

September 25, 2023

Michael S. Barr, Vice Chair for Supervision  
Board of Governors of the Federal Reserve System  
Washington, DC

Dear Vice Chairman Barr,

In 2019, I began investigating the corporate structure of a series of private equity shell companies operating under the name Infrastructure Investments Fund(IIF) as it sought permission from the Federal Energy Regulatory Commission to acquire El Paso Electric Company. IIF has a massive portfolio of utilities, oil and natural gas infrastructure, airports, and electric power plants. I quickly surmised that IIF was controlled by JP Morgan Chase & Co.<sup>1</sup> After Public Citizen filed a series of complaints with FERC and obtained various internal company documents under protective order, FERC opened a formal investigation in 2021 to determine whether JP Morgan Chase and IIF need to be treated as legal affiliates for purposes of the Federal Power Act.<sup>2</sup> Last week, FERC issued an order<sup>3</sup> concluding that investigation, agreeing with our long-held position that JP Morgan Chase's subsidiary, JP Morgan Investment Management, Inc., is an affiliate of IIF, and that their contractual relationship "undermines any potential for independence between the two entities."

As a result of FERC's ruling, JP Morgan Chase is now affiliated with and has some level of control over a nuclear power plant in Arizona; four different electricity, natural gas and water utilities across the United States with over 3 million captive customers; an extensive network of petroleum storage facilities in 11 U.S. states and Canada; six natural gas storage facilities in the U.S.; two deepwater offshore oil/gas production platforms and 1,900 miles of subsea and onshore pipelines connecting offshore Gulf of Mexico oil/gas production to several U.S. states; at least 13 natural gas power plants with nearly 5,000 MW of capacity across the United States; an airport in Toronto, Canada; and the official natural gas supplier to the NFL's Buffalo Bills. Outside of North America, JP Morgan, through IIF, is affiliated with extensive oil and gas operations in the North Sea; railroads; marine cargo shipping; a natural gas utility in Spain; airports in Australia; and a UK water utility. In almost every instance, JP Morgan executives serve on IIF's portfolio companies.

On behalf of Public Citizen, Inc., I ask that the Board of Governors of the Federal Reserve System initiate a formal investigation to determine whether JP Morgan Chase has violated the Bank Holding Company Act<sup>4</sup> in its creation, operation and control over IIF and its sprawling network of energy companies and utilities, and

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<sup>1</sup> <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=0203FC25-66E2-5005-8110-C31FAFC91712>

<sup>2</sup> [www.citizen.org/wp-content/uploads/MankatoHearing\\_Redacted.pdf](https://www.citizen.org/wp-content/uploads/MankatoHearing_Redacted.pdf)

<sup>3</sup> See beginning ¶ 66 [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_num=20230921-3094](https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20230921-3094)

<sup>4</sup> 12 USC § 1843, and Regulation Y, (12 CFR part 225)

whether it has violated the Volcker Rule’s prohibitions of banks sponsoring private equity funds.<sup>5</sup>

### **IIF Is A Creation Of, And Controlled By, JP Morgan**

J.P. Morgan Chase & Co submitted a *Notice to the Board of Governors of the Federal Reserve System* on July 21, 2005, where the bank stated that:

*JPM Chase commits to the Board that it will not acquire or operate facilities in the United States for the extraction, transportation, storage or distribution of commodities.*<sup>6</sup>

One year later, in July 2006, JP Morgan Investment Management created a private investment fund called JP Morgan IIF LP, ultimately filing a Form D with the U.S. Securities and Exchange Commission the first business day following Thanksgiving, 2006.<sup>7</sup> (They would a short time later formally drop *JP Morgan* from IIF’s name not to reflect any detachment by the bank, but rather because they had achieved success in marketing IIF as a stand-alone investment vehicle for pensions). JP Morgan Investment Management created a new division, the Infrastructure Investment Group,<sup>8</sup> with a team of more than 50 JP Morgan executives dedicated only to operating IIF and nothing else, and arranged to serve as the exclusive investment manager for IIF. In order to evade probable intervention by the Federal Reserve and other regulators, JP Morgan Investment Management employed a novel set of three individuals who would be described as IIF’s “owners” in a variety of regulatory filings.<sup>9</sup> Affixing the label of “owner” upon these individuals would give the impression that the three people owned and therefore controlled IIF—as long as regulators didn’t bother to inspect closely, which none did until Public Citizen started raising questions at FERC in 2019. In actuality, the three “owners” own nothing, and instead served as a proxy board of directors who delegated all authorities to their manager, JP Morgan Investment Management.<sup>10</sup> Indeed, Public Citizen documented that the three IIF “owners” serve fixed, three-year terms limited to three successive terms<sup>11</sup>, and are

<sup>5</sup> [www.federalreserve.gov/supervisionreg/volcker-rule.htm](http://www.federalreserve.gov/supervisionreg/volcker-rule.htm)

<sup>6</sup> At page 1440, [www.govinfo.gov/content/pkg/CHRG-113shrg91522/pdf/CHRG-113shrg91522.pdf](http://www.govinfo.gov/content/pkg/CHRG-113shrg91522/pdf/CHRG-113shrg91522.pdf)

<sup>7</sup> [www.sec.gov/Archives/edgar/vpr/0606/06064516.pdf](http://www.sec.gov/Archives/edgar/vpr/0606/06064516.pdf)

<sup>8</sup> At ¶ 12, [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_num=20230921-3094](https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20230921-3094)

<sup>9</sup> The 3 IIF “owners” are Anne M. Cleary, Rita J. Sallis and Christopher Ward. The 3 IIF Int’l “owners” are Vumindaba Dube, Henry Walter Fayne and Michael Anthony Nagle. See [www.citizen.org/article/public-citizen-protest-of-new-iif-owner-anne-m-cleary/](http://www.citizen.org/article/public-citizen-protest-of-new-iif-owner-anne-m-cleary/) and [www.citizen.org/article/jpmorgan-iif/](http://www.citizen.org/article/jpmorgan-iif/). There are other IIF entities with different sets of owners, such as IIF Luxembourg 1 SCSP which includes Patrick Meunier and Patrick Houbert:

[www.sec.gov/Archives/edgar/data/1775444/000177544423000001/xslFormDX01/primary\\_doc.xml](http://www.sec.gov/Archives/edgar/data/1775444/000177544423000001/xslFormDX01/primary_doc.xml) and Andrew Lepper

[www.sec.gov/Archives/edgar/data/1826962/000182696223000001/xslFormDX01/primary\\_doc.xml](http://www.sec.gov/Archives/edgar/data/1826962/000182696223000001/xslFormDX01/primary_doc.xml)

<sup>10</sup> At ¶ 72, [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_num=20230921-3094](https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20230921-3094)

<sup>11</sup> At ¶ b, [https://interchange.puc.texas.gov/Documents/49849\\_99\\_1037961.PDF](https://interchange.puc.texas.gov/Documents/49849_99_1037961.PDF)

assigned a \$10,000 Capital Contribution that conveys to the next “owner” at the expiration of their term.<sup>12</sup>

The geographic distribution of IIF’s limited partner institutional investors and pensions are the UK (25%), United States (20%), EU (17%), Canada (12%), Japan (10%), Middle East (9%), Australia (4%) and Asia excluding Japan (~3%), with government-sponsored pension funds representing 36% of IIF’s investors.

### **FERC’s Order Determining That JP Morgan Controls IIF**

Last week, FERC issued an order declaring that JP Morgan Chase and IIF must be treated as affiliates because “there is liable to be an absence of arm’s-length bargaining in transactions between them so as to make it appropriate for the protection of investors or consumers that they be treated as affiliates.”<sup>13</sup> As evidence, FERC cited:

*(1) the close relationship between IIF US Holding 2 and J.P. Morgan related entities demonstrated by evidence in the Investment Advisory Agreement and the Partnership Agreement and by the fact that IIF US Holding 2 has no employees of its own; (2) the duties delegated to J.P. Morgan Investment under the Investment Advisory Agreement are broad; and (3) a J.P. Morgan Investment employee sits on the board [of IIF portfolio companies]*<sup>14</sup>

The Commission determined that JP Morgan is affiliated with IIF because “J.P. Morgan Investment owns the rights to the use of the name IIF and its variants . . . We further note that J.P. Morgan Investment retains a right to appoint a member to the board of IIF”<sup>15</sup> and:

*Christian Porwoll, a J.P. Morgan employee, signed the Partnership Agreement on behalf of IIF 2 GP and, simultaneously, on behalf of the J.P. Morgan-related limited partners . . . Brian Goodwin, a J.P. Morgan Asset Management employee, signed the Investment Advisory Agreement on behalf of IIF US Holding 2 LP, via IIF 2 GP as its general partner . . . That employees of J.P. Morgan and J.P. Morgan Investment signed the Partnership Agreement and the Investment Advisory Agreement on both sides of the agreements . . . demonstrates that there was a lack of independence between IIF US Holding 2 (and IIF 2 GP) and J.P. Morgan . . . At minimum, this arrangement demonstrates that J.P. Morgan/J.P. Morgan Investment was empowered to execute documents that bind IIF US Holding 2 and IIF 2 GP into agreements, including agreements with itself.*<sup>16</sup>

<sup>12</sup> [www.citizen.org/wp-content/uploads/MankatoHearing\\_Redacted.pdf](http://www.citizen.org/wp-content/uploads/MankatoHearing_Redacted.pdf)

<sup>13</sup> At ¶ 62, [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_num=20230921-3094](https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20230921-3094)

<sup>14</sup> At ¶ 62, [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_num=20230921-3094](https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20230921-3094)

<sup>15</sup> At ¶ 69, [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_num=20230921-3094](https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20230921-3094)

<sup>16</sup> At ¶ 67-8, [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_num=20230921-3094](https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20230921-3094)

Furthermore, FERC found that the Investment Advisory Agreement between JP Morgan and IIF authorizes “J.P. Morgan Investment to make virtually every major decision on behalf of IIF”:<sup>17</sup>

*IIF US Holding 2 does not have any employees and relies on J.P. Morgan Investment to perform basic functions such as executing documents on its behalf. This indicates that any oversight is meaningless because IIF US Holding 2 cannot function without J.P. Morgan Investment. However, even with adequate “ongoing oversight,” the breadth of the rights, powers, and duties that the Investment Advisory Agreement and Partnership Agreement may confer to J.P. Morgan Investment with respect to IIF US Holding 2 undermines any potential for independence between the two entities.*<sup>18</sup>

In 2018, JP Morgan Chase & Co recommended that IIF purchase 120 million Class A shares of a company called Coastal States Wind. IIF then purchased these 120 million shares. The seller? JP Morgan Chase & Co.<sup>19</sup>

### **The Bank Holding Company Act and the Volker Rule Do Not Permit Any of These Activities by JP Morgan**

JP Morgan Chase is America’s largest bank, and subject to regulation and supervision by the Board of Governors of the Federal Reserve System. One of the primary objectives of the Bank Holding Company Act is to restrict banks like JP Morgan Chase from engaging in business activities outside of banking,<sup>20</sup> and the Volker Rule generally prohibits banks from operating a private equity entity like IIF.<sup>21</sup>

Public Citizen has compiled a non-exhaustive list of assets and companies owned or controlled by JP Morgan’s IIF:

**Palo Verde Nuclear Power Station (15.8%)**—JP Morgan’s IIF share is 633 MW of generation capacity.

**El Paso Electric Company (100%)**—serves 432,800 captive customers in Texas and New Mexico, including military installations (Fort Bliss U.S. Army Post, White Sands Missile Range and Holloman Air Force Base), and Marathon Petroleum’s El Paso oil refinery. JP Morgan executives Landy Gilbert and Preston T. Scherer serve on the board of directors.<sup>22</sup> Peter Kind serves as an

<sup>17</sup> At ¶ 72, [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_num=20230921-3094](https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20230921-3094)

<sup>18</sup> At ¶ 74, [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_num=20230921-3094](https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20230921-3094)

<sup>19</sup> See Exhibit D, <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=0204B3B7-66E2-5005-8110-C31FAFC91712>

<sup>20</sup> Saule T. Omarova, *The Merchants of Wall Street: Banking, Commerce, and Commodities*, <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=2481&context=facpub>

<sup>21</sup> [www.federalreserve.gov/supervisionreg/volcker-rule.htm](http://www.federalreserve.gov/supervisionreg/volcker-rule.htm)

<sup>22</sup> [www.epelectric.com/company/about-epe/board-of-directors](http://www.epelectric.com/company/about-epe/board-of-directors)

“independent” director, but serves on the board of another JP Morgan IIF company, SouthWest Water.

**Summit Utilities, Inc. (100%)**—operates natural gas distributional utilities serving 625,000 captive customers in six states (Arkansas, Colorado, Maine, Missouri, Oklahoma and Texas) with the utilities Arkansas Oklahoma Gas, Colorado Natural Gas, Summit Natural Gas of Maine, Summit Natural Gas of Missouri, Summit Utilities Arkansas, and Summit Utilities of Oklahoma operating 23,400 miles of pipelines. JP Morgan’s Landy Gilbert serves on the Summit Utilities board of directors.<sup>23</sup> The Arkansas Attorney General found that, since IIF acquired Summit Utilities Arkansas, there have been perpetual billing errors, including “99.6% of the 128,860 bills issued from January 18-25, 2023, were incorrect.”<sup>24</sup>

**South Jersey Industries (100%)**—operates two distributional utilities, South Jersey Gas Company and Elizabethtown Gas Company, serving almost 700,000 captive natural gas customers in New Jersey. Board member Susan Gonzalez serves on another JP Morgan-controlled company, Sonnedix.

**Corix/SouthWest Water Company (37.5%)**—Last year SouthWest Water announced that it will merge into Corix, with British Columbia Investment Management Corporation owning 50%, JP Morgan’s IIF owning 37.5%, and Munich Re owning 13.5%. The combined company has over 1.3 million captive customers across 20 U.S. states and two Canadian provinces. JP Morgan’s Hai-Gi Li serves on the board of SouthWest Water.<sup>25</sup> Peter Kind serves as an “independent director” of SouthWest Water, but he serves on the board of another JP Morgan IIF company, El Paso Electric Co.

**BWC Terminals (100%)**—owns and operates 22 bulk liquid storage terminals consisting of over 20 million barrels of storage capacity. JP Morgan’s Dan Mitaro serves on the board of directors, along with IIF “owner” Chris Ward.<sup>26</sup> Ward serves on another JP Morgan controlled company, Nieuport Aviation.

**Third Coast (50%)**— Owns and operates midstream oil and natural gas infrastructure linking Gulf of Mexico offshore production to onshore Louisiana and Mississippi. Owns 1,900 miles of pipelines, as well as ownership in a gas processing plant, and two offshore semi-submersible floating production platform. JP Morgan’s Marko Josipovic serves on the board of directors.<sup>27</sup> Key Third Coast subsidiaries:

<sup>23</sup> <https://summitutilitiesinc.com/board-of-directors>

<sup>24</sup> Line 9, page 4, [https://apps.apsc.arkansas.gov/pdf/23/23-015-U\\_67\\_1.pdf](https://apps.apsc.arkansas.gov/pdf/23/23-015-U_67_1.pdf), Arkansas Public Service Commission docket 23-015-U, June 15, 2023 *Supplemental Direct Testimony of Charles J. Harder* on behalf of the Office of Arkansas Attorney General.

<sup>25</sup> [www.swwc.com/board-of-directors/](http://www.swwc.com/board-of-directors/)

<sup>26</sup> [www.bwcterminals.com/environmental-social-and-governance/governance/board-members/](http://www.bwcterminals.com/environmental-social-and-governance/governance/board-members/)

<sup>27</sup> [www.third-coast.com/copy-of-board-of-directors](http://www.third-coast.com/copy-of-board-of-directors)

- *Chandeleur Pipe Line LLC*— 215 miles of pipeline serving offshore Gulf of Mexico oil/gas platforms, including pipelines onshore in Mississippi and Alabama, and serves Chevron’s Pascagoula refinery.
- *Destin Pipeline Company LLC*— 66.67% owned by Third Coast. 273 miles of natural gas pipelines connecting offshore Gulf of Mexico platforms to onshore Mississippi interstate gas networks.
- *High Point Gas Transmission LLC*— 343 miles of natural gas pipelines connecting Gulf of Mexico offshore platforms with onshore Louisiana gas networks.
- *Perdido Offshore Oil/Gas Platform*— 26.5% interest in Shell’s Perdido Gulf of Mexico oil/gas platform located in water depths of 8,000 feet in Alaminos Canyon 220 miles south of Galveston, TX.
- *Main Pass Oil Gathering Company LLC*— 6.5 mile subsea pipeline with 80,000 barrels per day capacity connecting Occidental’s Horn Mountain offshore platform in 5,400 feet of water.
- *King’s Quay*— 50% owned by Third Coast, offshore Gulf of Mexico platform operated by Murphy Oil with production capacity of 85,000 barrels of oil per day and 100 million cubic feet of natural gas per day.

**Enstor Gas, LLC**— Owns and operates 6 natural gas storage facilities in Alabama, Mississippi, New Mexico and Texas: Katy Storage and Transportation; Grama Ridge Storage and Transportation; Bay Gas Storage Company; Freebird Gas Storage, LLC<sup>28</sup>; Caledonia Energy Partners<sup>29</sup>; and Mississippi Hub LLC<sup>30</sup>. JP Morgan’s Dan Mitaro serves on the board of directors.<sup>31</sup>

JP Morgan’s IIF owns 13 fossil fuel power plants across the United States, including:<sup>32</sup>

- Brandywine Power, a 289 MW natural gas just outside Washington, DC.
- Broadriver, a 860 MW natural gas power plant in South Carolina.
- Mankato, a 720 MW natural gas facility in Minnesota.
- Arapahoe, a 125 MW natural gas unit in Colorado.
- Fountain Valley, a 240 MW natural gas power plant in Colorado.
- Valencia, a 150 MW natural gas facility in New Mexico.
- Mesquite, a 625 MW natural gas power plant in Arizona.
- Pio Pico, a 336 MW natural gas power plant in California a mile from Mexico’s border.
- Goal Line, a 50 MW natural gas power plant in Escondido, California.
- Newman Power Station, a 752 MW natural gas facility in Texas.
- Rio Grande Power Station, a 276 MW natural gas facility in New Mexico.

<sup>28</sup> <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=81DA7531-BEB7-C820-924C-87955BB00000>

<sup>29</sup> <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=E8190887-9564-CBD5-8F95-8794FBB00000>

<sup>30</sup> <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=489E38F5-04B9-CF14-9092-8795D7600000>

<sup>31</sup> [www.enstorinc.com/company/board-directors](http://www.enstorinc.com/company/board-directors)

<sup>32</sup> All are part of Onward Energy’s portfolio, except Newman, Rio Grande, Montana and Copper, which are part of El Paso Electric. <https://www.onwardenergy.com/our-projects/>

- Montana Power Station, a 354 MW natural gas facility in Texas.
- Copper Power Station, a 64 MW natural gas power plant in Texas.

**EnergyMark, LLC (33%)**—competitive natural gas retailer, serves as the official natural gas supplier of the NFL’s Buffalo Bills.<sup>33</sup>

**North Sea Midstream Partners (50%)**—owns the 234km SIRGE pipeline, connecting TotalEnergies’ Shetland Gas Plant; the Frigg UK Association 362km cross UK/Norwegian pipeline; the St Fergus Gas Terminal in Scotland; the Teesside Gas Processing Plant in England; and the Risavika LNG facility in Norway. JP Morgan’s Sara Sulaiman serves on the board of directors.<sup>34</sup>

**Nortegas (59.3%)**—Spanish natural gas distribution company. JP Morgan’s John Lynch serves on the board of directors.<sup>35</sup> Mark Mathieson serves on the Nortegas board and on another JP Morgan-controlled company Southern Water.

**Adven (100%)**— district heating company operating in Estonia, Finland, Latvia and Sweden. JP Morgan’s Mark Alan Walters is on the board of directors.<sup>36</sup>

**Sonnedix (100%)**—renewable energy projects with operations in the EU, UK, Chile, Japan and the U.S. JP Morgan’s Marko Josipovic serves on the board of directors.<sup>37</sup> Board member Carolos Guinand serves on another JP Morgan-controlled company Ventient Energy, and board member Susan Gonzalez serves on the board of another JP Morgan-controlled company, South Jersey Industries.

**Renantis (100%)**—renewable energy company with operations in the U.S. and EU. JP Morgan’s Mark Alan Walters is on the board of directors.<sup>38</sup>

**Ventient Energy (100%)**—renewable energy assets in the UK and EU. JP Morgan’s Mark Scarsella serves on the board of directors.<sup>39</sup> Carlos Guinand is the board chariman, and he serves on the board of another JP Morgan company, Sonnedix.

**Greensands Holdings Limited (39%)**—parent company of the UK utility Southern Water. Mark Mathieson serves on the board of Southern Water and another JP Morgan-controlled company, Nortegas.<sup>40</sup>

**Nieuport Aviation (100%)**—Owns and operates Billy Bishop Toronto City Airport (YTZ). IIF “owner” Chris Ward serves on the board of directors, as does

<sup>33</sup> <https://energymarkllc.com/>

<sup>34</sup> <https://nsmp-limited.com/about-us/leadership/>

<sup>35</sup> [www.nortegas.es](http://www.nortegas.es)

<sup>36</sup> <https://adven.com/about-us/governance/>

<sup>37</sup> [www.sonnedix.com/about/board](http://www.sonnedix.com/about/board)

<sup>38</sup> <https://renantis.com/about/leadership/>

<sup>39</sup> [www.ventientenergy.com/about-us/](http://www.ventientenergy.com/about-us/)

<sup>40</sup> [https://southernwater.annualreport2023.com/media/qesbodjk/sw\\_148-180.pdf](https://southernwater.annualreport2023.com/media/qesbodjk/sw_148-180.pdf)

JP Morgan's Hai-Gi Li.<sup>41</sup> Ward also serves on the board of JP Morgan-controlled BWC Terminals.

**Cairns and Mackay Airports (66.1%)**—owns and operates two airports in Queensland, Australia.<sup>42</sup> JP Morgan's Marko Josipovic serves on the board.<sup>43</sup>

**Beacon Rail (100%)**—owns passenger and freight rolling stock across Europe.<sup>44</sup>

**Koole Terminals (100%)**—Netherlands-based liquid fuels storage company.<sup>45</sup>

Thank you for your prompt attention to this matter, and I look forward to hearing from you to discuss the Federal Reserve's next steps.

Best,

*Tyson Slocum*

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<sup>41</sup> [www.nieuport.com/our-team](http://www.nieuport.com/our-team)

<sup>42</sup> [www.cairnsairport.com.au/corporate/about-us/ownership-and-management/ownership/](http://www.cairnsairport.com.au/corporate/about-us/ownership-and-management/ownership/)

<sup>43</sup> [www.third-coast.com/copy-of-board-of-directors](http://www.third-coast.com/copy-of-board-of-directors)

<sup>44</sup> <https://beaconrail.com/en/>

<sup>45</sup> <https://koole.com/>