

United States Senate

WASHINGTON, DC 20510

December 5, 2022

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

Dear Mr. Lane:

We write to seek information regarding the relationship between Silvergate Bank (Silvergate) and several crypto firms founded by Sam Bankman-Fried, including Alameda Research LLC (Alameda), FTX US, and FTX Trading Ltd. (FTX).¹ In the weeks since FTX's shocking collapse, new and disturbing allegations about the company's business practices have continued to surface,² including the reports that Mr. Bankman-Fried "secretly transferred some \$10 billion of customer funds to his trading vehicle, Alameda Research,"³ to fund "risky bets," violating both U.S. securities laws and FTX's own terms of service.⁴ We are concerned about Silvergate's role in these activities because of reports suggesting that Silvergate facilitated the transfer of FTX customer funds to Alameda.⁵

Silvergate caters to digital asset clients – at the end of September, 90 percent of the bank's overall deposit base came from crypto firms operating in a highly volatile market.⁶ It is therefore

¹ Financial Times, "Untangling the knotty empire of Bankman-Fried and FTX," Bryce Elder, November 10, 2022, <https://www.ft.com/content/c28e0570-d4c4-433c-b0a0-c99fba613822>.

² CNBC, "From \$32 billion to criminal investigations: How Sam Bankman-Fried's crypto empire vanished overnight," MacKenzie Sigalos, November 15, 2022, <https://www.cnbc.com/2022/11/15/how-sam-bankman-frieds-ftx-alameda-empire-vanished-overnight.html>; The New York Times, "Collapsed Crypto Exchange FTX Could Owe More Than 1 Million Creditors," David Yaffe-Bellany, November 15, 2022, <https://www.nytimes.com/2022/11/15/technology/crypto-ftx-bankruptcy-creditors.html>.

³ Reuters, "FTX flop evokes history's great financial swindles," Edward Chancellor, November 18, 2022, <https://www.reuters.com/article/us-fintech-crypto-breakingviews-idDEKBN2S8167>.

⁴ The Wall Street Journal, "FTX Tapped Into Customer Accounts to Fund Risky Bets, Setting Up Its Downfall," Vicky Ge Huang, Alexander Osipovich, and Patricia Kowsmann, November 11, 2022, <https://www.wsj.com/articles/ftx-tapped-into-customer-accounts-to-fund-risky-bets-setting-up-its-downfall-11668093732>; CNBC, "From \$32 billion to criminal investigations: How Sam Bankman-Fried's crypto empire vanished overnight," MacKenzie Sigalos, November 15, 2022, <https://www.cnbc.com/2022/11/15/how-sam-bankman-frieds-ftx-alameda-empire-vanished-overnight.html>.

⁵ Bloomberg, "FTX Received Some Customer Deposits Via Bank Accounts Held By Alameda," Yueqi Yang and Max Reyes, November 28, 2022, <https://www.bloomberg.com/news/articles/2022-11-28/ftx-received-some-customer-deposits-via-bank-accounts-held-by-alameda#xj4y7vzkg>; Tweet by EventLongShort, November 18, 2022, <https://twitter.com/EventLongShort/status/1593469254518640640>.

⁶ The Washington Post, "These Banks Were Left Holding the Bag in Crypto Implosion," Marc Rubinstein, November 23, 2022, https://www.washingtonpost.com/business/these-banks-were-left-holding-the-bag-in-crypto-implosion/2022/11/22/b8de2096-6a2b-11ed-8619-0b92f0565592_story.html; Barron's, "Bitcoin Falls. Why the Stock Market Could Be Setting Up Crypto for a Volatile Week.," Jack Denton, November 28, 2022, <https://www.barrons.com/articles/bitcoin-prices-crypto-markets-today-51669633171>; Wired, "Crypto Contagion Is

unsurprising that your bank's average deposits quarter-to-date are down over \$2 billion since the end of September.⁷ In just the span of one month, at least two of Silvergate's digital asset clients have declared bankruptcy – FTX and its affiliates, and BlockFi.⁸ But Silvergate's exposures to the crypto market do not end with its deposits. As of July 2022, over 20 percent of all loans issued by your bank were made through its "SEN Leverage" program,⁹ which offers "access to capital through U.S. dollar loans collateralized by bitcoin."¹⁰ As of November 30, 2022, Bitcoin is trading at just over \$17,000 – down more than \$5,000 from its July 30, 2022 price.¹¹ Needless to say, Silvergate is now experiencing heightened stress, raising questions about its safety and soundness.¹² Should it need extra liquidity, your bank has access to taxpayer dollars through the Federal Reserve Bank of San Francisco and the Federal Home Loan Bank of San Francisco.¹³ Therefore, the public deserve to know whether Silvergate has the ability to withstand current and future crypto market volatility.

Last month, you issued a statement asserting that, "as of September 30, 2022, Silvergate's total deposits from all digital asset customers totaled \$11.9 billion, of which FTX [and its related entities] represented less than 10%."¹⁴ You stressed that your bank's "relationship with FTX [and its related entities] is limited to deposits."¹⁵ While you did not explain what you meant by "FTX and its related entities," documents filed in FTX's bankruptcy case confirmed that your bank had relationships with several crypto firms controlled by Mr. Bankman-Fried, including Alameda, FTX US, FTX Europe, and FTX Japan.¹⁶ Importantly, Alameda, a crypto trading firm, was, in Mr. Bankman-Fried's words, "a wholly separate entity,"¹⁷ legally distinct from FTX, a crypto exchange serving retail investors.¹⁸

Spreading, Fast," Joel Khalili, November 25, 2022, <https://www.wired.com/story/ftx-collapse-genesis-crypto/>.

⁷ *Id.*

⁸ Silvergate Bank, "Silvergate Provides Statement on FTX Exposure," November 11, 2022, <https://ir.silvergate.com/news/news-details/2022/Silvergate-Provides-Statement-on-FTX-Exposure/default.aspx>; Insider, "Bitcoin, Crypto Bank Silvergate Says Exposure To Bankrupt BlockFi Limited to \$20M: Can 'Handle Stress and Volatility,'" Mehab Quereshi, November 29, 2022, <https://markets.businessinsider.com/news/stocks/bitcoin-crypto-bank-silvergate-says-exposure-to-bankrupt-blockfi-limited-to-20m-can-handle-stress-and-volatility-1031941806>.

⁹ Seeking Alpha, "Silvergate: The Gateway Into Bitcoin For Skeptics And Value Investors," Nelson Alves, July 21, 2022, <https://seekingalpha.com/article/4524798-silvergate-gateway-into-bitcoin-for-skeptics-value-investors>.

¹⁰ Silvergate, "SEN Leverage," <https://www.silvergate.com/solutions/digital-currency/sen-leverage.html>.

¹¹ CoinDesk, "Bitcoin," <https://www.coindesk.com/price/bitcoin/>.

¹² Insider, "Bitcoin, Crypto Bank Silvergate Says Exposure To Bankrupt BlockFi Limited to \$20M: Can 'Handle Stress and Volatility,'" Mehab Quereshi, November 29, 2022, <https://markets.businessinsider.com/news/stocks/bitcoin-crypto-bank-silvergate-says-exposure-to-bankrupt-blockfi-limited-to-20m-can-handle-stress-and-volatility-1031941806>.

¹³ As filed with the Securities and Exchange Commission on August 15, 2019, Pre-effective Amendment No. 3 to FORM S-1 REGISTRATION STATEMENT, <https://www.sec.gov/Archives/edgar/data/1312109/000119312519222113/d568616ds1a.htm>.

¹⁴ Silvergate Bank, "Silvergate Provides Statement on FTX Exposure," November 11, 2022, <https://ir.silvergate.com/news/news-details/2022/Silvergate-Provides-Statement-on-FTX-Exposure/default.aspx>.

¹⁵ *Id.*

¹⁶ In re FTX Trading Ltd., et al., Debtors, No. 22-11068- JTD, (Bankr. Del. 2022).

¹⁷ Bloomberg, "Crypto Quant Shop With Ties to FTX Powers Bankman-Fried's Empire," Annie Massa, Anna Irrera, and Hannah Miller, September 14, 2022, <https://www.bloomberg.com/news/articles/2022-09-14/trading-firm-alameda-research-powers-ftx-ceo-sam-bankman-fried-s-crypto-empire?sref=3REHEaVI&leadSource=uverify%20wall>.

Mr. Bankman-Fried has, himself, admitted that FTX customer funds were improperly transferred to Alameda's bank accounts.¹⁹ When asked how FTX customer deposits ended up in Alameda's accounts, Mr. Bankman-Fried told *Vox* that the company did not originally have a bank account, and so it directed customers to wire money to Alameda's account with Silvergate in exchange for assets on FTX.²⁰ According to Mr. Bankman-Fried, executives at the company "forgot" about this scheme until the company imploded, telling a reporter, "it looks like people wired \$8b to Alameda and 'oh god we basically forgot about the stub account that corresponded to that and so it was never delivered to FTX.'" ²¹

Silvergate provided banking services to both Alameda and FTX, raising questions about the bank's role in facilitating the improper transfer of FTX customer funds to Alameda.²² Apparently, "[s]ome FTX customers continued to send wire transfers" to Alameda's Silvergate account "as recently as this year."²³ It appears that Silvergate did nothing to halt these activities.

The arrangement between FTX and Alameda, which depended on your bank's depository services, is just one example of the "lax record-keeping and poor centralized controls at the heart of the [FTX] empire's unraveling"²⁴ – and may have been illegal.²⁵ Alameda's depository account with your bank appears to be at the center of the improper transmission of FTX customer funds.²⁶ Silvergate's failure to take adequate notice of this scheme suggests that it may have failed to implement or maintain an effective anti-money laundering program, as required under the Bank Secrecy Act (BSA).²⁷ What's more, your bank's failure to report these suspicious transactions to the Financial Crimes Enforcement Network (FinCEN) may constitute yet another violation of the law.²⁸

As a state-chartered bank, insured and regulated by the Federal Deposit Insurance Corporation and regulated by the Federal Reserve Bank of San Francisco,²⁹ Silvergate is required by the BSA to monitor for and report suspicious financial activity carried out by its clients.³⁰ In a 2019 U.S.

¹⁸ The New York Times, "How FTX's Sister Firm Brought the Crypto Exchange Down," Matthew Goldstein, Alexandra Stevenson, Maureen Farrell, and David Yaffe-Bellany, November 18, 2022, <https://www.nytimes.com/2022/11/18/business/ftx-alameda-ties.html>.

¹⁹ Vox, "Sam Bankman-Fried tries to explain himself," Kelsey Piper, November 16, 2022, <https://www.vox.com/future-perfect/23462333/sam-bankman-fried-ftx-cryptocurrency-effective-altruism-crypto-bahamas-philanthropy>.

²⁰ *Id.*

²¹ *Id.*

²² In re FTX Trading Ltd., et al., Debtors, No. 22-11068- JTD, (Bankr. Del. 2022).

²³ Bloomberg, "FTX Received Some Customer Deposits Via Bank Accounts Held By Alameda," Yueqi Yang and Max Reyes, November 28, 2022, <https://www.bloomberg.com/news/articles/2022-11-28/ftx-received-some-customer-deposits-via-bank-accounts-held-by-alameda#xj4y7vzkg>

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ 31 USC 5311.

²⁸ 12 CFR § 21.11.

²⁹ Silvergate Bank Community Reinvestment Act 2020-2023 Strategic Plan, <https://www.federalreserve.gov/consumerscommunities/files/silvergate-strategic-plan.pdf>.

³⁰ FDIC, "Bank Secrecy Act / Anti-Money Laundering (BSA/AML)," <https://www.fdic.gov/resources/bankers/bank-secrecy-act/>.

Securities and Exchange Commission (SEC) filing, Silvergate affirmed that, “[f]or customers such as exchanges which pose a higher degree of risk or have a higher degree of regulatory obligations, the Company’s processes are more extensive and incorporate reputational reviews, reviews of applicable licensing requirements, plans, and status, and reviews of customer policies and procedures regarding the BSA, consumer compliance, information security, Dodd-Frank Act prohibitions against unfair, deceptive, or abusive acts or practices, as well as reviews of transaction monitoring systems and audit results.”³¹

But it appears that Silvergate failed to apply these “more extensive” processes to Alameda and FTX, despite the fact that the firm had what it’s now-CEO calls an “unprecedented” and “complete failure of corporate controls ... a complete absence of trustworthy financial information.”³²

Your bank’s involvement in the transfer of FTX customer funds to Alameda reveals what appears to be an egregious failure of your bank’s responsibility to monitor for and report suspicious financial activity carried out by its clients. The public is owed a full accounting of the financial activities that may have led to the loss of billions in customer assets, and any role that Silvergate may have played in these losses. Accordingly, we ask that you provide the following information to my office by December 19, 2022:

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 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 FinCEN regarding those transactions?
 - b. If not, why did your bank’s BSA compliance program fail to identify these transactions as suspicious?
3. Before November 11, 2022, were you aware that Alameda Research LLC was a distinct company from FTX and its subsidiaries?
 - a. If so, when did you become aware of this?
 - b. If not, why did your bank’s BSA compliance program fail to clarify the identities of these institutional clients?

³¹ As filed with the Securities and Exchange Commission on August 15, 2019, Pre-effective Amendment No. 3 to FORM S-1 REGISTRATION STATEMENT, <https://www.sec.gov/Archives/edgar/data/1312109/000119312519222113/d568616ds1a.htm>.

³² In re FTX Trading Ltd., et al., Debtors, No. 22-11068- JTD, (Bankr. Del. 2022).

4. Has Silvergate ever undergone an independent audit of its BSA/anti-money laundering (AML) compliance program?
 - 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.
5. 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.
6. Why did Silvergate replace Tyler Pearson as Chief Risk Officer?³³
7. Please provide full copies of the results of Silvergate's most recent internal liquidity stress tests and interest rate sensitivity analyses.
8. 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 W. Marshall
Member of Congress

³³ Compliance Week, "Silvergate Capital names chief risk officer," CW Staff, November 15, 2022, <https://www.theblock.co/post/183966/crypto-bank-silvergate-announces-management-shuffle>; As filed with the Securities and Exchange Commission, Schedule 14A Proxy Statement, April 2022, <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001312109/67645e6c-5abd-4ef0-878b-9cbd1ed04cc8.html>.