Congress of the United States

Washington, DC 20515

January 16, 2024

The Honorable Jerome Powell
Chair
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue, NW
Washington, DC 20551

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

The Honorable Michael J. Hsu
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219

Dear Chair Powell, Chairman Gruenberg, and Acting Comptroller Hsu:

We write regarding the Basel III endgame capital requirements proposal issued jointly by the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency (collectively, "the Agencies") on July 27, 2023.[1] We strongly support the Agencies taking steps to improve the resilience of the U.S. banking system by modifying capital requirements for large banking organizations to better reflect their risks. However, we urge the Agencies to make important changes to the proposal to address the undue impact the proposal would have on mortgage lending to first-time homebuyers, low- and moderate-income (LMI) borrowers and borrowers of color.

Homeownership is the primary way that most Americans build wealth. The Biden-Harris Administration has consistently proposed historic and equitable housing investments in budget requests[2] and executive actions, including the Administration's Housing Supply Action Plan,[3] to lower housing costs and bring homeownership within reach for millions of Americans. Under the leadership of your Agencies, the first rewrite of the Community Reinvestment Act (CRA) in 25 years is also projected to increase investments in affordable housing and help address persistent racial homeownership and wealth gaps by attracting much needed capital into underserved

[1] 88 FR 64028

[2] White House, Fact Sheet: President Biden's Budget Lowers Housing Costs and Expands Access to Affordable Rent and Home Ownership. (March 9, 2023).

[3] White House, President Biden Announces New Actions to Ease the Burden of Housing Costs. (May 16, 2022).

communities.[4] As currently written, the proposal implementing Basel III would undermine the success of these critical housing initiatives.

As you know, bank capital requirements are statutorily mandated, but statue provides the Agencies with discretion to set them as deemed to be necessary and appropriate. Some assets are inherently riskier than others, and many capital requirements risk-weight assets to determine how much capital a bank is required to hold to cushion against losses under stressed financial conditions. Risk weighting has an important role to play in ensuring banks are adequately capitalized, and in disincentivizing banks from holding riskier assets, but is not always accurate. We believe that the Agencies proposed risk weights for residential mortgages is excessive and is likely to further discourage bank mortgage lending, particularly to high loan-to-value (LTV) borrowers who are disproportionately first-time homebuyers, LMI borrowers and borrowers of color.

Consistent with Basel III, the Agencies have proposed to change the risk weights for residential mortgages from 50 percent for all mortgages, regardless of occupancy status or LTV ratio, to a sliding scale based on both occupancy status and LTV, without credit for private mortgage insurance. The Agencies have also proposed to add 20 percentage points across the board for each risk weight, contrary to the agreement reached under Basel III by international bank regulators. First-time borrowers, LMI borrowers and borrowers of color are disproportionately represented in the highest LTV categories, and the proposal would drastically increase the weighting of residential mortgages for borrowers who are credit-worthy but cannot afford a 20% downpayment and therefore have an LTV ratio above 80%.

An Urban Institute analysis suggests that even without accounting for post-2008 changes in the loan origination process that require increased documentation, as well as regulatory developments pursuant to the Dodd-Frank Act, that "the proposed levels exceed what would be needed to protect banks from a repeat of the Great Recession."[5] A July 2023 letter from the NAACP, National Urban League, and others to your Agencies noted, "if these standards are adopted, they will have a devastating impact on our efforts to increase Black homeownership and disadvantage all first-time, and, in particular, first-generation homebuyers who do not have the benefit of multi-generational wealth or higher than average incomes."[6] The result of the proposal would be higher costs for high LTV borrowers and a reduced incentive for banks to make these loans.

Concerningly, the Agencies have also proposed to give no credit for private mortgage insurance designed to offset risks for higher LTV (lower down payment) loans by absorbing default-related credit losses ahead of lenders and other parties. Providing capital credit for mortgage insurance or other forms of private credit enhancement within appropriate parameters, and in the context of a robust risk-based capital framework, is a proven way to mitigate risks to regulated entities while preserving and enhancing access to affordable homeownership. This proposed change overlooks significant reforms to mortgage underwriting requirements and the mortgage insurance

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[4] White House, Remarks by the National Economic Advisor Lael Brainard Addressing the Challenge of Housing Affordability at the National Housing Conference. (December 7, 2023).

[5] Urban Institute, Brief: Bank Capital Notice of Proposed Rulemaking. (September 18, 2023).

[6] National Housing Conference, Mortgage Bankers Association, NAACP, National Association of REALTORS, National Urban League, Letter to prudential regulators regarding bank capital. (July 24, 2023).

industry that were achieved following the global financial crisis and threatens to further reduce high LTV lending and consumer choice.

We understand that the Agencies are aware that the proposal could have unintended consequences on homeownership opportunity and for this reason the Notice of Proposed Rulemaking includes several questions about the subject. We strongly support modifications to avoid unintended impacts on the ability of otherwise credit-worthy borrowers who make smaller down payments to purchase a home. We also understand that commenters have raised several other issues related to impacts on the broader real estate industry and we encourage careful consideration of these comments.

We appreciate the leadership of your Agencies in ensuring the financial health of banks, the financial sector, and the broader economy and look forward to working with you further on this important matter.

Sincerely,

Emanuel Cleaver, II
Member of Congress

Joyce Beatty
Member of Congress

Ritchie Torres
Member of Congress

Sylvia R. Garcia
Member of Congress

Juan Vargas
Member of Congress

Nikema Williams
Member of Congress