FIFTH THIRD BANK

January 16, 2024

Via Electronic Communication

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

Mr. James P. Sheesley
Assistant Executive Secretary
Attention: Comments/Legal OES
(RIN 3064-AF29; Docket ID 2023-19266)
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

RE: Notice of Proposed Rulemaking on Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity. OCC Docket ID OCC-2023-0008, RIN 7100-AG78; Federal Reserve Docket No. R-1813, RIN 7100-AG64; FDIC RIN 3064-AF29.

Ladies and Gentlemen:

Fifth Third Bancorp, and its wholly owned subsidiary Fifth Third Bank National Association (collectively "Fifth Third") appreciate the opportunity to provide comments on the Notice of Proposed Rulemaking ("Proposed Rule") issued by the Office of the Comptroller of the Currency of the U.S. Department of the Treasury ("OCC"), the Board of Governors of the Federal Reserve System ("Federal Reserve"), and the Federal Deposit Insurance Corporation ("FDIC") (collectively the "Agencies") regarding amendments to the current proposed regulatory capital rule for large banking organizations. The Proposed Rule would make significant revisions to the current capital rule and significantly increases capital requirements for all U.S. financial institutions but would disproportionally impact financial institutions with consolidated assets above $100BN but less than $250 BN("Category IV banks").

Fifth Third writes today to offer modifications to the Proposed Rule broadly consistent and in support with submissions by a coalition of Category IV banks ("Coalition"), the American Bankers Association, the Bank Policy Institute, the Mortgage Bankers Association, the Consumer Bankers Association, and the Risk Management Association.

Fifth Third supports the discussions within those submissions, and desires to reinforce certain consideration regarding (1) the need for the Proposed Rule to be appropriately tailored consistent with statutory intent with modifications to Section 165 of the Dodd-Frank Act made by the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 ("S.2155"), (2) the need to modify certain Risk-Weighted Assets ("RWAs") to minimize the economic impact on consumers, small businesses, and the macro-economy while making sure risk remains well-regulated in the system (3) ensuring sufficient time and analysis to assess the impact the proposal, and its interaction with other rules, will have on the macro-economy, consumers, small businesses and communities, while ensuring risk remains concentrated in well-regulated industries.

Key Areas of Comment for Fifth Third

I. The Proposed Rule should be modified to include tailoring for Category IV banks consistent with Congressional intent in S.2155.

The Proposed Rule would modify the current capital rules and require all banking organizations with total consolidated assets of $100BNor more to meet all applicable risk-based capital requirements as calculated under both (i) the existing U.S. standardized approach, as modified by the proposal and (ii) the newly proposed expanded risk-based approach which encompasses credit risk, operational risk, and credit valuation adjustment risk. This proposal would essentially hold Category IV banks to standards equivalent with banking institutions significantly larger and more complex. Components of the expanded risk-based approach focus on complex operations and activities that are more consistent with the operations and actions of the largest banking institutions.

Category IV banks come in a range of sizes, but their commonality is their simple business models, legal entity structure, and reduced risk profile relative to the structure and activities of Globally Systemically Important Banks ("GSIBs"). Most Category IV banks lack structural complexity and conduct traditional banking activities and services while relying on stable customer deposits for funding. While there have been recent high-profile bank failures that have formed the basis of this and many other pending proposed rules, the banks that failed are clearly distinguishable from the other Category IV banks. The failed banks, Silicon Valley Bank, Signature Bank, and First Republic Bank, grew rapidly, had significant concentrations of uninsured deposits, and business models that were not well diversified. These institutions generally operated with risk practices that were unsafe, unsound and do not reflect the risk profile of most Category IV banks. Additionally, the most significant, complex, and burdensome components of the proposal do not address the risks that lead to the bank failures, which were driven by a lack of prudent bank management and regulatory oversight.

Fifth Third recommends that the Proposed Rule should be adequately tailored consistent with the modifications Congress made in S.2155 to Section 165 of the Dodd-Frank Act regarding

Enhanced Supervision and Prudential Standards for Certain Bank Holding Companies. Addressing this item would be consistent with Congressional intent and would create a regulatory regime that is properly tailored for Category IV banks that are less complex and do not pose a significant financial or stability risk to the U.S. banking sector. The Agencies should carefully evaluate whether the benefits from incremental complexity in calculations and requirements is aligned with the level of risk. If not, resources of bank management teams and the Agencies examination teams may not be aligned with the most significant risks.

With respect to tailoring, Fifth Third proposes the following:

A. Elimination of the requirement to calculate RWA under the expanded risk-based approach during the phase-in period.

   Given the nature of Category IV institutions as discussed above, there is no material difference in the standardized approach and the expanded risk-based approach when calculating the credit-related RWA, which should be the largest component of a Category IV firm's capital requirement. The complexity and burden of calculating both methodologies far outweigh the regulatory benefits of the approach given the nature of Category IV's balance sheets and business models.

B. Appropriate tailoring of market risk capital requirements.

   The revised market risk capital scope, requiring all institutions over $100BN to calculate market risk requirements regardless of the size of their trading assets and liabilities, is inconsistent with the trading activities for Category IV institutions. Category IV institutions should be subject to the "significant trading activity" threshold (trading assets and liabilities of $5BN or more or that exceed 10% of total assets) that applies to out-of-scope institutions. Generally, Category IV institutions do not engage in significant trading activity and do not pose additional systemic risk. Application of this threshold for Category IV institutions would be consistent with the spirit of the tailoring rule.

C. Appropriate phase-in periods for changes that disproportionally impact Category IV banks.

   Certain proposed changes to the capital rule disproportionally impact Category IV banks given their outsized impact on capital positions.

   1) The elimination of the Accumulated Other Comprehensive Income ("AOCI") opt-out is a substantial change that can materially impact the capital position, balance sheet composition, and overall business strategies of Category IV institutions. In addition, this change can create significant capital volatility that may persist until banks can fully remix the composition of their investment portfolios to adjust to the new rules. Given the duration of these portfolios, a 3-year phase-in period may not be enough time to fully transition investment portfolio

positioning in an orderly fashion without impacting capital or liquidity. Fifth Third recommends a 5-year phase-in period, consistent with precedent, to ensure adequate time allowed to adjust investment portfolios, balance sheets, and capital targets without taking actions that permanently impact capital.

Additionally, banks that become subject to the inclusion of AOCI in regulatory capital through this rule should be allowed to eliminate the impact on capital of unrealized losses included in AOCI related to securities classified as held-to-maturity (HTM) on the balance sheet as of the effective date of the final rule. As can be seen by the use of the HTM classification by Category 1 banks, Category IV banks would have purchased a portion of their investment securities with the intent to hold these positions to maturity in order to manage capital volatility if it was known at the time of security purchase that this requirement would apply. This change would allow the impact of the recent market volatility to impact consistently the capital of Category 1 and Category IV banks.

2) The proposed rule is silent regarding a phase-in period related to the changes associated with the capital deductions for Deferred Tax Assets ("DTAs"), Investments in Financial Subsidiaries, and Mortgage Servicing Assets ("MSAs"). The phase-in period for changes for these items should, at a minimum, mirror the aforementioned AOCI inclusion phase-in as the mark-to-market on the investment portfolio and DTAs are related. Similar to the AOCI discussion above, this change could have a material impact on banking institutions who were not subject to the proposed capital restrictions, and adequate time should be allowed to adjust positioning of investment portfolios and MSA portfolios because of a material regulatory change.

II. The Proposed Rule's new enhanced risk-based approach should be modified to minimize potential harm to consumers, small businesses, and economic growth while ensuring risk remains contained in a well-regulated environment.

A. Changes to certain risk-weights will negatively impact consumers, potentially creating disparate treatment for some borrowers.

Changes to mortgage risk-weights under the enhanced risk-based approach will force higher capital requirements on mortgage lending which will increase the cost of borrowing for consumers. This change comes at a time when housing, by some measures, is the less affordable than ever for the average American consumer due to home price appreciation and high interest rates. Higher capital levels on mortgage lending will further exacerbate this housing affordability issue. Specifically, the proposed rule contains punitive treatment for high loan-to-value loans, which are typically used by lower income borrowers. If the rule is finalized as proposed, traditional, regulated banking institutions will be placed at

a competitive pricing disadvantage to less-regulated, non-bank lenders. The result will be more mortgage lending taking place in the non-bank space where regulation is less strenuous, potentially increases risk to the financial system and increases risk to the consumer. Additionally, the aforementioned comments regarding the change in threshold deduction for MSAs should be considered alongside this comment, as both will impact banks' role in supporting the overall mortgage market.

B. Changes to certain risk-weights will negatively impact small businesses and communities.

The recalibration of credit risk-weights in the proposed rule makes significant distinctions between large, publicly traded institutions and small, community businesses. Under the proposed rule lending to small businesses is significantly disadvantaged for banks relative to lending to large, publicly traded companies as it requires fifty-plus percent more capital, irrespective of the financial condition of those small businesses. The proposed rule would incentivize banks to lend to large corporations over meeting the needs of small businesses in the communities the banks serve.

This item further benefits the largest banking institutions as they have a higher concentration of public and investment grade loans and are more active in the securitization markets that support large corporate borrowers through the capital market space. If rules and requirements continue to disadvantage community and regional banks, it reinforces that all banks should seek scale.

The long-term impact will be reduced availability of banking services for small businesses and communities The underserved, economically challenged will face further difficulties as banking institutions are disincentivized to support businesses in these communities.

C. The risk-weight component for operational risk does not meet the tailoring requirements set forth in the modifications Congress made in S.2155 to Section 165 of the Dodd-Frank Act regarding Enhanced Supervision and Prudential Standards for Certain Bank Holding Companies.

The proposed rule contains an additional risk-weight component focused on operational risk that may not be appropriate for most Category IV banks. This aspect of the risk-weight calculation is to ensure risk from complex operational, structural, and trading activities are accounted for. While appropriate for larger, more complex institutions, most Category IV institutions lack the complexity and exposures that the proposed rule is trying to account for. As a result, Category IV institutions may be disproportionally penalized for fee-based businesses that are more traditional banking services (such as Treasury Management / Cash Management services). For Category IV banks, these fee-based businesses are not only important for fulfilling the needs of our customers but is important in revenue diversification that enhances the safety, soundness, and resiliency. As

banks are highly levered to the economy and interest rates, fee-based businesses play a critical role in offsetting risk inherent in the interest rate and macroeconomic environment. These fee-based activities strengthen Pre-Provision Net Revenue ("PPNR"), a critical component of capital resiliency. Misalignment of the operational risk-weight calculation to the fee-based activities performed by Category IV banks is not consistent with the tailoring rule and could incentivize more interest rate risk to be taken by institutions as diversified revenue sources are disproportionally penalized.

Furthermore, operational risk components are included and accounted for the Supervisory Stress Tests, performed annually by the Federal Reserve. As operational risk is already a component in the Federal Reserve's determination of a firm's Stressed Capital Buffer ("SCB"), the proposed rule would essentially double count operational risk, increasing the amount of aggregate capital to be held for this risk. Fifth Third recommends eliminating or tailoring the operational components of the enhanced risk-based approach to be consistent with the business activities conducted by Category IV banks. We are certain that the Agencies are supportive of continued revenue diversification that reduces system-wide exposure to interest rate risk.

III. Finalization of the rule should be delayed to assess the cumulative impact and interactions of regulatory changes and appropriately align phase-in periods to mitigate unintended consequences.

We recommend more time to be taken to fully assess the interplay of this rule with other current, proposed, and potential regulations.

For example, it is discussed in this letter the impact of RWA inflation for Category IV institutions that may be inappropriate under the provisions of the tailoring rule. If this rule is finalized as proposed, not only would banks be subject to higher capital levels, but the RWA would drive higher long-term debt requirements under the proposed long-term debt rule. Additionally, if any other new proposals are being drafted, such as changes to liquidity risk management regulations, their impacts should also be considered.

Changes to multiple aspects of these significant regulatory frameworks will have a compounding impact on the cost of lending to customers and small businesses that will either drive more lending to the less regulated non-bank space or negatively impact economic growth.

The Agencies have recognized publicly that the Proposed Rule does not include a quantitative impact study analyzing the economic impact the Proposed Rule would have on consumers, small businesses, financial institutions, and the economy as a whole. Further, the Agencies have followed-up the Proposed Rule with an announcement that the Agencies plan to conduct a data collection to address the impact of the Proposed Rule. Fifth Third welcomes this recognition from the Agencies regarding the need to understand the quantitative impact of the Proposed

rule, but requests that any such quantitative impact study consider the combined impact of these changes to the regulatory framework on consumers, small businesses, and the U.S. economy as a whole.

IV. The Proposed Rule should be thoroughly evaluated to ensure that it does not reinforce inaccurate market narratives and is consistent with supporting the desired long-term market structure.

The U.S. banking system is one of the deepest and most diverse banking systems in the world. It is also highly competitive, which supports innovation and helps strengthen the economy. Banks of all sizes drive economic growth through different areas of focus, whether customer segments, geographies, or expertise. The ability of the banking system to maintain this diversification supports all communities, whether small towns, mid-sized cities, or major metropolitan markets, and must be protected.

As we learned once again in March 2023, the stability of the banking system is dependent on confidence, which can be quickly eroded by market narratives. The Agencies should consider how this proposal and other potential proposals impact narratives and market structure. Some items to consider include:

A. Comparability of capital ratios.

One stated objective of the Proposed Rule is improving the comparability of capital ratios across institutions. As the regulatory capital framework has evolved over time, how risk is incorporated into the capital ratios occurs through multiple approaches. The three primary approaches include 1) differentiated risk-weighted asset calculations, 2) "dollar-for-dollar" deductions from capital, and 3) the application of capital buffers/surcharges. As a result, it is more difficult for market participants to assess the comparability of capital ratios across institutions.

Market participants commonly assess capital strength of banking institutions based on relative levels of regulatory capital. However, under the current framework, a higher level of relative capital may not mean more resiliency, but in fact more risk due to a capital buffer requirement that is not readily transparent in the capital ratios reported in quarterly regulatory filings.

As large, Category 1 banking organizations tend to have a higher concentration of business activities in riskier areas (such as trading activities, significant counterparty exposures, cross-border exposures, and unsecured consumer lending), they are required to carry more capital through the application of buffers and surcharges. As discussed previously, the common market interpretation of these higher capital levels is more resiliency, not that more risk is naturally resident in these business models. This results in the largest financial institutions being perceived as relatively more safe and sound than smaller banking institutions, placing the majority of banks in a relative disadvantage especially during times of stress.

We recommend that the Agencies consider a consistent framework for the incorporation of risk into the capital ratios (such as always through the denominator of capital ratios) and that all capital requirements are transparent and incorporated into quarterly regulatory filings. This approach will improve the comparability of capital ratios across institutions.

B. Cost of compliance.

Scale advantages of large institutions are a consistent and pervasive narrative for the industry and can be evidenced through efficiencies seen in areas such as marketing and technology. Scale advantages are also found in the cost of compliance with regulations, including operational expenses and overall capital requirements, and result in concentrations of complex activities.

One example of a scale advantage in the Proposed Rule is the Credit Valuation Adjustment ("CVA") requirement. While Fifth Third appreciates the Agencies acknowledge that a less operationally burdensome approach is warranted for less complex institutions, the approach will likely result in a higher capital requirement for the same activity for the less complex institution.

As evidenced by the bank failures in March 2023, significant concentrations and complexity of business models create risks that are more difficult to identify and manage. The regulatory framework should be structured to disincentivize complexity and concentrations, whether balance sheet or business model related.

We recommend that the Agencies evaluate the Proposed Rule to ensure it does not incentivize further scale advantages and risk concentrations.

C. Role of the regulated banking system in the economy.

Category IV institutions are principally regional banks whose primary geographies are small- and mid-sized cities, providing traditional banking services to local businesses and consumers. Whereas Category 1 institutions dominate the top 25 largest metro markets and banking services focused on capital markets activities.

The banking industry is experiencing a long running trend where traditional services such as lending, deposit servicing, and loan servicing are increasingly occurring outside of the regulated system. Non-bank participants, such as Private Credit, continue to take increasing shares of traditional banking services. In many cases, regulatory requirements make it more economical for the Category 1 institutions to lend to non-regulated entities, who then lend to or service the end consumers and local businesses, than for Category IV firms to lend to or service their communities directly.

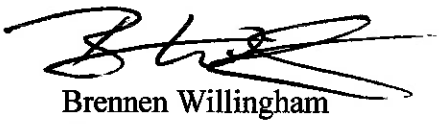
We recommend that the Agencies evaluate the Proposed Rule to ensure it does not create economic incentives for traditional banking services to be performed outside of the regulated banking system.

V. The Agencies should delay finalization and implementation until a quantitative impact study is conducted to review the impact the Proposed Rule would have on consumers, small businesses, financial institutions, and the macro-economy.

While Fifth Third fully supports prudential regulation and constructive changes to regulation that further strengthen the financial system, we are not supportive of swift actions that lack appropriate consideration of the adverse impacts on the broader economy and the communities and customers we serve. We specifically encourage thorough assessment of the impact to economically challenged and underserved communities and minority groups.

Fifth Third welcomes an open dialogue to discuss the Proposed Rule and the impact it will have on consumers, small businesses, and the U.S. economy as a whole. Fifth Third appreciates the opportunity to provide these comments and discuss the modifications proposed in our submission. Please feel free to contact us should you have any questions.

Sincerely,



Brennen Willingham
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