

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.<sup>1</sup> These concerns highlight

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<sup>1</sup> 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.<sup>2</sup>
- 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 Committee<sup>3</sup> and House Financial Services Committee.<sup>4</sup>

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

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<sup>2</sup> 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>.

<sup>3</sup> 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>.

<sup>4</sup> 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.<sup>5</sup> 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

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