

BANK OF AMERICA CORPORATION, JEFF BUSCONI

Proposal and Comment Information

Title: Enhanced Transparency and Public Accountability of the Supervisory Stress Test Models and Scenarios; Modifications to the Capital Planning and Stress Capital Buffer Requirement Rule, Enhanced Prudential Standards Rule, and Regulation LL, R-1873

Comment ID: FR-2025-0063-01-C22

Submitter Information

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Organization Type: Company

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Attached please find Bank of America Corporation's response to the Notice of Proposed Rulemaking regarding Enhanced Transparency and Public Accountability of the Supervisory Stress Test Models and Scenarios; Modifications to the Capital Planning and Stress Capital Buffer Requirement Rule, Enhanced Prudential Standards Rule, and Regulation LL (Docket No. R-1873; RIN 7100-AH05)

February 20, 2026

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551
Attention: Ann E. Misback, Secretary

Re: Notice of Proposed Rulemaking regarding Enhanced Transparency and Public Accountability of the Supervisory Stress Test Models and Scenarios; Modifications to the Capital Planning and Stress Capital Buffer Requirement Rule, Enhanced Prudential Standards Rule, and Regulation LL (Docket No. R-1873; RIN 7100-AH05)

Ladies and Gentlemen:

Bank of America Corporation (“Bank of America”, “we” or “our”) appreciates the opportunity to submit this letter in response to the Board of Governors of the Federal Reserve System’s (the “Board”) Notice of Proposed Rulemaking regarding Enhanced Transparency and Public Accountability of the Supervisory Stress Test Models and Scenarios; Modifications to the Capital Planning and Stress Capital Buffer Requirement Rule, Enhanced Prudential Standards Rule, and Regulation LL¹ (the “Proposal”) as well as the related stress test data and model documentation published on the Federal Reserve’s website.²

We welcome the Board’s efforts to improve the transparency and public accountability of the supervisory stress test to ensure it remains an effective tool for understanding and assessing risk in the banking system. The Bank Policy Institute, the American Bankers Association, the Financial Services Forum, the Securities Industry and Financial Markets Association, the International Swaps and Derivatives Association, Inc. and the U.S. Chamber of Commerce (the “Associations”) have provided several important comments in a letter on behalf of the banking industry (the “Industry Letter”). Bank of America fully supports the recommendations included in the Industry Letter, in particular, the recommendations to retain December 31st as the scenario jump-off date, to specify a five month window for selection of the global market shock (“GMS”) as-of date, to propose all model changes for comment, to increase model risk sensitivity by reducing over-aggregation and under-segmentation, to consider the relationship between the supervisory stress test and finalization of Basel III and to codify substantive reforms in the Proposal in regulatory text, and we propose one additional refinement to the Board’s operational risk modeling approach. Legacy losses and losses stemming from exited businesses should be excluded from the operational loss distribution to ensure projections reflect current risk profiles and incentivize prudent risk management. This is especially relevant for losses tied to acquired entities’ pre-acquisition conduct when the related business has been discontinued.

¹ Board of Governors of the Federal Reserve System, *Notice of Proposed Rulemaking regarding Enhanced Transparency and Public Accountability of the Supervisory Stress Test Models and Scenarios; Modifications to the Capital Planning and Stress Capital Buffer Requirement Rule, Enhanced Prudential Standards Rule, and Regulation LL*, 90 Fed. Reg. 51,856 (Nov. 18, 2025).

² See Board of Governors of the Federal Reserve System, *Dodd-Frank Act Stress Tests 2026* (Jan. 21, 2026) (available at <https://www.federalreserve.gov/supervisionreg/dfa-stress-tests-2026.htm>).

I. Legacy losses and losses from exited businesses should be excluded from the distributional model

A. Exclude legacy and exited business losses from the firm-specific tail frequency parameter

Operational losses that have no possibility of recurring at a firm should be excluded from equation A1 – the firm-specific tail frequency parameter equation. A firm is not susceptible to certain historical operational losses when those losses (i) arose from a business the firm has since exited, (ii) resulted from conduct now prohibited by regulation, or (iii) stemmed from an acquired entity’s pre-acquisition operations. Equation A1 includes all historical losses attributable to a firm without regard to whether the underlying businesses, exposures, activities, and therefore, operational risk, continue to exist at the firm.³ This failure to acknowledge progress in identifying and mitigating operational risk by individual firms, supervisors and the industry has negative policy implications and disincentivizes sound and proactive risk management by covered firms.

The Board’s selection of the reported accounting date to timestamp loss events magnifies the distortion created when operational losses that are a practical and legal impossibility are included in the derivation of firm-specific parameters. The model assumes that the “full financial impact of a loss event is realized within the first quarter in which a loss impact was reported”⁴ and uses the accounting date for timing of the loss recognition.⁵ While a rational and conservative assumption, it penalizes healthy firms for the pre-acquisition conduct of acquired firms. Conduct that occurred at an acquired firm prior to the acquisition is often not discovered, litigated and settled until well after the acquisition has closed. Thus, although the conduct giving rise to the operational loss occurred long before the transaction, the acquiror is held liable for the acquired firm’s conduct. This treatment of operational loss risks deterring healthy, well-managed institutions from stepping in and serving as a source of strength in the banking system by acquiring weaker, troubled competitors – particularly during times of market disruption and distress.

The Board can refine its model to better reflect current and evolving firm risk profiles and remove disincentives by excluding operational losses from the distributional model when the underlying business line, product or activity has been:

- i. Substantially exited or discontinued,
- ii. Fundamentally transformed through law or regulation, or
- iii. Acquired from a third party where the loss-generating conduct occurred prior to the acquisition.

To maintain the rigor and forward-looking nature of the stress tests, we recommend the Board permit firms to request exclusion of certain historical operational loss events from the supervisory stress test. This process can be modeled similarly to the stress capital buffer (“SCB”) reconsideration process.⁶ If a firm believes its operational loss results are influenced by historical operational losses that have no possibility of recurring due to one of the three reasons listed above, a firm should be permitted to apply to the Board for exclusion of these

³ Board of Governors of the Federal Reserve System, *Supervisory Stress Test Model Documentation: Operational Risk Model*, 13 (Oct. 2025) available at <https://www.federalreserve.gov/supervisionreg/files/operational-risk-model.pdf>.

⁴ *Id.* at 10.

⁵ *Id.* at 33.

⁶ See 12 C.F.R. § 225.8(h)(2)(i) and (i)(2) (considering the recommendations related to the SCB timeline, process and basis for reconsideration discussed in the Industry Letter).

events from the firm-specific tail frequency parameter.⁷ In such an application, the firm would be required to articulate its rationale and provide supporting evidence substantiating the basis for each requested exclusion. Consistent with the SCB reconsideration framework, we recommend that these requests be evaluated by an independent panel of subject-matter experts within the Federal Reserve System who are not involved in the development or execution of the supervisory stress test models, nor in the determination of firms' preliminary SCB requirements.⁸ Alternatively, this information could be collected on an industry-wide basis through the FR Y 14Q process, with additional fields added as necessary, or through a one-time targeted data collection. Removing these types of events from the model will result in a forward-oriented loss model properly calibrated to assess emerging operational risks and promote and reward sound risk management practices.

B. Exclude historical losses subsequently addressed by law or regulation from the industry-specific tail frequency parameter

Like the rationale presented in Section I.A., there are certain historical operational losses that have no likelihood of recurring in the industry. Regulation enacted following the 2008 financial crisis prohibited much of the conduct that gave rise to the operational losses experienced as a result of that period. Consequently, if the conduct that gave rise to the operational loss is now illegal or prohibited under post-2008 financial crisis law or regulation or the related products and services are no longer offered by any covered institution, the operational loss event should be excluded from the industry-specific tail frequency parameter.

Bank of America appreciates the opportunity to comment on this proposal and looks forward to continued constructive engagement with the Board on the Federal Reserve's stress testing framework. If you have any questions, please contact John Zeszutek by email at john.p.zeszutek@bofa.com. We would welcome the opportunity to discuss these recommendations with Board staff. Thank you for your consideration of our comments.

Respectfully submitted,

/s/ Jeff Busconi

Jeff Busconi
Head of Corporate Strategy & Operational Excellence

⁷ See 12 C.F.R. § 225.8(h)(1) and (i) (describing the ability to request reconsideration and the attendant process).

⁸ See Board of Governors of the Federal Reserve System, "Response to request for reconsideration of Morgan Stanley's preliminary stress capital buffer requirement, pursuant to the Board's capital plan rules," letter to Edward Pick (Morgan Stanley), September 30, 2025, available at <https://www.federalreserve.gov/supervisionreg/files/reconsideration-process-response-letter-20250930.pdf>.