

United States Senate

WASHINGTON, DC 20510

January 30, 2023

Alan Lane
CEO
Silvergate Capital Corporation
4250 Executive Square
Suite 300
La Jolla, CA 92037

Dear Mr. Lane:

We are disappointed by your evasive and incomplete response to our December 5, 2022 letter regarding Silvergate Bank’s role in the improper transfer of FTX customer funds to cryptocurrency hedge fund Alameda Research (Alameda).¹ We wrote to you seeking information on what appeared to be an egregious failure of your bank’s responsibilities to monitor and report suspicious financial activity.² Your response confirms the extent of this failure – but then neglects to provide key information needed by Congress to understand why and how these failures occurred. Moreover, in the month since you provided your inadequate reply to our request for information, new reports have emerged detailing the run Silvergate Bank (Silvergate) faced in the wake of the FTX collapse,³ and the funding sources the bank turned to as its coffers ran low,⁴ further underscoring the need for full transparency from you and your bank.

Most notably, new reports revealed that as it sank further into distress in 2022, Silvergate turned to the Federal Home Loan Bank (FHLB) of San Francisco for an injection of cash large enough to “stave off a further run on deposits.”⁵ Your bank “now holds roughly \$4.6 billion in cash,” the vast majority – \$4.3 billion – of which it secured as an advance from the FHLB.⁶ By using the FHLB as its functional “lender of last resort,” Silvergate has further introduced crypto market risk into the traditional banking system.⁷ If Silvergate were to fail – as have banks facing a fraction of the withdrawal rates Silvergate has faced⁸ – FHLB could “assert statutory lien priority

¹ Letter from Senators Warren, Marshall, and Kennedy to Alan Lane, December 6, 2022, <https://www.warren.senate.gov/imo/media/doc/2022.12.05%20Letter%20to%20Silvergate%20Bank%20re%20FTX.pdf>.

² *Id.*

³ Bloomberg, “Crypto panic at Silvergate spawns a new breed of bank run,” Yueqi Yang and Hannah Levitt, January 6, 2023, <https://www.bloomberg.com/news/articles/2023-01-06/crypto-panic-at-silvergate-spawns-a-new-breed-of-bank-run>.

⁴ American Banker, “Silvergate Bank loaded up on \$4.3 billion in Home Loan bank advances,” Kate Berry, January 10, 2023, <https://www.americanbanker.com/news/silvergate-bank-loaded-up-on-4-3-billion-in-fhlb-advances>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ The Wall Street Journal, “Silvergate’s Deposit Run Is Worse Than Great Depression-Era Runs,” David Benoit, January 5, 2023, <https://www.wsj.com/livecoverage/stock-market-news-today-01-05-2023/card/silvergate-s-deposit->

on other assets – essentially putting the Home Loan bank ahead of all other creditors,” including the Federal Deposit Insurance Company’s (FDIC) deposit insurance fund.⁹ Financial experts have noted that such a scenario could leave the FDIC – and therefore the American taxpayer – holding the bag.¹⁰

Your response did contain several important, and in some cases new, pieces of information. It indicated that “Alameda Research LLC opened an account with Silvergate in 2018, prior to the founding of FTX.”¹¹ It revealed that, “in accordance with [its] risk management policies and procedures, Silvergate conducted significant due diligence on FTX and its related entities, including Alameda Research, both during the onboarding process and through ongoing monitoring.”¹² It indicated that the bank’s Chief Risk Officer, Tyler Pearson, “remains an important part of the risk management team at Silvergate.”¹³ You informed us that “like all regulated banks, Silvergate is subject to (at least) annual exams conducted by its safety and soundness regulator (...the Federal Reserve) and annual audits conducted by independent auditors.”¹⁴ And finally your letter also indicates that you have an ongoing investigation of FTX and Alameda, stating that, “following recent media reports on this issue, we commenced a review of the transactions involving accounts associated with FTX and/or Alameda. That review is ongoing.”¹⁵

These are important insights. They reveal that Silvergate had risk management and due diligence processes in place – but that they did, in fact, fail miserably. They reveal that neither the Federal Reserve nor Silvergate’s independent auditors were able to identify what we now know were extraordinary gaps in Silvergate’s due diligence process. And they revealed that Silvergate has not held its top risk manager, Mr. Pearson, responsible for these failures. However, the remainder of your letter did not provide the additional information we requested – information that Congress needs in order to understand how and why these failures occurred.

Your letter makes repeated reference to “confidential supervisory information” as a justification for your refusal to provide the information we requested.¹⁶ This is simply not an acceptable rationale. As members of Congress with enshrined oversight responsibilities, we are happy to work with you to address the confidential nature of any material in your possession. But both Congress and the public need and deserve the information necessary to understand Silvergate’s role in FTX’s fraudulent collapse, particularly given the fact that Silvergate turned to the Federal Home Loan Bank as its lender of last resort in 2022. It is crucial that you provide Congress with

[run-is-worse-than-great-depression-era-runs-CqZpNYLAuW1R1Rwv422l](https://www.americanbanker.com/news/silvergate-bank-loaded-up-on-4-3-billion-in-fhfb-advances).

⁹ American Banker, “Silvergate Bank loaded up on \$4.3 billion in Home Loan bank advances,” Kate Berry, January 10, 2023, <https://www.americanbanker.com/news/silvergate-bank-loaded-up-on-4-3-billion-in-fhfb-advances>.

¹⁰ *Id.*

¹¹ Letter from Alan Lane to Senators Warren, Kennedy, and Marshall, December 19, 2022 [On file with the Office of U.S. Senator Elizabeth Warren].

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

the information needed to assess the extent to which Silvergate is responsible for the improper transfer of FTX customer funds to Alameda, and to determine the nature of the compliance failures by your bank and your auditors that could have allowed for such abuses.

Given the additional questions and concerns raised by your December 2022 response, we ask that you provide complete answers to the following questions no later than February 13, 2023.

1. Your response indicates that, “in accordance with our risk management policies and procedures, Silvergate conducted significant due diligence on FTX and its related entities, including Alameda Research, both during the onboarding process and through ongoing monitoring.”¹⁷
 - a. What, specifically, were these risk management policies and procedures?
 - b. What did this due diligence reveal?
 - c. Did Silvergate at any time identify any wrongdoing by FTX and its related entities, including Alameda?
 - d. If so, when did it become aware, and what did bank officials do with this information?
2. Your response indicated that the bank’s Chief Risk Officer, Tyler Pearson, “remains an important part of the risk management team at Silvergate.”¹⁸
 - a. Why, after the risk management failures with FTX and Alameda, has Mr. Pearson remain an important part of the risk management team at Silvergate?
 - b. Were any bank executives held accountable for the failures related to FTX and Alameda?
3. You informed us that “like all regulated banks, Silvergate is subject to (at least) annual exams conducted by its safety and soundness regulator (...the Federal Reserve).”¹⁹
 - a. How many Federal Reserve exams were conducted at Silvergate between 2018 and the present?
 - b. Did these exams identify any problems with Silvergate’s due diligence or risk management practices?
 - c. If so, how did Silvergate respond to any problems identified by the Federal Reserve?
4. You informed us that “like all regulated banks, Silvergate is subject to... annual audits conducted by independent auditors.”²⁰
 - a. How many independent audits were conducted at Silvergate between 2018 and the present?
 - b. Which firms conducted these audits?

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

- c. Did these audits identify any problems with Silvergate’s due diligence or risk management practices?
 - d. If so, how did Silvergate respond to any problems identified in these audits?
5. Your response indicates that you have an ongoing investigation of FTX and Alameda, stating that “following recent media reports on this issue, we commenced a review of the transactions involving accounts associated with FTX and/or Alameda. That review is ongoing.”²¹
 - a. Who is conducting this review?
 - b. When will it be complete?
 - c. What key facts or insights has this review revealed to date?
 - d. Will you provide Congress and the public with a complete and unredacted copy of this review when it is complete?
6. Does Silvergate intend to use the \$4.3 billion it received from the Federal Home Loan Bank of San Francisco²² to support the financing of housing? If not, how does Silvergate intend to use those funds?

In addition, given your refusal to provide the information we requested in December 2022, we write to reiterate our request that you provide complete answers to our original questions no later than February 13, 2023.

1. Were you aware that FTX was directing its customers to wire money to Alameda’s account with your bank?
 - a. If so, when did you become aware of this? What was your response?
 - b. How much in FTX-directed customer funds were sent to your bank? Please provide a monthly summary of all such funds for each month from 2019 to the present.
 - c. Why did your bank’s *Bank Secrecy Act* (BSA) compliance program fail to identify this as a reportable concern?
2. Did Silvergate flag as suspicious the movement of funds to Alameda accounts or between Alameda accounts and FTX or FTX-affiliate accounts?
 - a. If so, did Silvergate file any Suspicious Activity Reports to the Financial Crimes Enforcement Network (FinCEN) regarding those transactions?
 - b. If not, why did your bank’s BSA compliance program fail to identify these transactions as suspicious?
3. Has Silvergate ever undergone an independent audit of its BSA/anti-money laundering (AML) compliance program?

²¹ *Id.*

²² American Banker, “Silvergate Bank loaded up on \$4.3 billion in Home Loan bank advances,” Kate Berry, January 10, 2023, <https://www.americanbanker.com/news/silvergate-bank-loaded-up-on-4-3-billion-in-fhfb-advances>.

- a. If so, please provide the results of all such audits.
 - b. If not, please provide the bank's rationale for not undergoing an independent audit as well as the results of all of the internally conducted audits of the bank's BSA/AML compliance program.
4. Did Silvergate have any communications with representatives from Alameda, FTX, or FTX-affiliated entities regarding concerns about the transfer of funds into Silvergate? If so, please describe the timing and nature of all such communications. Please provide copies of any electronic mail or other communications relating to these concerns.
 5. Please provide full copies of the results of Silvergate's most recent internal liquidity stress tests and interest rate sensitivity analyses.
 6. What economic scenarios have you accounted for in your internal capital planning models since January 1, 2019? Please include the values of individual macroeconomic variables used in these scenarios. Please also include the assumptions your models make regarding crypto market trends.

Sincerely,


Elizabeth Warren
United States Senator


John Kennedy
United States Senator


Roger Marshall, M.D.
United States Senator