

January 11, 2024

Via Electronic Mail

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

James P. Sheesley, Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429
Attention: Comments/Legal OES (RIN 3064–AF29)

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

Re: Potential Effects of Proposed Regulatory Capital Rules (Federal Reserve Docket No. R-1813; FDIC RIN 3064-AF29; Docket ID OCC-2023-0008)

Ladies and Gentlemen:

The undersigned bankers associations write to express our deep concerns with your agencies' proposed implementation of the "Basel III Endgame" capital regulations (Proposal). Our members firmly believe in a well-capitalized and innovative banking industry as a critical component of a strong national economy and a key support for the communities they serve. Rather than enhancing our members' ability to serve their customers and communities, however, we believe the Proposal would constrain the banking sector's ability to provide credit and other essential financial services. Our review of the Proposal, and the widespread concerns that others have raised, convince us that your agencies have insufficiently assessed and considered the potential economic damage to bank customers and the economy as a whole.

In particular, we share the concerns that the agencies rely on seriously insufficient supporting data and analysis to justify the significant increase in regulatory capital the Proposal would require and the resulting constraint on lending. Moreover, the agencies have failed to disclose those data to the public as part of the legally required process of notice and comment. Soon after the Proposal was released, a broad representative coalition of the industry raised detailed concerns about this lack of transparent supporting data and analysis.¹ These concerns highlight

¹ See <https://www.aba.com/advocacy/policy-analysis/ltr-reg-capital-rule-basel>.

the need to withdraw the Proposal and repropose a version with appropriate and transparent support.

Furthermore, in discussions among our members and their customers and other end-users of credit, it has become clear that the Proposal will likely restrict funding availability in a number of key parts of the economy:

- Residential mortgages – proposed increases in risk weights for mortgages with higher loan-to-value ratios will have a disproportionately harsh impact on low- and moderate-income borrowers and first-time homebuyers.²
- Capital projects – increased capital requirements for legislatively mandated or favored programs, such as tax equity investments in green energy and low-income housing.
- Credit for small- and medium-sized businesses – unsupported higher proposed risk weights for businesses that are not publicly traded, compared to those for public companies, will put privately held customers at an unreasonable disadvantage.
- Hedging instruments – increased capital requirements for derivatives and other hedging instruments will raise costs and risks for a variety of businesses that manage risks through hedging, from airlines to farmers and other agribusinesses.
- Broad impact of operational risk capital charges – in addition to the risk weight changes already noted, a proposed capital framework for operational risk will raise capital requirements, and therefore costs passed through to customers, across the entire spectrum of ordinary banking activities.

These and other concerns were noted in bipartisan questions raised in November’s oversight hearings before the Senate Banking Committee³ and House Financial Services Committee.⁴

The potential impacts that concern our members would raise serious questions of regulatory policy in any circumstances, but the lack of justification is particularly pointed given the banking industry’s performance during and since the COVID-19 pandemic’s stress on the national economy. As the Federal Reserve noted earlier this year, its annual stress tests demonstrated that the banks that would be subject to the Proposal are well positioned to weather a severe recession

² Laurie Goodman and Jun Zhu, “Bank Capital Notice of Proposed Rulemaking – A Look at the Provisions Affecting Mortgage Loans in Bank Portfolios,” Urban Institute (Sept. 2023), *available at* <https://www.banking.senate.gov/hearings/oversight-of-financial-regulators-protecting-main-street-not-wall-street> <https://www.urban.org/sites/default/files/2023-09/Bank%20Capital%20Notice%20of%20Proposed%20Rulemaking.pdf>.

³ United States Senate, Committee on Banking, Housing, and Urban Affairs, Hearing entitled, “Oversight of Financial Regulators: Protecting Main Street Not Wall Street” (November 14, 2023), *available at* <https://www.banking.senate.gov/hearings/oversight-of-financial-regulators-protecting-main-street-not-wall-street>.

⁴ United States House of Representatives, Committee on Financial Services, Hearing entitled, “Oversight of Prudential Regulators” (November 15, 2023), *available at* <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=409027>.

and continue to lend to households and businesses even during a severe recession.⁵ In these circumstances, the risks to the country's ongoing economic prosperity far outweigh any benefits of the Proposal, which at best are uncertain and undemonstrated.

Sincerely,

American Bankers Association
Alabama Bankers Association
Alaska Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Connecticut Bankers Association
DC Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association
Missouri Bankers Association
Montana Bankers Association

Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
Utah Bankers Association
Vermont Bankers Association
Virginia Bankers Association
Washington Bankers Association
West Virginia Bankers Association
Wisconsin Bankers Association
Wyoming Bankers Association

⁵ See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20230628a.htm>.