U.S. Chamber of Commerce

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January 23, 2023

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

James P. Sheesley
Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Resolution-Related Resource Requirements for Large Banking Organizations (87 Fed. Reg. 64,170-64,175, October 24, 2022)

Dear Ms. Misback and Mr. Sheesley:

The U.S. Chamber of Commerce ("the Chamber") writes in response to the advance notice of proposed rulemaking ("ANPR") from the Board of Governors of the Federal Reserve System ("Board") and the Federal Deposit Insurance Corporation ("FDIC") (collectively, "the Agencies") on Resolution-Related Resource Requirements for Large Banking Organizations.

The Chamber supports a stable financial system that can meet the financing needs of American businesses. As a result of the reforms instituted after the global financial crisis of 2007-2008, the banking system has improved its ability to weather economic downturns. U.S. banks now hold significantly more capital to ensure they withstand losses, and liquidity requirements ensure banks can meet the demands of a future crisis.

Since being confirmed by the Senate in July 2022, Federal Reserve Vice Chair for Supervision Michael Barr has repeatedly stated that the Board is conducting a holistic review before moving forward with any changes to capital requirements. At a September 7, 2022 speech at the Brookings Institution, Governor Barr stated of the post-financial crisis reforms, "many gains have been made from this process. While recognizing these gains, we need to continue to analyze whether firms are taking all appropriate steps to limit the costs to society of their potential failure."[1] Yet the release of this ANPR and the push for a rule that will impose increased capital requirements on banks is inconsistent with the stated plan of the Vice Chair.

The Chamber urges the Agencies to rescind this rulemaking and engage constructively with Large Banking Organizations (LBOs) on ways to strengthen our financial system. This ANPR would apply to Category II and Category III LBOs, which include all banking organizations with $250 billion or more in average total consolidated assets. As the ANPR notes,

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[1] https://www.federalreserve.gov/newsevents/speech/barr20220907a.htm

the Dodd-Frank Act included resolution planning requirements for Category II and Category III organizations that differ from those of global systemically important banks (GSIBs). Non-GSIB LBOs file resolution plans on a triennial cycle, while GSIBs file every two years. Additionally, non-GSIB LBOs are not subject to the total loss-absorbing capacity (TLAC) requirement (which the ANPR notes "requires a GSIB to maintain a minimum level of eligible long-term debt at the holding company level"[2]), clean holding company requirements, and additional rules that apply to GSIBs. The Agencies are seeking to impose these and other requirements on Category II and Category III banks—a move that could potentially double the capital requirements of non-GSIB LBOs.

Since banks in Categories II and III already have resolution plans and can be broken up, we believe that this ANPR is based on inaccurate assumptions. This proposal, which comes at a time when banks are strong, is ill conceived and unnecessary considering the existing rules in place to protect the banking system and the harm that increased capital requirements could do to small business lending.

Banks Are Well-Capitalized

Much of the ANPR's reasoning for the push to increase capital requirements is due to the financial crisis of 2007-2008 and the recession that followed it. But this argument does not take into account the significant reforms that have been instituted in the years since. In 2010, the Dodd-Frank Act imposed significant new capital requirements on banks, but S. 2155, the Economic Growth, Regulatory Relief, and Consumer Protection Act, which became law in 2018, tailored requirements for banking organizations so they are aligned with risk.

The COVID-19 economic shock demonstrated the resiliency of the U.S. banking system. During the last three weeks of March 2020, "commercial and industrial (C&I) loans on bank balance sheets exploded, increasing by $482 billion between March 11 and April 1."[3] During this period, lending grew about 50 times the average, and was based on existing capital levels and raised no safety and soundness concerns."[4]

Banks are well-capitalized, and the financial system is healthy. In its November 2022 *Supervision and Regulation Report*, the Board noted that recent stress test results of large financial institutions "suggest that these firms remain sufficiently capitalized to continue lending to households and businesses in a simulated period of stress."[5] As the Bank Policy Institute has noted, "since enactment of post-crisis reforms, there has never been the slightest indication that any major U.S. bank was in danger of insolvency. No large U.S. bank has ever fallen below any

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[2] 87 Fed. Reg. at 64172

[3] Li, Lei, Philip E. Strahan, and Song Zhang. *Banks as Lenders of First Resort: Evidence from the Covid-19 Crisis*. May 2020. Found at: https://www.nber.org/system/files/working_papers/w27256/w27256.pdf

[4] Baer, Greg and Francisco Covas. *As U.S. Regulators Implement the 2017 Basel Accord, It's Time for a Reality-Based Assessment of Current Capital Levels*. November 2022. Found at: https://bpi.com/as-u-s-regulators-implement-the-2017-basel-accord-its-time-for-a-reality-based-assessment-of-current-capital-levels/#_ftn1

[5] Board of Governors of the Federal Reserve System. *Supervision and Regulation Report*. (November 2022). Found at: https://www.federalreserve.gov/publications/files/202211-supervision-and-regulation-report.pdf

minimum capital standard or come close to it."[6] Based on this data, increased capital requirements should not be on the table.

Increased Capital Requirements Could Harm Lending

Many economists are forecasting tough times ahead in 2023, and predictions of a global recession remain prevalent.[7,8] Increased capital requirements could hinder banks' ability to support the economy. Research has shown that "bank regulations make bank credit more expensive for borrowers" and that implementation of the Basel III reforms has caused borrowers who are more affected by Basel III to increase risk-taking, with loan costs increasing after the reforms were implemented.[9] Further increases to capital requirements like the ones in this proposal would reduce the amount of capital banks have available for lending to small businesses.

It is also important to note that U.S. banking regulators just updated resolution planning requirements within the last few years. We question why the Agencies are considering reversing those rules and are revisiting this issue so soon. Banks need regulatory stability in order to adequately plan for the future, and a constantly changing environment of capital requirements inhibits their ability to plan properly and meet the credit needs of U.S. businesses.

Lack of Economic Analysis

The Chamber also encourages the Agencies to undertake more thorough economic analysis on business lending before issuing any further rules. Focusing on past times of economic difficulty while not taking into account present economic conditions and likely future scenarios could lead to the imposition of unnecessarily stringent capital requirements that could force banks to curtail lending. The economic analysis should highlight, among other things, how more stringent capital requirements imposed on banks will uniquely affect small- and mid-sized businesses' ability to access credit. The impact on Main Street could be severe, and these businesses deserve transparency and an opportunity to voice their concerns throughout this process.

Conclusion

The Chamber encourages the Agencies to rescind this ANPR and focus on policies that could help banks meet the capital needs of small- and medium-sized businesses. Revisiting

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[6] Supra note 4.

[7] Minton Beddoes, Zanny. *Why a Global Recession is Inevitable in 2023*. The Economist (November 18, 2022). https://www.economist.com/the-world-ahead/2022/11/18/why-a-global-recession-is-inevitable-in-2023

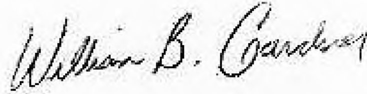
[8] Duggan, Wayne. *Recession 2023: What to Watch and How to Prepare. U.S. News and World Report* (November 28, 2022). Found at: https://money.usnews.com/investing/articles/recession-2023-what-to-watch-and-how-to-prepare

[9] Wen, Jing. *Risk Migration from the Banking Industry to the Real Economy: An Examination of Spillover from Basel III*. Graduate School of Business, Columbia University (March 2021) Found at: https://academiccommons.columbia.edu/doi/10.7916/d8-rzk8-j014#:~:text=Risk%20Migration%20from%20the%20Banking%20Industry%20to%20the,from%20the%20banking%20industry%20to%20the%20real%20economy.

resolution planning requirements that have only been in place a few years and increasing capital requirements on LBOs without sufficient justification would handcuff banks at a time when they could serve as a source of strength to our economy.

We look forward to engaging constructively on these issues going forward.

Sincerely,



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