



SUBMITTED BY E-MAIL

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

Federal Deposit Insurance Corporation  
550 17th Street NW  
Washington, D.C. 20429  
Attention: James P. Sheesley, Assistant  
Executive Secretary, Comments/Legal  
OES

Office of the Comptroller of the Currency  
400 7th Street, SW, Suite 3E-218  
Washington, D.C. 20219  
Attention: Chief Counsel's Office, Comment Processing

Brussels, 16 January 2024

**SUBJECT: Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity (Federal Reserve Docket No. R-1813, RIN 7100-AG64; FDIC RIN 3064-AF29; Docket ID OCC-2023-0008)**

The EBF welcomes the opportunity to comment on the joint notice of proposed rulemaking issued by the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Company (FDIC) and the Office of the Comptroller of the Currency (OCC), collectively the "U.S. Agencies", entitled the Regulatory Capital Rule: Large Banking Organizations with Significant Trading Activity ("Basel III Endgame Proposal"). The EBF supports a capital framework that fosters a strong banking sector and recognizes the importance of the internationally consistent implementation of the Basel III Endgame framework to further advance financial stability.

EBF members' U.S. operations perform an important role in providing credit to U.S. businesses, enhancing liquidity to U.S. financial markets while also employing thousands of people in the United States in the financial sector and through related services. We appreciate the Agencies' efforts to improve the risk capture and consistency of capital requirements and to reduce complexity and operational costs and agree that these efforts are important. However, we also believe that these efforts should be appropriately tailored and the specific refinements that we highlight below will allow foreign banks not to be unduly penalized in the U.S. market. These refinements below - in addition to some other suggested changes included in letters submitted by U.S. trade associations - would help ensure international consistency and a level playing field for the implementation of the Basel III Endgame framework:

**European Banking Federation**

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- 1) Operational Risk - Adjust the service component of the Business Indicator for IHCs to ensure that the resulting capital requirement properly reflects the underlying operational risk of the institution.
- 2) Credit Risk - Adjust the risk weight for transactions between IHCs of FBOs and their non-U.S. bank affiliates to ensure that the requirements reflect the unique characteristics of these transaction types.
- 3) Specify rules for CVA charges exclusion for affiliate exposures for IHCs.

More detailed descriptions of these recommendations are provided below.

**1) Operational Risk - Adjust the service component of the Business Indicator for IHCs to ensure that the resulting capital requirement properly reflects the underlying operational risk of the institution.**

As currently proposed, the services component of the Business Indicator of the Operational Risk calculation should be adjusted for Intermediate Holding Companies of FBOs to appropriately assess the capital requirements for transfer pricing frameworks.

The Agencies' proposal, as well as the Basel standard, allow for certain exemptions of expense items, such as staff salary costs and infrastructure costs. The Agencies' proposal, however, does not exempt income from similar items. This is a significant concern because reimbursements from transactions between a foreign affiliate and the IHC or a U.S. subsidiary in which the IHC or U.S. subsidiary provides a service to the foreign affiliate will show up as income on the U.S. entity's income statement. (US-headquartered top-tier bank holding companies will eliminate such income in consolidation).

As proposed, the treatment of income from inter-affiliate reimbursements would overstate the impact of transfer pricing mechanisms for Intermediate Holding Companies. Rather, under the final rule, to the extent that an expense is exempted from the services component calculation, the associated reimbursement for that expense from an affiliate should be excluded as well. Making this change would ensure the consistent treatment of income and expense for these internal transfer transactions, ensure common application of the rule, and avoid unduly penalizing intermediate holding companies based on their foreign banking entity structure.

**2) Credit Risk - Adjust the risk weight for transactions between IHCs of FBOs and their non-U.S. bank affiliates to ensure that the requirements reflect the unique characteristics of these transaction types.**

The proposal should provide a separate risk weight for the credit exposure for transactions between an IHC of an FBO and non-U.S. affiliates to ensure that the standard takes into account the unique type of intra-group exposure this represents. The proposal currently would set this risk weight as if it was an exposure to any third-party/unaffiliated bank exposure and, assuming a Grade A bank affiliate, would be set at 40%. The unique

relationship is accounted for in other prudential requirements. For example, within the FRB's annual stress tests, the counterparty default scenario does not require an IHC to include any affiliate as a counterparty.

### **3) Utilize a quantitative metric for assessing which firms are exempt from CVA.**

The Agencies should modify how they determine whether an institution should be required to reflect CVA risk in its risk-based capital requirements. The proposed approach recognizes that there are instances where an institution "should not be required to reflect CVA risk"<sup>1</sup> and provides the Federal supervisor with the capability to address instances on a case-by-case basis. However, this runs the risk of establishing an unlevel playing field across institutions with comparable levels of CVA exposure. We support the Agencies establishing an objective quantitative threshold for CVA, which will help ensure that a capital requirement will be uniformly adopted across the market for CVA risk.

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Thank you for considering these comments and recommendations. Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,

Yours sincerely,



Wim Mijs  
CEO  
European Banking Federation

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<sup>1</sup> Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity (Federal Reserve Docket No. R-1813, RIN 7100-AG64; FDIC RIN 3064-AF29; Docket ID OCC-2023-0008)

