



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

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
Attention: Comments/Legal OES (RIN 3064-AF29)
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

January 16, 2024

RE: Regulatory Capital Rule: Large Banking Organizations and Banking Organizations With Significant Trading Activity, Docket ID OCC-2023-008 (Office of the Comptroller of the Currency) / Docket No. R-1813, RIN 7100-AG64 (Federal Reserve System) / RIN 3064-AF29 (Federal Deposit Insurance Corporation)

To Whom It May Concern:

This letter is submitted by the undersigned organizations, which collectively represent the U.S. insurance industry. We are writing in response to the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation's ("Agencies") request for comments on the notice of proposed rulemaking: "Regulatory Capital Rule: Large Banking Organizations and Banking Organizations With Significant Trading Activity" ("Capital Rule").¹ We request that you amend your proposed Capital Rule to make it clear in U.S. bank capital regulations that banks can use and receive capital relief for using insurance and reinsurance, or "(re)insurance."

(Re)insurance is a foundational element of the U.S. economy to distribute risk and protect people, businesses, and property against a variety of risks and loss.² Our industry is highly competitive with diversified and well-capitalized companies that have been successfully regulated by states for over 150 years.³ In testimony before the U.S. Senate Committee on Banking, Housing, and Urban Affairs, the

¹ <https://www.govinfo.gov/content/pkg/FR-2020-06-30/pdf/2020-11279.pdf>

² <https://www.iii.org/sites/default/files/docs/pdf/insurance-driver-econ-growth-053018.pdf>

³ <https://content.naic.org/150-timeline>; <https://www.banking.senate.gov/download/theodorou-testimony-9-7-23>

National Association of Insurance Commissioners (NAIC) testified that, “The financial strength of our insurance system was tested simultaneously by a global pandemic, historic natural catastrophes, financial volatility, and social unrest, and yet it persevered.”⁴ The Board of Governors of the Federal Reserve System has accepted and acknowledged the efficacy of state insurance regulation when it incorporated, as an input, the states Risk Based Capital (RBC) regime into the design of the Board’s own Building Block Approach (BBA) for its own broader, group wide capital requirement for depository institution holding companies significantly engaged in insurance activities.⁵

Private sector, third-party risk analysis, pricing, and risk-sharing are long-standing and important mechanisms used by the private insurance marketplace. In addition to private and state entities, federal entities also use (re)insurance: the Federal National Mortgage Association (Fannie Mae), since 2013; the Federal Home Loan Mortgage Corporation (Freddie Mac), since 2013; the U.S. Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program (NFIP), since 2017; and the Export-Import Bank (EXIM) of the U.S, since 2018. Property and casualty (re)insurance also is a material mitigant of systemic risk in the financial markets and broader economy. Utilization of (re)insurance has reduced systemic risk by diversifying insurance and credit risks and by transferring more of the enormous exposure currently borne by U.S. taxpayers.

Banks in Canada, the UK, the EU, Japan, and other countries also use (re)insurance for purposes of credit risk transfer. However, banks in the U.S. do not use it due to a lack of clarity and incentives in the Agencies’ regulations, which the Agencies’ proposed Capital Rule does not resolve. (Re)insurance use by banks is part of the Basel III Endgame, which other jurisdictions listed above have already implemented. Thus, we strongly encourage you to include in your final Capital Rule the amendments to U.S. bank capital regulations required to provide the clarifications and capital relief needed so that banks can use (re)insurance, realize its benefits, and operate on a level playing field with domestic and international public and private sector competitors. Please provide banks with the ability and incentive to use the (re)insurance risk management tool that benefits every facet of our economy. We are ready to work with the Agencies and banks on solutions to manage bank risk to the benefit of U.S. homeowners, renters, taxpayers, businesses, and our financial system, and economy.

Respectfully,

Reinsurance Association of America
The Council of Insurance Agents & Brokers
Wholesale & Specialty Insurance Association
Independent Insurance Agents & Brokers of America
National Association of Mutual Insurance Companies
U.S. Mortgage Insurers
American Property Casualty Insurance Association
The Surety & Fidelity Association of America

⁴ <https://content.naic.org/article/commissioner-birrane-testifies-behalf-naic-us-senate-banking-committee-hearing>

⁵ <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20231006a.htm>