PENSIOEN FEDERATIE

Federation of the Dutch
Pension Funds
Prinses Margrietplantsoen 90
2595 BR The Hague
PO Box 93158
2509 AD The Hague
The Netherlands
T +31 (0)70 76 20 220
info@pensioenfederatie.nl
www.pensioenfederatie.nl

KvK Haaglanden 52988368
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REFERENCE: B/2024/1504/MV
DATE: 16 January 2024
SUBJECT: Regulatory Capital Rule

Dear Vice Chair Barr, Acting Comptroller Hsu, and Chairman Gruenberg,

The Dutch Federation of Pension Funds welcomes the opportunity to comment on the Proposals referenced above. We represent around 150 pension funds in the Netherlands with a total capital of around 1500 billion euros (1645 billion dollars). As our pension fund members are global investors, a substantial part of their investment portfolio is invested in US capital markets, besides Europe and Asia. In 2023 our members managed 308 billion euros equity investments and 100 billion in debt instruments in North-America. As part of efficient portfolio management and for risk mitigation, pension funds use interest rate and currency derivatives.

The Dutch Federation of Pension Funds would like to express their concerns, from a pension fund perspective, on several aspects of the Proposals. **Our main concerns are related to updated calibrations of market risk, the credit valuation adjustment (CVA) and counterparty credit risk (CCR)**. These metrics, in conjunction with the existing stress testing regime of the Federal Reserve, would, to our understanding, result in significantly increased capital requirements for US banking organizations and their subsidiaries abroad. This, to our view, is not proportionate when it comes to transactions with highly creditworthy and transparent (large) pension funds.

Given the dominant role of US G-Sibs in the central clearing market, acting as clearing intermediaries for pension funds, any disproportionate capital requirement might lead to increased systemic risk when US G-Sibs are disincentivized to offer these services. **This result in lower clearing capacity and a concentration of risk in a reduced number of (smaller) clearing member banks.**

Impact of the Proposals on clearing of derivatives

US banking organizations with significant trading activities are subject to supervisory stress tests, which include global market shock and large counterparty default components, that are factored into the Stress Capital Buffer (SCB). With the Proposals, overall risk-based capital requirements for trading activities will be covered by a combination of (i) the SCB requirements, (ii) the calculation of CVA risk, counterparty credit risk, market risk and operational risk RWAs taking the Expanded Risk-Based Approach (ERBA) and (iii) for US G-Sibs, the G-Sib Surcharge. Trading activities are already impacting G-Sib scores under several categories and indicators, where the Proposal would even further raise the impact of trading activities (clearing activities in particular) on the G-Sib scores. Additionally, operational risk charges attributable to clearing would have a further negative impact on client clearing.

Regarding the CVA framework, we feel the risk weights are not appropriately risk sensitive when looking at pension funds. Although not publicly rated, Dutch pension funds are deemed to be extremely low risk. Dutch pension funds are regulated entities and are required to discount liabilities at the risk-free rate. Should the coverage ratio fall below 100%, the shortfall will be borne by the members through benefit reductions. As such, there the of Dutch pension funds defaulting is very remote. Therefore, it would make sense to set risk weightings equal to those for investment grade rated issuers and publicly traded securities.

We foresee the impact of the proposed changes to the Supplementary Leverage Ratio (SLR) and CVA on CET1 requirements to have a potential adverse impact on US G-Sibs. As these are becoming more conservative, US G-Sibs most likely will reduce capacity and willingness to provide clearing and trading services. This goes against the longstanding policy objective to promote central clearing globally. Moreover, as US G-Sibs tend to dominate the global centrally cleared derivatives market, making it less attractive for them to offer clearing and trading services, will lead to concentration of risks with a limited number of smaller (clearing member) banks. Ultimately, systemic risk would in fact be increased.

As was concluded by the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) in their September 2022 report[1], one of the key obstacles to portability in case of a clearing member default is constrained clearing capacity, largely driven by capital implications. This finding was confirmed by ISDA in their report of October 2023 on Addressing Porting Challenges[2]. In this light, increased G-Sib

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[1] Committee on Payments and Market Infrastructures & Board of the International Organization of Securities Commissions. (2022). Client clearing: Access and portability. September.

[2] International Swaps and Derivatives Association. (2023). Addressing Porting Challenges. October.

surcharges are of increased concern while they impact the ability of US G-Sibs to intermediate client clearing.

Conclusion
We much appreciate the opportunity to share our comments on the Proposals. Our comments are targeting several aspects of the Proposals, aimed to express our concerns about potential adverse consequences of the Proposals on the pension funds we represent and the financial industry as a whole. We would like to urge the Agencies to carefully evaluate our comments and take these into account within further considerations regarding changes to the Proposal.

If you wish to receive further information you can reach out to Matthies Verstegen, Head of Brussels Office of the Dutch Federation of Pension Funds (matthies.verstegen@pensioenfederatie.nl, +32476870847).

With kind regards,

Edith Maat
General Director