INDEPENDENT COMMUNITY BANKERS OF AMERICA, AMY LEDIG, ET. AL.

Proposal and Comment Information

Title: Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations, R-1887

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A comment letter from the Independent Community Bankers of America in response to the NPR titled "Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations" (Docket No. 1887, RIN 7100-AH20) is attached.

ICBA
One Mission. Community Banks.®

June 18, 2026

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RE: Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets *(OCC Docket ID OCC-2026-0034, RIN 1557-AF49; FRB Docket No. R-1888, RIN 7100-AH21; FDIC RIN 3064-AG23)* and Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations *(OCC Docket ID OCC-2026-0265, RIN 1557-AF52; FRB Docket No. 1887, RIN 7100-AH20; FDIC RIN 3064-AF29)*

To Whom It May Concern,

The Independent Community Bankers of America ("ICBA")[1] appreciates the opportunity to respond to the recent proposals of the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System ("Board"), and the Federal Deposit Insurance Corporation's ("FDIC") (collectively, "the Agencies") regarding:

[1] The Independent Community Bankers of America® has one mission: to create and promote an environment where community banks flourish. We power the potential of the nation's community banks through effective advocacy, education, and innovation. As local and trusted sources of credit, America's community banks leverage their relationship-based business model and innovative offerings to channel deposits into the neighborhoods they serve, creating jobs, fostering economic prosperity, and fueling their customers' financial goals and dreams. For more information, visit ICBA's website at icba.org.

- modifications to the Standardized Approach in the regulatory capital rule[2] ("Standardized Approach Proposal"), and
- modifications to the regulatory capital rule for Category I and II banking organizations and those with significant trading activity ("ERBA Proposal").[3]

The ICBA appreciates the Agencies' efforts to improve the prudential framework supporting the U.S. banking system. These proposed changes demonstrate the Agencies' commitment to crafting transparent, appropriately tailored rules proportionate to the size, complexity, and risk profiles of institutions. However, while community banks stand to see improvements in calibration of capital requirements, additional reforms are needed to ensure parity across all supervised institutions and to empower community banks to effectively deploy capital to drive economic development and job creation in local economies across the country.

Community banks are vital partners to U.S. small businesses, farmers, and rural communities, accounting for 81 percent of farm real estate debt held by commercial banks and 74 percent of operating debt,[4] and representing over 71 percent of all bank branches in rural areas.[5] Consistent with their relationship-based, locally-focused model, community banks generally use additional balance sheet capacity to increase the availability of credit in local economies. By contrast, the largest banks may be more likely to redirect funds from reductions in regulatory capital requirements support activities that do not expand credit availability in local communities to the same degree.[6] Adjustments to the capital rules must therefore account for the very different risks and public policy considerations presented by community banks, which pose little systemic risk, and by the largest institutions, which can threaten the broader financial system.

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[2] Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets, 91 Fed. Reg. 15332 (Mar. 27, 2026) (to be codified at 12 C.F.R. pts. 3, 217, 238, 252, 324).

[3] Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations, 91 Fed. Reg. 14952 (Mar. 27, 2026) (to be codified at 12 C.F.R. pts. 3, 6, 32, 208, 217, 225, 238, 252, 324).

[4] Matt Hanauer, Brent Lytle, Chris Summers, and Stephanie Ziadeh, *Community Banks' Ongoing Role in the U.S. Economy*, Federal Reserve Bank of Kansas City Econ. Rev., Vol. 106, No. 2 (2021), https://www.kansascityfed.org/Economic%20Review/documents/8159/EconomicReviewV106N2HanauerLytleSummersZiadeh.pdf.

[5] FDIC, *2020 Community Banking Study* (Dec. 2020), https://www.fdic.gov/resources/communitybanking/report/2020/2020-cbi-study-full.pdf.

[6] *See, e.g.*, Telis Demos, *Wall Street Is Spending Its Big Windfall on Wall Street*, Wall Street Journal (April 16, 2026), https://www.wsj.com/finance/banking/wall-street-is-spending-its-big-windfall-on-wall-street-55de0545 ("Washington has been trying to free up more of the resources of big banks. Banks have wasted no time putting them to work, but on Wall Street rather than Main Street. Big banks' lending to consumers and midsize companies is moving modestly ahead. But demand for financing has boomed in their Wall Street trading businesses, which serve such clients as private-credit funds, hedge funds and institutional investors."); Joshua Franklin & Akila Quinio, *Largest US Banks Spend Record $33bn on Share Buybacks*, Financial Times (April 15, 2026), https://www.ft.com/content/67d444ab-bfcf-49a1-ae46-ff6e78bc8c64?syn-25a6b1a6=1; Catherine Leffert, *Banks Buy Back More Stock as Fed Weighs Capital Proposal,* American Banker (Nov. 5, 2025), https://www.americanbanker.com/news/banks-buy-back-more-stock-as-fed-weighs-capital-proposal.

Our comments fall into three categories: (1) improvements the Agencies should make to the Standardized Approach Proposal, (2) concerns with disparities between the ERBA Proposal and the Standardized Proposal as well as legal and policy flaws in the ERBA Proposal, and (3) related reforms needed to enable community banks to deploy capital effectively. The ICBA recommends the Agencies implement the following changes to the proposals:

1. **Strengthen the mortgage-related reforms in the Standardized Approach for community banks**. Eliminate the mortgage servicing asset ("MSA") cap, further reduce the MSA risk weight for banks under $100 billion, make the LTV framework optional for community banks with a reasonable transition period, recognize Private Mortgage Insurance ("PMI") in LTV calculations with an appropriate haircut, and revise the punitive treatment of mortgages sold through the Mortgage Partnership Finance program offered through the Federal Home Loan Banks ("FHLBs").
2. **Provide proportionate capital relief for core community bank activities.** Extend more meaningful risk-weight relief to prudently underwritten small business, agricultural, relationship-based CRE, and other core community bank exposures, and recognize common credit risk mitigants through simple standardized methods without having to fully opt-in to the ERBA Proposal's framework;
3. **Regulatory reforms must not deepen competitive disparities or increase systemic risk.** The Agencies should not finalize the ERBA Proposal without a clear, data-driven justification and a comprehensive analysis of how the full set of large bank policy changes interact, including recent rules impacting the enhanced supplementary leverage ratio and revisions to the stress capital buffer and the stress testing framework. Any final rule must avoid further tilting the playing field toward Too-Big-To-Fail institutions or weakening resilience at the largest firms.
4. **Demonstrate and preserve compliance with the Collins Amendment**.[7] The Agencies must clearly explain how any final ERBA framework would maintain an enforceable capital floor and provide the public a meaningful opportunity to comment on that rationale.
5. **Continue tailoring reforms that preserve long-term proportionality and operational feasibility.** The agencies should index regulatory thresholds to inflation, extend simplification principles to the Standardized Approach, and provide community banks with an optional, longer implementation timeline.
6. **Pursue related supervisory and regulatory reforms needed to allow community banks to deploy capital effectively.** These include relief from unnecessary mortgage compliance burdens, tailoring Current Expected Credit Losses ("CECL") requirements, modernizing CRE concentration guidance, and addressing inequities affecting Subchapter S community banks.

The Standardized Approach Proposal primarily targets risk weight calibration for mortgages and corporate exposures, so our comments begin by addressing those factors as well as additional reforms needed to support community banks' ability to fully and prudently deploy capital to America's small businesses, farmers, ranchers, and families.

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[7] *See* Sec. 171 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (PL111-203 July 21, 2010).

I. The Agencies Must Build on the Standardized Approach Proposal to Support Community Banks' Role in Mortgage Lending

ICBA supports the proposed mortgage-related revisions as an important step toward a more appropriately tailored capital framework for community banks. But additional revisions are needed to reduce excessive capital burden, preserve operational flexibility, and better support the relationship-based mortgage lending model through which community banks serve local borrowers and communities.

A. MSA Capital Treatment: Risk Weights, CET1 Limits, and Impact on Mortgage Origination for Community Banks

ICBA supports the proposed elimination of the "25 percent cap" on MSAs and recommends that the proposed 250 percent risk weight related to MSAs be lowered to 100 percent, for institutions under $100 billion in assets. Both the proposed removal of the 25 percent cap and reduction in risk weight for MSAs would likely enable more community banks to retain the servicing rights on mortgage loans they originate. The Agencies correctly recognize that the current treatment of MSAs creates a significant disincentive for community banks to retain these assets, contributing to their migration to non-bank mortgage servicers over the past 15 years. Servicing a borrower's mortgage is a key component of the community bank relationship-lending model. Since the current capital treatment is highly punitive, especially for community banks with limited access to new capital, most community banks either limit the amount of MSAs they retain or sell the MSAs on the loans they originate, making it more difficult to maintain the customer relationship. To address this challenge, many community banks have scaled back their mortgage offerings, choosing to originate loans primarily for their own portfolios or exiting the mortgage business altogether.

ICBA recommends that the Agencies reduce the currently proposed 250 percent risk weight to 100 percent for MSAs. Community banks typically do not apply different credit policies to loans sold in the secondary market versus those retained in portfolio. Moreover, they generally do not aggressively solicit their servicing portfolios for refinances, as reflected in the slower prepayment speeds observed in community bank servicing. In effect, MSAs from loans originated by a community bank perform similarly to portfolio loans in terms of both credit performance and prepayment behavior. Accordingly, ICBA believes the 250 percent risk weight is excessive and should be reduced to no more than 100 percent.

Additionally, it is important to restate that banking organizations with assets over $100 billion generally have greater access to capital markets and other funding sources. Therefore, the proposed removal of the 25 percent cap and any further reduction in the 250 percent risk weight should vary by the size of the banking organization, with a particular focus on tailoring for institutions with assets below $100 billion.

B. LTV-Based Mortgage Risk Weight: Advantages, Challenges, and Recommendations

In general, ICBA supports the proposal to adjust the risk weights for mortgage loans retained in portfolios to better reflect their risk by replacing the current static 50 percent risk weight with tiered weights based on the mortgage loans' loan-to-value ratio ("LTV") and owner occupancy. Such a change would reduce the capital charge for portfolio mortgage loans and may encourage community banks to increase originations. Community bank mortgage originations tend to be high quality and exhibit lower delinquency rates than those from non-bank lenders. Because community banks follow a relationship-lending model and typically service their mortgage loans, borrowers benefit from access to local bank staff, and the mortgage is part of a broader financial relationship. Additionally, community bank mortgage loans are prudently underwritten, which helps reduce defaults and losses. Accordingly, scaling risk weights for mortgage loans retained in portfolio would benefit many community banks. Further, distinguishing mortgages based on cash flows from the underlying real estate should also result in lower capital charges for these assets.

While the Agencies' proposed approach will be welcomed by many community banks, some smaller institutions without robust mortgage lending operations may find the added administrative and reporting requirements burdensome. Certain core systems may not capture the data needed to report LTV, calculate amortized LTV over time, or distinguish between owner-occupied and non-owner-occupied loans. These institutions are also unlikely to generate sufficient mortgage volume to make the required technology upgrades cost-effective. As a result, ICBA recommends that institutions be given the option to "opt in" to the proposed LTV-based framework; those that do not opt in would continue to apply the current 50 percent or 100 percent risk weights. Allowing institutions to opt in to the LTV framework would provide flexibility and benefit a broader range of banks. For the institutions that choose to opt in to the LTV framework, the Agencies should provide a reasonable implementation timeline that allows institutions to coordinate with their loan origination system and core service providers to obtain and implement the necessary system upgrades to comply with the proposed rule.

C. PMI and the Proposed LTV Framework

Community banks have used PMI on loans sold to the Government-Sponsored Enterprises ("GSEs") for decades. PMI provides effective credit protection on higher LTV mortgages, reducing loss severity on loans where borrower equity is limited. Additionally, many mortgages with PMI help first-time homebuyers achieve homeownership without the need for large down payments. ICBA supports the NPRs' retention of PMI as a component of prudent underwriting standards, consistent with the Interagency Guidelines for Real Estate Lending Policies.[8]

While community banks are accustomed to using PMI for loans sold into the secondary market, they generally do not use PMI on loans retained in portfolio. Instead, they typically limit portfolio loans to maximum LTVs of 80 percent or less. Some banks may self-insure loans with LTVs in

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[8] 12 CFR Part 34, Appx. A to Subpart D (OCC); 12 CFR Part 208, Appx. C (FRB); 12 CFR Part 365, Appx. A to Subpart A (FDIC).

the 85–90 percent range, but they generally do not assume the risk of mortgages with LTVs at or above 95 percent.

The proposal appropriately notes the challenges faced by the PMI industry during the 2008 Financial Crisis, particularly its ability to pay claims. Although all PMI companies experienced losses and some failed, the industry has since recapitalized and restructured its operations. Even during the 2008 Financial Crisis, PMI claim realization was approximately 97 percent, demonstrating the effectiveness of the coverage. While PMI companies are not subject to a single federal regulator, they operate under state reserving requirements and are subject to strong capital and operational standards, including oversight by the Federal Housing Finance Agency ("FHFA") for insurers supporting GSE loans. In addition, PMI providers now utilize credit risk transfer ("CRT") structures to diversify their capital base, further strengthening the industry. As a result, the sector is significantly more resilient and better managed than it was prior to the 2008 Financial Crisis.

ICBA believes that PMI provides sound credit protection for mortgage loans originated for sale in the secondary market as well as those retained in a bank's portfolio. From a policy perspective, it is reasonable to recognize that PMI meaningfully reduces loss severity on higher LTV loans—often to levels comparable to those observed on lower LTV exposures. Accordingly, ICBA supports and encourages the Agencies to adjust risk weights for mortgages with PMI for institutions that opt in to the LTV framework. This should include recognizing PMI in the calculation of LTV for risk-weighting purposes, subject to a reasonable haircut. ICBA recommends that any such haircut not exceed the 14.2 percent applied under the FHFA's Enterprise Regulatory Capital Framework ("ERCF") for loans covered by approved insurers with high mortgage concentration risk and a counterparty rating of "4."

D. Additional Recommendations to Support Community Bank Mortgage Lending

ICBA appreciates the Agencies' efforts to revise the mortgage provisions of the capital rules. While the current rule is well intended, its application to community banks—and the mortgage provisions more broadly—has led many community banks to reduce their participation in the mortgage market, with mortgage servicing increasingly concentrated in the nonbank sector. The proposed changes referred to above and ICBA's recommended changes should help make mortgage lending and servicing a more attractive business line for community banks, which in turn should encourage greater participation. In this light, we offer additional suggestions for the Agencies to consider.

1. Reduce the Risk Weight for MPF Loans

Currently, mortgages sold through the Mortgage Partnership Finance ("MPF") program offered through the FHLBs system are subject to a 1,250 percent risk weight. This capital charge is similar to that applied to credit enhancement obligations on securitization exposures. This treatment is clearly disproportionate, given that these loans are retained by the community bank, which also assumes the credit risk. As such, these loans should carry the same risk weight as other mortgage loans held in portfolio.

Many smaller community banks utilize the MPF program because it allows them to manage the interest rate risk on 30-year fixed-rate mortgages while retaining both the servicing and credit risk. The current 1,250 percent risk weight can be particularly problematic for community banks that are larger originators, effectively capping their use of the program. We strongly recommend that the Agencies adjust this risk weight to no more than 100 percent, so it does not discourage community banks from using the MPF program.

2. Pair Capital Reform with Broader Regulatory Relief to Reduce Mortgage Compliance Burdens

While the recommended changes above will go a long way toward making mortgage lending more attractive to community banks, constraints in the current capital rules are only one aspect of the broader regulatory regime that has driven many community banks away from the mortgage business. The compliance burden associated with CFPB mortgage rules—such as TILA-RESPA Integrated Disclosure ("TRID"), Ability-to-Repay/Qualified Mortgage, mortgage servicing rules, and reporting requirements related to the Home Mortgage Disclosure Act ("HMDA")—has significantly limited community banks' participation in the mortgage market. We encourage the Agencies to work collaboratively with the CFPB to reduce this burden, as outlined in the President's recent Executive Order on Promoting Access to Mortgage Credit.

II. <u>The Agencies Should Strengthen the Proposals to Ensure Equitable and Workable Capital Reform for Community Banks</u>

ICBA supports the Agencies' efforts to develop a more transparent and appropriately tailored capital framework. However, additional revisions are needed to ensure that the resulting reforms are equitable and workable for community banks, including by addressing disparities between the proposals, preserving operational flexibility for smaller institutions, and ensuring that community banks can benefit from proportionate relief that reflects their business models and risk profiles.

A. The Agencies Must Redress Disparities Across the Proposals

The Standardized Approach Proposal provides a meaningful reduction in community bank capital requirements, but is targeted relatively narrowly and primarily adjusts the risk weights for mortgage-related exposures and for corporate exposures. This stands in contrast to the ERBA Proposal's more extensive overhaul of the capital rule for large banks. The Agencies themselves note a difference in risk weight calibration. In the preamble to the ERBA Proposal, the Agencies remark that, "[o]n an exposure-by-exposure basis, the proposed revised capital requirements would sometimes be lower than those in the standardized approach, even inclusive of associated operational risk requirements."[9]

One example is the modest reduction in the risk weight for community banks' corporate exposures, which would be adjusted from a 100 percent risk weight to a 95 percent risk weight. In contrast, banks subject to the Basel III proposal would see a 65 percent risk weight for "investment grade" corporate exposures based on the bank's qualifying internal credit risk rating system, while other corporate exposures would remain at 100 percent. As a result, large banks

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[9] ERBA Proposal at 15146.

can materially reduce capital required for high-quality corporate lending, while community banks must hold more capital for comparable exposures.

Similarly, the ERBA Proposal enhances recognition of credit risk mitigants and hedging instruments, while the Standardized Approach Proposal provides more limited recognition of these risk mitigants and does not capture the lower loss experience associated with the community bank relationship lending business model.

The Agencies state that concerns over competitive inequities could be resolved through "the proposed option for any banking organization to adopt the expanded risk-based approach… and the differing nature of large and small banking organization business models."[10] However, as the Agencies concede, the ERBA Proposal imposes additional complexity and operational challenges that make it a poor fit for smaller and less complex banking organizations. Nevertheless, community banks and the millions of Americans they serve should see reforms commensurate with those being proposed for large banks.

Recommendations

To avoid further entrenching Too-Big-To-Fail advantages, the Agencies should not finalize the ERBA Proposal without adopting concrete safeguards against the risks posed by the largest banks and making additional improvements to the Standardized Approach Proposal. If the Agencies are willing to provide Category I and II firms with a more risk-sensitive framework for a broader range of exposures, they should also improve the revised Standardized Approach in ways that benefit community banks and their customers.

Where the ERBA Proposal would produce lower capital requirements than the revised Standardized Approach for comparable exposures, the Agencies should identify those exposure classes, quantify the difference, and provide a clear, data-driven explanation for why the lower ERBA risk weight is justified by actual risk and consistent with safety and soundness. Absent that showing, the Agencies should recalibrate ERBA to eliminate unwarranted reductions.

The Agencies should address the uneven nature of the proposed relief to better reflect the critical role that community banks play in making credit available to the small businesses and agricultural sector that create jobs and make America's economy strong from coast to coast. This requires further recalibrating the Standardized Approach Proposal to ensure proportional relief. To narrow the disparity in capital treatment across the industry, the Agencies should provide additional risk-weight relief for core community bank assets , including prudently underwritten small business, agricultural, and relationship-based CRE exposures.

The Agencies should also extend to community banks, through the Standardized Approach, proportionate recognition of credit risk mitigants and other lower-risk features without requiring smaller institutions to adopt the full operational complexity of the ERBA framework. Examples of credit risk mitigants that the Agencies should give greater recognition in the Standardized Approach Proposal include guarantees including government and high-quality counterparty

[10] ERBA Proposal at 15146.

guarantees, easily valued collateral, and simple credit enhancements. This should be implemented using standardized haircuts or tables, clear eligibility criteria, and without a modeling requirement. Adjusting the Standardized Approach Proposal to fully recognize the risk-reducing effects of common credit risk mitigants using simple, standardized methods would ensure that community banks are not penalized relative to large institutions that receive more tailored capital treatment under ERBA.

Where the Agencies believe a more risk-sensitive approach is appropriate for banks subject to the ERBA, they should provide community banks with simplified, optional pathways to benefit from that treatment without imposing systems, modeling, or reporting burdens designed for the largest firms.

The Agencies should recalibrate securitization capital requirements under the Standardized Approach to better reflect the lower risk profile of simple, transparent exposures commonly held by community banks, while preserving strong capital treatment for more complex or opaque structures. The final Standardized Approach rule should lower capital requirements for senior, high-quality securitization tranches; simplify exposure measurement and avoid model-based requirements; and align securitization capital treatment with the Agencies' goal of reducing disincentives for mortgage lending. These targeted adjustments would support community bank participation in mortgage and lending markets without reducing appropriate capital levels for higher-risk exposures.

The Agencies acknowledge that banks would face both one-time transition costs as well as ongoing costs to comply with capital rule updates, observing that there may "be material transition costs for smaller covered institutions." The Standardized Approach adds granularity that will require new data systems, enhanced reporting capabilities, and ongoing compliance investment that fall disproportionately on small institutions, such as the capabilities "to separately identify and delineate certain residential mortgages by their cash flow dependencies and their LTV ratios." The Agencies should provide community banks with an optional extended transition period to allow time to prepare as well as to absorb the cost of complying with updates to the capital rule.

B. The ERBA Proposal Must Satisfy the Collins Amendment

Section 171 of the Dodd Frank Wall Street Reform and Consumer Protection Act, known as the Collins Amendment, requires the Federal banking agencies to establish minimum risk-based capital requirements for insured depository institutions and depository holding companies, subject to certain criteria:

> The minimum risk-based capital requirements… shall not be less than the generally applicable risk-based capital requirements, which shall serve as a floor for any capital requirements that the agency may require, nor quantitatively lower than the generally applicable risk-based capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

Accordingly, the Collins Amendment established a statutory floor for risk-based capital requirements. Capital requirements for large banking organizations cannot be lower than "generally applicable" risk-based capital requirements (i.e., the standardized approach), and they cannot be lower than they were in July 2010.

The Agencies have historically implemented the Collins Amendment through a “dual stack” framework under which large banking organizations calculate capital requirements under both (i) the standardized approach and (ii) the advanced approach, and are required to comply with the more binding result. This framework ensures that minimum capital requirements do not fall below the Collins Amendment floor.

The ERBA Proposal would represent a structural shift by eliminating this dual stack construct and moving to a “single stack” framework under which banking organizations would no longer be required to calculate standardized approach capital ratios as a binding constraint.

Moving to a single-stack approach to determining capital requirements is a significant policy decision, but it is given short shrift in the ERBA Proposal. The Proposal does not adequately explain how the proposed single stack framework would continue to satisfy the Collins Amendment’s requirement that minimum capital requirements not be quantitatively less than the generally applicable risk-based capital requirements. If the Agencies intend to rely on an alternative mechanism to ensure compliance with Section 171, they should clearly articulate that mechanism and provide a robust legal and quantitative justification.

The Agencies should not finalize the ERBA Proposal’s shift to a single-stack framework unless they clearly explain, and subject to public comment, the legal and quantitative mechanism by which the final rule would ensure that Category I and II capital requirements do not fall below generally applicable standards in violation of Section 171 of the Dodd-Frank Act. If the Agencies cannot make that showing, they should retain a binding floor or other enforceable backstop that preserves the substance of the current dual-stack approach. We respectfully request the Agencies to refrain from engaging in a rulemaking that could allow large banking organizations to violate the law.

C. Community Banks are Concerned that Rewriting Large Bank Safeguards Puts the Financial System at Risk

ICBA is concerned that current and recent proposals from the Agencies impacting all four pillars of the capital framework—risk-based capital requirements, leverage requirements, the stress testing framework, and capital buffers[11]—may reduce the resilience of the largest banking organizations and increase systemic risk. We therefore urge the Agencies to reconsider the ERBA Proposal in the context of these broader policy changes. Although the Agencies have characterized each of these proposals as improvements to calibration and tailoring, their combined effect may weaken the overall capital framework applicable to the largest banking

[11] OCC, FRB & FDIC, Final Rule: Regulatory Capital Rule: Modifications to the Enhanced Supplementary Leverage Ratio Standards for U.S. Global Systemically Important Bank Holding Companies and Their Subsidiary Depository Institutions; Total Loss-Absorbing Capacity and Long-Term Debt Requirements for U.S. Global Systemically Important Bank Holding Companies, 90 Fed. Reg. 55248 (Dec. 10, 2025); FRB, Proposed Rule: 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. 51856 (Nov. 18, 2025); FRB, Proposed Rule: Regulatory Capital Rule (Regulation Q): Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15), 91 Fed. Reg. 14908 (March 27, 2026).

organizations, raising substantial safety and soundness concerns for community banks and the financial system as a whole.

1. *The ERBA Proposal, if Finalized, Increases the Systemic Risk Posed by Too-Big-To-Fail Firms*

The ICBA's long-standing concern about the resilience of large banking firms stems from the ability these Too-Big-To-Fail banks have to negatively impact the domestic and global capital markets, U.S. consumers, small businesses, community banks, and the resiliency of the overall economy. In June 2008, a little over eighteen years ago and four months before the Emergency Economic Stabilization Act of 2008 was signed into law, the Board was strongly encouraging supervised bank holding companies to enhance their capital positions.[12] Although at the time 98 percent of state-member banks were considered "well-capitalized,"[13] we now know it was not enough to weather the coming storm, in large part caused by the actions at some of the largest banks. During the Great Recession, hundreds of small community banks failed even though they did not cause the 2008 Financial Crisis.[14]

Unlike community banks, the largest banks *did* receive government support, which then fueled the debate on whether the capital requirements for these institutions appropriately internalized the moral hazard that comes from implicit government support.[15] Recent events in 2023, including Credit Suisse's sale to UBS overseas and on the homefront the use of the systemic risk exception to guarantee uninsured deposits at Silicon Valley Bank ("SVB") and Signature Bank, are reminders that the moral hazards associated with the emergency response to the banking turmoil is not a thing of the past.[16]

The Agencies acknowledge that the lower capital requirements could "moderately reduce these banking organizations' ability to withstand financial stress, marginally increasing their risk of failure" and that "reducing capital requirements could increase the size and likelihood of losses, thereby shifting losses from shareholders to creditors and the Deposit Insurance Fund in the event that the FDIC is required to resolve the insured depository institution."[17] Yet, the proposal gives insufficient weight to these risks relative to the stated benefits. In particular, the proposal

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[12] *Condition of the Banking System*, Before the S. Comm. on Banking, Housing and Urban Affairs, 110th Cong. (2008) (testimony of Donald L. Kohn, Vice Chairman, Board of Gov. of the Federal Reserve System).
[13] *Id.*
[14] *Lessons Learned from the Financial Crisis Regarding Community Banks*, Before the S. Comm. on Banking, Housing, and Urban Affairs, 113th Cong. (2013). By contrast, only one bank with more than $100 billion in assets failed (WAMU).
[15] Mike Mariathasan, Ourada Merrouche, & Charlotte Werger, *Bailouts and Moral Hazard: How Implicit Government Guarantees Affect Financial Stability* (Dec. 12, 2014), at 2, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2481861 ("Our results show that banks tend to be more leveraged, more weakly capitalised, and exposed to more severe liquidity mismatch when they, or their competitors, are assigned a lower Fitch Support Rating (FSR), i.e. when they are perceived as more likely to benefit from government support. Because lower pre-crisis FSRs are associated with more severe losses during the crisis, our findings also suggest that perceived bailout guarantees lead to more excessive investment in risky assets.").
[16] John Kandrac & Bernd Schlusche, *Emergency Lending and Moral Hazard* (Aug. 27, 2025), https://www.fdic.gov/center-financial-research/emergency-lending-and-moral-hazard.pdf.
[17] ERBA Proposal at 15132.

does not adequately examine whether lower capital requirements could increase the likelihood of future government intervention, up to and including another use of systemic risk exception.

ICBA encourages the Agencies to implement the lessons learned from the 2008 Financial Crisis and more recently the spring of 2023 by ensuring that the Category I and II banking institutions maintain capital commensurate with their heightened risk without having to rely on discount window access or implicit Too-Big-To-Fail guarantees. Any final rule must also include analysis of whether the proposed changes could make a future systemic risk exception invocation likelier.

2. The ERBA Proposal, if Finalized, Leaves Open the Question of the eSLR's Effectiveness as a Backstop

Although the public interest would be better served if the Agencies avoided piecemeal changes to crucial capital requirements, and instead proposed changes to the entirety of these rules to allow the public to comment on the collective impact of the revisions, the benefit of tackling these changes separately is that the public may have a glimpse as to whether or not there are any signs of the touted benefits.

On April 1, 2026, one such piecemeal change, the modified enhanced supplementary leverage ratio ("eSLR") standard applicable to GSIBs and other covered depository institutions, came into effect with early adoption allowed on January 1, 2026. That rule was meant to ensure that the eSLR standards serve as a backstop to risk-based capital requirements in effect at that time. Now, with the Agencies' proposed changes to the risk-based capital requirements, will the eSLR continue to serve as a sufficient backstop?

Requiring banks to hold more capital and improve liquidity in good economic times can help regulators stay committed to their long-term goals and make banks absorb more of the risks they take.[18] ICBA hopes that to the extent the public comment process identifies such meaningful concerns, the Agencies would be prepared, as appropriate, to put forward revised proposals that adequately address those concerns.

3. The ERBA Proposal, if Finalized, Continues the Trend of Tilting the Playing Field Toward the Too-Big-To-Fail Institutions

While certain proposed changes mentioned above would be positive developments for the country's community banks, the Agencies should also consider how broad-based changes to the prudential framework may affect the structure of the banking system. The Agencies have framed the proposals as efforts to recalibrate the regulatory capital framework with an emphasis on risk-sensitivity, consistency, and tailoring. If the overall effect of these changes is to unshackle and incentivize the systemically risky, largest banks to continue to grow even bigger while providing only targeted relief to community banks whose focus is to provide fair access to credit for communities across America, the result may be to intensify existing competitive imbalances and further encourage industry consolidation.

In the preamble to the ERBA Proposal, the Agencies state that such an outcome could be one of the benefits of the proposal: "In addition to promoting activity at current Category I and II

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[18] Kandrac & Schlusche, *supra* note 16, at 22.

banking organizations, *the proposals could also encourage growth in the number of banking organizations in these categories*."[19] Contrary to the specter of an American banking system dominated by a growing number of ever larger institutions prevailing over the country's financial landscape, ICBA urges the Agencies to pursue policy changes that foster a thriving and diverse financial ecosystem that purposefully includes community banks. The Agencies must avoid actions that risk ensconcing Too-Big-To-Fail institutions atop the banking system at Main Street's expense.

Before finalizing the ERBA Proposal, the Agencies should publish or otherwise provide a cumulative-impact analysis showing how the proposal interacts with recent changes to the enhanced supplementary leverage ratio, the stress capital buffer and stress testing framework, and other elements of the prudential framework, including whether those changes collectively reduce the resilience of the largest banking organizations or increase the likelihood of future public-sector support.

D. ICBA Strongly Supports Indexing to Prevent Threshold Stagnation

The ICBA has advocated for indexing regulatory thresholds to ensure that the regulatory burden on community banks associated with such thresholds remain proportional, even as the thresholds change. The Standardized Approach Proposal would index dollar-based capital rules thresholds based on the consumer price index for urban wage earners and clerical workers ("CPI-W") published by the U.S. Bureau of Labor Statistics. ICBA supports this approach and encourages the Agencies to continue the effort of indexing many other static, outdated regulatory thresholds to inflation. Indexing regulatory capital thresholds to inflation preserves the original purpose of such limits while ensuring that they remain relevant in an evolving financial services landscape. ICBA commends the Agencies for the current, past, and future efforts to ensure the ongoing relevance of regulatory thresholds and to promote a tailored regulatory approach—often intended in the original rules but lost due to the inflationary realities that come with the passage of time.

III. Additional Related Reforms Needed to Allow Community Banks to Deploy Capital Effectively to Power Local Economies

The adjustments to select risk weights in the Standardized Approach Proposal are a positive development. However, ICBA urges the Agencies to continue reviewing the capital and supervisory framework and pursue additional reforms that will better enable community banks to meet the banking and credit needs of their local communities. Several such reforms are discussed below, and ICBA welcomes the opportunity to discuss these further. These changes are necessary if the Agencies want community banks to fully realize the benefits of a more tailored capital framework.

[19] ERBA Proposal at 15147 (emphasis added).

A. CECL's Undue Burdens on Community Banks Warrant Reform

CECL is overly complex and disproportionately burdens community banks. ICBA recommends the Agencies revisit and revise the requirements to right-size them for community banks.

First, CECL is overly reliant on subjective assumptions. Because CECL is judgment-based and is impacted by forecasts and qualitative adjustments, examiners can challenge assumptions retroactively. Community bankers have reported variation in interpretation by exam staff, and can face supervisory risk where allowances are questioned as excessive based on subjective judgments regarding forecasts, qualitative adjustments, or model calibration. This dynamic creates a narrow and uncertain compliance range that undermines confidence in the framework and subjects community banks to post hoc supervisory criticism, discouraging reasonable judgment.

Additionally, while CECL is an accounting standard, it has direct regulatory capital consequences. It requires lifetime loss recognition at origination, which accelerates provisioning even for loans that perform well. This results in higher capital consumption, particularly problematic for community banks with limited access to external capital markets. Additionally requiring upfront lifetime loss reserves makes longer-term or cyclical lending such as small business, agricultural, and mortgage lending more capital-intensive, intensifying the impact on community banks that provide critical access to credit to Main Street economies. CECL is misaligned with regulatory capital frameworks and is ineffective in the community bank sector, and it should be revisited or tailored.

Recommendations for reform

The Agencies should tailor CECL's application to community banks. At a minimum, the Agencies should establish a true simplified CECL framework for community banks, including simplified methods and safe harbors under which the use of simple methodology and application of reasonable historical loss data would be deemed acceptable absent clear error. CECL for community banks should be operationally proportionate, not functionally identical to large-bank modeling frameworks.

The Agencies should also establish clear supervisory guardrails on examiner discretion, and should make clear that reasonable forecasts do not need to be precise or predictive and that examiners should not second-guess good-faith assumptions. Additionally, the Agencies should limit retrospective criticism related to CECL loss provisions. Consistent with recent efforts to refocus supervision and examination findings on material financial risk, examiners should not criticize banks based solely on the inaccuracy of forecasts that were reasonable at the time they were made or differences between expected and realized losses absent a material financial risk.[20]

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[20] *See* Unsafe or Unsound Practices, Matters Requiring Attention, 90 Fed. Reg. 48835 (Oct. 30, 2025); Randall D. Guynn & Julie Williams, *Updated Statement of Supervisory Operating Principles* (Apr. 21, 2026), https://www.federalreserve.gov/supervisionreg/files/statement-of-supervisory-operating-principles-20260430.pdf.

Finally, if the Agencies maintain the current CECL framework, then community banks should be allowed to recognize CECL allowances as regulatory capital, as the allowance is a true loss-absorbing buffer. Alternatively, the Agencies should adjust the risk-weighted asset calibrations or the leverage ratio requirements to offset CECL's higher upfront provisioning requirements.

B. Regulators Should Revisit Outdated Concentration Limits that Constrain Community Bank Lending Capacity

Community banks play a vital role in supporting local economies through prudent and relationship-based commercial real estate lending. However, the current approach to CRE concentration limits, such as SR 07-1 and associated guidance,[21] has in practice created some regulatory uncertainty and operational challenges that hinder these efforts. Such concentration limit thresholds were developed as supervisory screening tools rather than hard limits but have come to overly influence examiner expectations and constrain lending activity, particularly in local markets where community banks play a central role in CRE finance. At the same time that the proposed capital reforms seek to improve risk sensitivity and support lending, the CRE concentration limits sometimes operate as a countervailing constraint, limiting the abilities of otherwise well-capitalized community banks to deploy capital into sound, relationship-based CRE lending.

Categorizing CRE concentrations as a broad "bucket" can include loans secured by vastly different collateral types which carry varying levels of risk. Although supervisory guidance does not have the full force and effect of legislation or regulation,[22] these thresholds can function in practice as soft caps, shaping examiner expectations and discouraging additional lending even where risk is well-managed. This could deter some banks from engaging in prudent CRE lending, even when underlying collateral types align with their core competencies.

Additionally, consumer-purpose loans, such as residential 1-4 family construction loans, are incorrectly included in CRE concentration calculations, even though these loans do not carry the same risk profile as commercial-purpose CRE loans and should not be treated equivalently.

The Agencies should issue a clarifying Supervisory Letter or updated guidance that:

- Clarifies that consumer-purpose loans are not considered CRE for the purposes of the guidance,
- Reaffirms that there is no regulatory definition of a CRE concentration, and
- Ensures consistent application of the guidance across examination teams, with accountability for field examiners, Asset Quality managers, and Examiners-in-Charge.

These clarifications would preserve the intent of the original guidance while allowing community banks to serve their markets effectively and responsibly.

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[21] *See, e.g.,* OCC, FRB & FDIC, Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices (Dec. 12, 2006).
[22] FRB, CFPB, FDIC, OCC & National Credit Union Administration, *Interagency Statement Clarifying the Role of Supervisory Guidance* (Sept. 11, 2018), https://www.fdic.gov/news/press-releases/2018/pr18059a.pdf.

C. Reforms to the Capital Treatment of Subchapter S Community Banks

ICBA opposes the inequitable capital treatment of community banks based solely on corporate structure. Shareholders of a Subchapter S corporation are responsible for paying taxes on their pro-rata shares of the bank's net income, regardless of whether that income is distributed. However, under certain circumstances the Basel III capital conservation buffer prevents banks organized as Subchapter S corporations from paying dividends. As a result, these institutions may have difficulty in raising new capital as potential investors will be concerned by the risk of having to pay federal income taxes on earnings that cannot be remitted to the investor. The capital conservation buffer should be modified to allow community banks to distribute no less than 35 percent of their reported net income for a reporting period.

Additionally, Subchapter S banks should receive the same capital treatment as Subchapter C banks when participating in programs designed to increase capital investments in local communities.

IV. <u>Conclusion</u>

ICBA appreciates the opportunity to comment on the proposals. We support efforts to improve the risk sensitivity and transparency of the capital framework, but urge the Agencies to ensure that any final rules are appropriately tailored and allow community banks to thrive without increasing the systemic risks posed by the largest institutions. The Agencies should build on the proposed changes by reducing excessive risk weights on key community bank assets, providing flexible implementation options, recognizing appropriate credit risk mitigants, addressing inequities created by the ERBA Proposal, and pursuing related reforms needed to allow community banks to deploy capital effectively in support of small businesses, farmers, ranchers, and local communities. We appreciate the Agencies' consideration of these comments and look forward to continued engagement on reforms that preserve safety and soundness while strengthening relationship-based banking on Main Street.

If you have any questions or would like to discuss these comments, please contact Amy Ledig at amy.ledig@icba.org.

Sincerely,

/s/

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