and a summary of the key changes that were introduced, see Clarida (2020, 2021) and Powell (2020).

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**Appendix J**


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**Federal Reserve Bank of St. Louis FRED Data**
**M1 Money Supply**  
**March 2020 to August 2020**

FRED Data		Petitioner's Notes	
Date	M1 Money Supply	"New" Money Growth	Event
	(\$ Trillion)	(\$ Trillion)	
March 2020	\$4.27	Start	COVID
April 2020	\$4.80	\$0.5	
May 2020	\$16.23	\$12.0	
June 2020	\$16.55		
July 2020	\$16.76		
August 2020	\$16.88		FAIT

**Petitioner Notes**

1. The 60-day growth rate is  $100 * (16.23-4.27)/4.27 = 280\%$ .
2. The average rate of Real-GDP growth from 2000 to 2020 was 2.4% per year.
3. Therefore,  $280\% / 2.4\% = 117$  years' worth of M1 money growth using the legislative growth rate rule in 12 U.S.C. §225a, i.e. the "k-percent" rule.
4. 117 years' worth of growth was achieved in only 60 days (i.e. April-May 2020).
5. With FAIT, the Fed never intended to withdraw the \$12 trillion after COVID ended, leading to massive price inflation (see Appendix H).

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**Appendix K**


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**Federal Reserve Bank of St. Louis FRED Data**
**Real Gross Domestic Product—Chained  
Q4-2019 to Q4-2020**

FRED DATA		PETITIONER'S NOTES		
Year	Quarter	Real GDP	Change From Q4-2019	Notes
		\$Billions Chained	%	
2019	Q4	\$20,985	Start	
2020	Q1	\$20,709	-1.32%	COVID
2020	Q2	\$19,077	-9.09%	
2020	Q3	\$20,558	-2.03%	
2020	Q4	\$20,791	-0.92%	Negative

**Petitioner's Notes**

1. Under the "k-percent" rule in 12 U.S.C. §225a, the Fed was not authorized to print any "new" money in 2020 because Real GDP was expected to be negative for the following 12 months.

2. GDP was not crashing for economic reasons: COVID was a health emergency. GDP was negative because the public was ordered to isolate at home and businesses were being closed down for non-economic reasons.

## Appendix L

## Federal Reserve Bank of St. Louis FRED Data

Personal Consumption Expenditures (PCE)  
Chain-Type Price Inflation (PCECTPI)  
2007 to 2023 (Q4 to Q4)

FRED DATA		PETITIONER'S NOTES			
Year	Chain Price Inflation	Yearly Inflation	Cum Inflation	Running FAIT Average <sup>1</sup>	Notes
2007	87.7		Start	Start	Average Yearly Inflation Before FAIT = 1.4%
2008	88.8	1.1%	1.1%	-0.9	
2009	89.8	1.0%	2.1%	-1.9	
2010	91.1	1.2%	3.4%	-2.6	
2011	93.5	2.4%	5.8%	-2.2	
2012	95.1	1.7%	7.4%	-2.6	
2013	96.3	1.1%	8.6%	-3.4	
2014	97.3	1.0%	9.6%	-4.4	
2015	97.5	0.2%	9.8%	-6.2	
2016	98.9	1.5%	11.3%	-6.7	
2017	100.7	1.7%	13.0%	-7.0	
2018	102.6	2.0%	14.9%	-7.1	
2019	104.1	1.4%	16.4%	-7.6	
2020	105.4	1.3%	17.7%	-8.3	FAIT
2021	111.5	6.1%	23.8%	-4.2	3-year Inflation 16.2%
2022	118.2	6.7%	30.5%	0.5	
2023	121.5	3.4%	33.9%	1.9	

1. The "Running FAIT Average" is with respect to a FAIT average target of 2% per year. As of 2020, the "past inflation" was a total of 8.3% "too low."

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Appendix M

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THE FEDERAL RESERVE SYSTEM  
AFTER FIFTY YEARS

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON DOMESTIC FINANCE

OF THE

COMMITTEE ON BANKING AND CURRENCY

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 3783, H.R.9631, H.R. 9685, H.R. 9686, H.R.  
9687, H.R. 9749

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VOLUME 2

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FEBRUARY 11, 25, 26, 27; MARCH 3, 4, 5, 9, 10, 11, 12  
AND 25, 1964

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON: 1964

[EXCERPTS ON DR. MILTON FRIEDMAN TESTIMONY TO  
CONGRESSMAN REUSS, PAGES 1140,1141]

The CHAIRMAN. Thank you, Dr. Friedman.

Mr. Reuss, would you like to question Dr.  
Friedman?

Mr. REUSS: Thank you, Mr. Chairman.

Welcome, Mr. Friedman. When you speak of the ability of the central bank to control the money supply, they do that, do they not, by making available bank reserves and deposits which are the crucial part of the money supply here, but are only created if businessmen and others utilize that lending capacity of the banks? Is that not so?

In a time of real depression, the monetary authorities can create tremendous bank lending powers through increasing reserves, yet the money supply may not be much increased if businessmen are absolutely hopeless and do not borrow money at any price. Is that not so?

MR. FRIEDMAN: I do not believe so. It has often been alleged to be true and one can conceive of a kind of world in which it would be true. However, in the course of many years of American history it has never been true, so far as I can judge from the evidence.

The fact of the matter has always been that if banks get additional reserves they can, at their own

volition, use those to increase the monetary supply. If businesses were not willing to borrow, which again has, so far as I know, never been the case, then banks can buy investments.

They can buy Government securities, State and local securities, and so on.

MR. REUSS: And in either case there is an addition to the money supply?

MR. FRIEDMAN: There is an addition to the money supply. To the best of my knowledge, as I say, there is no case in at least the 90 years of American history for which I have examined the evidence in detail in which the situation you describe has existed.

MR. REUSS: Fine. You have answered that question very clearly.

You believe that this country would be better off if Congress simply legislated a rule of conduct for the monetary authorities which said, "Increase the money supply defined, as currency outside banks and time and demand deposits at the annual rate of 4 percent a year"? You say 3 to 5 percent.

MR. FRIEDMAN: The percentage I have used has been for the broader concept of the money supply. On the experience of the past 90 years you would want to use a slightly smaller percentage for the narrower concept you referred to.

MR. REUSS: You suggest in your article some number between 3 and 5 percent for the narrower—

MR. FRIEDMAN: No, I believe it is for the broadly defined monetary stock.

MR. REUSS: Well, you say, "For this purpose I have defined the stock of money as including currency outside commercial banks plus all deposits of commercial banks.

"I would specify that this should rise by x percent or some number between 3 and 5"—

That is the narrow definition?

MR. FRIEDMAN: No. It is the broader of the two which I referred to in my testimony and which are depicted on the chart.

There are still broader definitions that one can use, but the broader of these two precisely corresponds to what you mentioned.

It includes both demand deposits of commercial banks and time deposits of commercial banks, whereas the narrower definition would include only the demand deposits of commercial banks.

MR. REUSS: I see.

MR. FRIEDMAN: Now, you can have still broader definitions by including the time deposits of mutual savings banks, mutual savings and loan associations, and so on.

MR. REUSS: Do you ever recommend a percentage increase fo the narrower definition just including currency outside banks and—

MR. FRIEDMAN: Yes, 3 to 5 is about right for the broader definition. Somewhere between 2 and 4 is about right for the narrow definition

MR. REUSS: Now, which of the two would you select if we were writing the statue here?

[End of relevant excerpt]

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Appendix N

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THE IMPACT OF THE FEDERAL RESERVE  
SYSTEM'S MONETARY POLICIES ON THE  
NATION'S ECONOMY

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STAFF REPORT OF THE SUBCOMMITTEE ON  
DOMESTIC MONETARY POLICY

OF THE  
COMMITTEE ON BANKING, CURRENCY AND  
HOUSING

HOUSE OF REPRESENTATIVES

94TH CONGRESS, SECOND SESSION

DECEMBER 1976

This report has not been officially adopted by the  
Subcommittee on Domestic Monetary Policy and  
may not therefore necessarily reflect the views of its  
members.

Printed for the use of the Committee on Banking,  
Currency and Housing

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U.S. Government Printing Office

Washington: 1976

[Excerpts on pages 47 and 49]

[EXCERPT PAGE 47]

## CLOSING REMARKS

Most importantly, our research results stress the importance of controlling inflation and the critical role that money supply policy must play in the effort. Few of us have to be reminded that inflation erodes the purchasing power of our incomes and wealth. In addition, though it is not so widely understood, inflation causes interest rates to rise. As Governor Partee told the Subcommittee, "a high rate of inflation over a sustained period, and the expectation that there will be future inflation, does affect interest rates simply because lenders are not willing to see the real value of their wealth decline, and therefore they want an interest rate that will compensate for inflation. Borrowers are willing to pay the rate because they feel that what they invest in with the proceeds is going to go up in value, too."

These are reason enough to make controlling inflation a high priority economic policy goal. But, moreover, our research shows that current inflation causes production to fall and unemployment to rise next year. Contrary to the conventional view that we can increase production and reduce unemployment by accepting more inflation, our analysis indicates that the way to promote and sustain recovery is to eliminate inflation.

[EXCERPT Page 49]

## IMPORTANT OF CONTROLLING MONEY GROWTH

Inflation-induced fiscal and economic pressures must be brought under control as quickly as possible. As the work of the Subcommittee on Domestic Monetary Policy shows, we can bring inflation under control and keep it in check by achieving moderate M-1 growth commensurate with out potential to increase production. With unemployment nearly 8%, our potential to increase production is higher than normal. For the remainder of 1976 and 1977, 4%-6% M-1 growth per year is appropriate. It will promote sustainable, reasonably rapid recovery in the months immediately ahead without adding substantially to inflation and the interest rate, production and fiscal problems that inflation generates in subsequent years.

But we must plan now to gradually reduce money growth to 2%-4% per year after 1977 to reduce inflation to the attainable 1%-3% rate. This is the major policy implication of the Subcommittee's research and hearings. As put by *Mr. Meltzer*:

No sustained inflation has ever been ended until the growth rate of money has been reduced.

SENATOR BUCKLEY. Under the resolution [H. Con. Res. 133] the Federal Reserve is directed to establish targets which are in line with the economy's long-term ability to grow. Our problem in the past is that

[EXCERPT Page 49 Cont'd]

the Federal Reserve's monetary policy has been constructed along lines which were only haphazardly related to this fundamentally important guideline. Monetary targeting which is set independently of the economy's growth potential produces the kind of erratic monetary growth policies which take us from inflationary rates to a constricting zero level, as was the case in the latter half of 1974.

CONGRESSMAN ADAMS. What we need in money supply is a matching of the money supply to the real growth in the economy.

CHAIRMAN NEAL. You would advocate a moderate and steady growth in the money supply—

SENATOR BUCKLEY. To match the average growth that we project for the economy.

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[End of excerpt]

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Appendix O

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FEDERAL RESERVE REFORM ACT OF 1977

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HEARINGS

BEFORE THE

COMMITTEE ON

BANKING, FINANCE AND URBAN AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

H.R. 8094

A BILL TO PROMOTE THE ACCOUNTABILITY OF THE  
FEDERAL RESERVE SYSTEM

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JULY 18 AND 26, 1977

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Printed for the use of the  
Committee on Banking, Finance and Urban  
Affairs

[Excerpts on pages (ii), 1 and 2; Paragraph  
Numbering Added by Petitioner]

HOUSE COMMITTEE ON BANKING, FINANCE  
AND URBAN AFFAIRS

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MICHAEL P. FLAHERTY, Counsel

GRASTY CREWS II, Counsel

MERCER L. JACKSON, Minority Staff Director

GRAHEM T. NORTHRUP, Deputy Minority Staff Dir.

[EXCERPT Pages 1,2]

FEDERAL RESERVE REFORM ACT OF 1977

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Monday, July 18, 1977

House of Representatives,

Committee on Banking, Finance and Urban Affairs,  
*Washington, D.C.*

The committee met at 10 a.m. in room 2128 of the Rayburn House Office Building; Hon. Henry S. Reuss (chairman of the committee) presiding.

Present: Representatives Reuss, Gonzalez, Annunzio, Hanley, Mitchell, Neal, Blanchard, Spellman, Hannaford, Lundine, Pattison, Cavanaugh, Oakar, Mattox, Vento, Barnard, Stanton, Brown, Rousselot, Hansen, Kelly, Grassley, Fenwick, Leach, and Caputo.

1.

[CHAIRMAN REUSS] Good morning.

2.

The House Committee on Banking, Finance, and Urban Affairs will be in order for the commencement of hearings on H.R. 8094, a bill to promote the accountability of the Federal Reserve System.

3.

Congress, under article I, section 8 of the Constitution, has the power "to coin money, regulate the value thereof."

4.

After much experience with panic and depression, Congress under the Federal Reserve Act of 1913 delegated to the Federal Reserve System the day-to-day operations of its monetary power, with particular reference to the need for a "flexible currency."

5.

When we speak of the independence of the Federal Reserve, we speak of its independence from the executive branch and not from the Congress. Congress could have delegated its monetary power to the Executive. It chose instead to delegate it to the Federal Reserve, whose Board members' 14-year terms effectively insulate them from Executive manipulation. Though the Executive gained the ascendancy over the Federal Reserve during World War II and for half a decade thereafter, the 1951 accord between the Treasury and the Fed, negotiated by the Congress, reaffirmed and reinforced the independence of the Federal Reserve from the Executive. For the first half century or so of its existence, the Federal Reserve can hardly be said to have been successful in its monetary policy. Until the late 1920's, there was no monetary policy worthy of the name. Thereafter, it was mostly wrong-headed. Excessively restrictive monetary policy helped bring on the depression of 1929 and snuff out the beginnings of recovery in 1937.

6.

During the war years, and right up until the accord of 1951, Federal Reserve monetary policy was excessively dominated by the Executive, and excessively loose. During most of the 1950's, monetary policy was too restrictive, and contributed to the slow growth of the decade.

7.

In the last 15 years, monetary policy has been too frequently characterized by stops and starts. Too much new money was created in the Vietnam years of 1967 and 1968, helping to cause inflation.

8.

Then policy reversed and became too restrictive. Over ease revived again in 1972 and 1973, to be followed by the excessive restrictiveness of late 1974 and early 1975.

9.

Then, in March 1975, Congress enacted House Concurrent Resolution 133. This resolution set up quarterly dialogues between the Federal Reserve and the House and Senate Banking Committees, and resulted in the Federal Reserve's stating its targets for the following 12 months for the money supply, principally M1 (the public's holdings of cash and checking accounts). By and large, this policy has worked well in the ensuing 2 years.

10.

There have been at least two exceptions, due to unfortunate relapses into stop-start policies. In June 1975, unnecessarily upset by the increase in the money supply caused by the Federal income tax rebate, the Fed put on the monetary brakes, and contributed to the slowdown in recovery in the summer of 1975. Again, in April 1977, the Fed created an exorbitant amount of new money, at an annual rate of almost 20 percent. Then, on some two-wrongs-can-make-a-right basis, it lowered the creation of new money to zero in May 1977, causing a wholly unnecessary increase in the bank prime rate.

11.

But I hope these were monetary aberrations from a sensible new trend. I hope the Federal Reserve will be able to resist the temptation to join what Business Week calls the new Metternichs—the European central bankers—some of whom want to go back to the discredited operation of fighting inflation by so squeezing the money supply as to cause increased unemployment.

12.

So far I have been discussing the major activity of the Federal Reserve System—monetary policy. [...]

[End of Excerpt]

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**Appendix P**

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**REQUEST FOR RELIEF (FAC-99 ONLY)**

WHEREFORE, Plaintiff respectfully requests the Court to:

- a. DECLARE the FAIT regime exceeds statutory authority and set aside as *ultra vires*, and ORDER the FAIT regime struck down as void;
- b. DECLARE the "dual mandate" is an impermissible interpretation of 12 U.S.C. §225a: the Board's discretion was ended by passage of 12 U.S.C. §225a in 1977,
- c. DECLARE the law in 12 U.S.C. §225a gives the Board a single mandate, which is to maintain the long run growth of monetary and credit aggregates commensurate with the average growth rate of real GDP,
- d. DECLARE the single mandate by itself effectively promotes the goals of maximum employment, stable prices and moderate interest rates as intended by Congress,
- e. DECLARE the single mandate by itself effectively eliminates monetary policy as a source of consumer price inflation in the economy as intended by Congress,
- f. DECLARE that by agreement between the Board and Congress when the law was passed, the "long run" is taken to be one year,
- g. DECLARE the "long run" can be changed by prior agreement between Congress and the Board at any time,