Proposal: 1813 (AG64) Reg H, Q, LL & YY-Regulatory Capital Rule: Amendments to LBOs and Banking Organizations

Description:

Comment ID: 157191

From: National Taxpayers Union, Grant Carlson

Proposal: 1813 (AG64) Reg H, Q, LL & YY-Regulatory Capital Rule: Amendments to LBOs and Banking Organizations

Subject: R-1813 Regulatory Capital Rule: Amendments Applicable to Large Banking Organizations and to Banking

---

Comments:

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

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

Re: 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)

Comments of the National Taxpayers Union

The National Taxpayers Union (NTU)1 is writing to express our deep concerns regarding the imposition of Basel III international capital standards on American banking institutions and its potential implications for our domestic banking system. While recognizing the importance of international collaboration, certain aspects of Basel III may not align with the best interests of our banking institutions.

Firstly, Basel III introduces regulatory measures that could potentially stifle the flexibility and adaptability of our banking sector. The range in our financial landscape requires nuanced regulatory approaches, and a one-size-fits-all international standard is not suitable for the unique challenges our banks face.

1 https://www.ntu.org/about/

122 C STREET NW SUITE 700 WASHINGTON, DC 20001 (703) 683-5700 NTU.ORG

Furthermore, entrusting international entities with the regulation of our banking system raises concerns about sovereignty and the ability to tailor regulations to our specific economic conditions. A more localized approach would enable us to address issues promptly and with a deeper understanding of our financial institutions' needs.

Higher Capital Requirements Harms Taxpayers

Elevating capital requirements will stifle economic growth by constraining banks' ability to lend. Taxpayers would consequently face a challenge in a less dynamic and thriving economy. Higher capital requirements will force banks to pass along elevated costs to taxpayers or borrowers through higher interest rates. This could significantly burden taxpayers seeking small business loans, and mortgages.

Violation of the Administrative Procedures Act

The banking agencies' Basel proposed rule violates the Administrative Procedure Act by relying on data and analysis that the agencies have not made available to the public. As Federal Deposit Insurance Commissioner Johnathan McKernan noted2, while the proposed regulations propose significantly increasing capital requirements for banks, the proposed rule relies on data and analysis that was not released to the public for review. In a July statement in dissent to the proposed amendments to the capital framework, Director McKernan stated, "What has changed is the extent to which we are asked to put our faith in the Basel Committee. As the complexity of the capital framework mounts, we are asked to defer more and more to the technical work of, and the backroom deals made at, the Basel Committee. In the case of the Basel III standards, the Basel Committee has made some key decisions with little or no explanation. That then leaves the U.S. bank regulators unable to defend or perhaps even understand important aspects of the Basel III standards that we are now proposing to implement. Take, for example, the business-indicator approach to operational-risk capital. The first Basel consultative document acknowledged that this approach "does not lend itself to accurate application in the case of banks engaged predominantly in fee-based activities." The second consultative document reiterated that the approach resulted in the "overcapitalization of banks with high fee revenues and expenses."It also proposed a fix. But that fix was then quietly dropped from the final Basel III standards without public explanation. That leaves this proposal to take an approach that its own Basel Committee authors have said does not work."

2 https://www.fdic.gov/news/speeches/2023/spjul2723c.html

Inclusion of Credit Risk Transfers in Basel III Proposed Regulations

Credit risk transfers play a pivotal role in risk management, allowing financial institutions to transfer and mitigate credit risk exposure while reducing risk to taxpayers. Including these instruments in Basel III would reflect a more comprehensive understanding of the evolving financial landscape, providing a holistic approach to risk assessment. Incorporating credit risk transfers into the regulatory framework would contribute to a more risk-sensitive assessment. These instruments offer mechanisms for diversification and risk-sharing, which, if appropriately regulated, can lead to a more accurate reflection of a financial institution's risk profile. A globally consistent approach to regulating credit risk transfers within the Basel III framework is essential. Aligning regulatory standards internationally would promote a level playing field and enhance the effectiveness of risk management practices across borders.

Conclusion

While acknowledging the importance of global financial stability, it is essential to strike a balance that safeguards our domestic interests. Basel III, in its current form, would compromise the competitiveness and resilience of our banking sector. NTU urges you to carefully consider the potential ramifications of adopting Basel III and to ensure that any international regulations align with the distinctive characteristics and requirements of our banking system. Collaboration is crucial, but it should not come at the expense of our nation's ability to regulate and nurture a healthy and robust financial environment. Given these concerns, NTU respectfully requests that the banking agencies reconsider and withdraw the Basel III rulemaking. This would allow for a more comprehensive evaluation of the proposed regulations, taking into account the potential consequences on financial institutions, economic growth, and taxpayers.

122 C STREET NW SUITE 700 WASHINGTON, DC 20001 (703) 683-5700 NTU.ORG

Sincerely,

Grant Carlson
Public Policy and Government Affairs Manager
gcarlson@ntu.org
National Taxpayers Union

122 C STREET NW SUITE 700 WASHINGTON, DC 20001 (703) 683-5700 NTU.ORG