

SOLAR ENERGY INDUSTRIES ASSOCIATION, SEAN GALLAGHER, 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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Submitter Information

Organization Name: Solar Energy Industries Association

Organization Type: Organization

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Please see attached comments of the Solar Energy Industries Association (SEIA).

June 18, 2026

Submitted via Regulations.gov and email

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RE: "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. 14,952 (March 27, 2026): OCC Docket ID OCC-2026-0265; Board Docket No. R-1887; FDIC RIN 3064-AF29

The Solar Energy Industries Association (SEIA) is the national trade association of the U.S. solar and storage industry. SEIA represents more than 1,000 organizations employing over 280,000 American workers who manufacture, install, and support the development of solar and storage projects. Our members promote the responsible development of distributed, rooftop, and utility-scale solar energy and storage projects. We are committed to working with federal agencies and other stakeholders to achieve this goal.

On behalf of our member companies, SEIA appreciates the opportunity to provide these comments on the Office of the Comptroller of the Currency's (OCC), the Board of Governors of the Federal Reserve System's, and the Federal Deposit Insurance Corporation's (collectively, the "Agencies") joint proposed rule, "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. 14,952 (March 27, 2026) (“proposed rule”).

I. Introduction

Lowering bills for American consumers by building more critical energy infrastructure is the solar and storage industry’s top priority. Solar energy is the fastest new energy source to deploy,¹ has zero marginal fuel cost, and the United States has some of the richest solar resources in the world. Solar paired with storage is an energy solution that provides reliable electricity, increases consumer choice, and helps save money on utility bills. Importantly, the U.S. now has domestic capacity to manufacture every critical input in the solar energy supply chain,² strengthening the U.S. as a geostrategic energy technology leader while reducing trade deficits and project costs.

SEIA and its members support the Agencies’ efforts to address systemic risks in the global banking system and ensure the strength and resilience of U.S. banks to serve all customers.

In this comment, SEIA responds to the proposed rule’s “Question 83” regarding risk weights and appropriate treatment for equity exposures with distinct risk profiles, including tax equity financing.³ These comments are focused on two specific requests.

First, and most urgently, SEIA respectfully requests the Agencies codify a 100% risk weight for clean energy tax equity investments. The proposed rule’s default 400% risk weighting for non-publicly traded equity exposures⁴ would apply to tax equity investments, including investments in energy and manufacturing projects, imperiling American jobs, investment, tax revenue, and domestic energy infrastructure at precisely the wrong moment when electricity demand is surging.⁵

¹ SOLAR ENERGY INDUSTRIES ASSOCIATION, “We Need Solar and Storage to Address the Energy Emergency” (Feb. 4, 2025), *available at* <https://seia.org/blog/we-need-solar-and-storage-to-address-the-energy-emergency/>.

² *Id.*, Solar & Storage Supply Chain Dashboard, *available at* <https://seia.org/research-resources/solar-storage-supply-chain-dashboard/>.

³ Proposed rule: “Question 83: Certain equity exposures, such as certain tax equity financing transactions, may have a different risk profile than general equity exposures. What types of equity exposures have risk profiles that differ materially from general equity exposures? What risk weights would be appropriate for such exposures, and what are the benefits and costs of applying different risk weight treatments? Please provide relevant data to support your views, including historical loss data and information on risk characteristics of these exposures.”

⁴ Proposed rule: “Table 2: Risk Weights Applicable to Equity Exposures under the Simple Risk-Weight Approach (SRWA)”.

⁵ Demand for electricity is increasing at a pace not seen since World War II. Driven by the development of new data centers for AI, manufacturing facilities, and sector-specific electrification, this historic rise in demand can be met quickest by deploying more solar energy and battery storage, which are the fastest new sources of power to market. This is why the four largest corporate purchasers of solar energy are AI hyperscalers, and why demand for solar stretches across the country — six of the top eight states for solar deployment are Texas, Florida, Arizona, North Carolina, Nevada, and Georgia. Solar and storage are the market-leading solution to both rising power demand and

This is not a new concern. In 2023, SEIA and other commenters raised these same arguments in response to the prior proposed Basel III Endgame rule.⁶ In response to those comments, the Federal Reserve indicated in September 2024 that it planned to maintain a 100% risk weight for tax equity investments in any final rule.⁷ The 2026 proposed rule presents another opportunity to formally codify that commitment and resolve this uncertainty.

Second, SEIA also respectfully requests the Agencies modify the treatment of deferred tax assets (DTAs) arising from transferable tax credit carryforwards, which are currently required to be deducted directly from Common Equity Tier 1 (CET1) capital. This treatment no longer reflects the economic reality of these assets and, if left uncorrected, would unnecessarily restrict both the tax equity and credit transfer markets.

II. Background on Tax Equity Investments

For decades, Congress has encouraged commercial investments in a variety of energy technologies, including utility- and distributed-scale solar and storage systems, through the use of tax credits in the Internal Revenue Code. A tax credit is a dollar-for-dollar reduction in the income taxes that the person claiming the credit would otherwise owe to the U.S. Treasury.

While the value of commercial investment tax credits (ITCs) has changed over time and can depend on a variety of project-specific factors, generally speaking, the Section 48E Clean Electricity Investment Credit today provides a base ITC of 6% of the amount of eligible expenses incurred for projects one megawatt and larger that began construction on or after January 1, 2025. The value of this ITC increases fivefold, to 30%, for such projects that meet prevailing wage and apprenticeship rules.⁸ The value of the ITC also increases for projects utilizing certain amounts of domestic content,⁹ constructed in areas with certain types of historical fossil fuel-related activity,¹⁰ and constructed in or serving certain low-income areas or

affordability. See SEIA, Solar Means Business 2024, available at <https://seia.org/research-resources/solar-means-business/>; SEIA, Solar Data Cheat Sheet, available at https://seia.org/wp-content/uploads/2025/12/SolarCheatSheet_2025_YIR.pdf.

⁶ “Regulatory Capital Rule: Large Banking Organizations and Banking Organizations With Significant Trading Activity,” 88 Fed. Reg. 64,028 (September 18, 2023).

⁷ Vice Chair for Supervision Michael Barr, Speech: “The Next Steps on Capital”, “The Federal Reserve’s Regulatory Agenda” (Sept. 10, 2024), available at <https://www.federalreserve.gov/newsevents/speech/barr20240910a.htm>. (“I plan to recommend that we significantly lower the risk weight for tax credit equity funding structures, given the lower inherent risk in these structures compared to many other equity investments. The revised lower risk weight for these exposures of 100 percent would reflect this lower risk and be consistent with the approach we take for other tax credit investments, such as the low-income housing tax credits.”).

⁸ “Increased Amounts of Credit or Deduction for Satisfying Certain Prevailing Wage and Registered Apprenticeship Requirements,” 89 Fed. Reg. 53,184 (June 25, 2024).

⁹ 26 U.S.C. § 48E(a)(3)(B).

¹⁰ *Id.* § 48E(a)(3)(A).

customers.¹¹ Notably, since the 2023 proposed rule, Congress has substantially curtailed these credits for wind and solar, narrowing both the eligible project pipeline and the window for tax equity deployment, meaning that a punitive risk weight today would fall on a significantly smaller market than the agencies previously considered.¹²

Furthermore, the Section 45X Advanced Manufacturing Production Credit incentivizes the manufacturing of energy components such as solar modules, cells, and wafers, as well as storage inputs like electrode active materials, battery cells, and modules. In addition, tax credits are available for a variety of other energy technologies, including nuclear, biogas, sustainable aviation fuel, carbon capture and sequestration, and others.

However, few developers can directly benefit from these investment or production tax credits because they lack sufficient tax liability to efficiently monetize the value of the credits for every taxable year. Instead, developers typically enter into various forms of tax equity transactions to convert tax benefits into cash that can be used to help finance a project. These include, for example, a partnership between a developer and a tax equity investor (such as a bank). In this scenario, the partnership typically allocates a percentage of the project's profits, losses, and cash distributions to the investor in exchange for a portion of the project's capital costs. Internal Revenue Service (IRS) rules allow energy tax credits to be shared among partners in the same manner that profits and losses are allocated. A tax equity transaction might provide funding for 30-60% of the capital cost of a project, depending on the form of the transaction.¹³

A. Tax Equity Is a Critical Source of Financing for Energy Projects

Tax equity is the primary mechanism through which banks help monetize federal energy tax credits across a wide range of technologies. The U.S. clean energy industry now attracts over \$45 billion in tax credit investments annually, of which more than \$20 billion is provided by banks through tax equity arrangements.¹⁴ That capital has been essential to meeting America's growing electricity demand — including 43 GW of new solar in 2025 alone, with solar and storage together accounting for 79% of all new electric generating capacity added to the grid that year.¹⁵

¹¹ *Id.* § 48E(h).

¹² One Big Beautiful Bill Act, Pub. L. No. 119-21, §§ 70512–70513, 139 Stat. 72 (July 4, 2025), accelerated the phaseout of the Section 45Y and 48E credits for wind and solar projects. In order to receive the tax credits, solar and wind projects must be placed in service by December 31, 2027, if they begin construction after July 4, 2026.

¹³ ACORE, “The Risk Profile of Tax Equity Investments: 2026 Edition” (June 2026), *available at* <https://acore.org/wp-content/uploads/2026/06/The-Risk-Profile-of-Tax-Equity-Investments-2026.pdf>.

¹⁴ *Id.*

¹⁵ SEIA & WOOD MACKENZIE, “U.S. Solar Market Insight: 2025 Year in Review” (Mar. 10, 2026), *available at* <https://seia.org/research-resources/solar-market-insight-report-2025-year-in-review/>.

B. Tax Equity Investments Have a Low Risk Profile

In a binding final rule effective April 1, 2021, the OCC codified the authority of national banks to engage in tax equity finance transactions under their lending authority, providing that a bank “may engage in a tax equity finance transaction . . . only if the transaction is the functional equivalent of a loan.”¹⁶ Such investments should only receive 100% risk weighting under the proposed rule because they satisfy all seven of the OCC’s criteria¹⁷ and are regularly reviewed by OCC examiners. The record contains no evidence as to why an investment that is “the functional equivalent of a loan” should receive 400% risk-weighting.

It is rare to see debt ahead of tax equity investors in the capital structure of renewable energy projects. This reduces the risk of loss of tax benefits, including as a result of recapture. Tax equity thus typically sits atop the capital stack; yet project finance debt, which is usually subordinate to tax equity, only receives 100% risk-weighting under the proposed rule.

In addition, there are other features that reduce tax equity’s risk profile as compared to other equity exposures contemplated in Table 2. Tax equity investments receive the vast majority of returns from tax credits and other fixed tax benefits. While cash returns are usually less important in the context of a tax equity transaction, they are generally quite certain, given that tax equity investors typically have first claim on the project cash flows before debt is repaid.

Furthermore, tax equity investor diligence is conducted at the partnership/project level, meaning that individual projects receive higher levels of tailored diligence as compared to general business loans, and the creditworthiness of specific project sponsors is comparatively less relevant. With the seniority of distributions and the predominance of tax benefits in the investor’s return, a tax equity investor has limited downside exposure in a typical transaction.

In April 2026, ACORE conducted a survey of domestic banking institutions that have collectively invested approximately \$93 billion in tax equity for energy projects since 2020,

¹⁶ 12 C.F.R. § 7.1025(a).

¹⁷ *Id.* § 7.1025(c). (“A tax equity finance transaction is the functional equivalent of a loan if: (1) The structure of the transaction is necessary for making the tax credits or other tax benefits available to the national bank or Federal savings association; (2) The transaction is of limited tenure and is not indefinite, including retaining a limited investment interest that is required by law to obtain continuing tax benefits or needed to obtain the expected rate of return; (3) The tax benefits and other payments received by the national bank or Federal savings association from the transaction repay the investment and provide the expected rate of return at the time of underwriting; (4) Consistent with paragraph (c)(3) of this section, the national bank or Federal savings association does not rely on appreciation of value in the project or property rights underlying the project for repayment; (5) The national bank or Federal savings association uses underwriting and credit approval criteria and standards that are substantially equivalent to the underwriting and credit approval criteria and standards used for a traditional commercial loan; (6) The national bank or Federal savings association is a passive investor in the transaction and is unable to direct the affairs of the project company; and (7) The national bank or Federal savings association appropriately accounts for the transaction initially and on an ongoing basis and has documented contemporaneously its accounting assessment and conclusion.”).

representing over 75% of the overall market. The results further demonstrate the strong historical performance of clean energy tax equity investments. Nearly all survey participants report positive after-tax returns on both ITC and production tax credit (PTC) investments from which they had exited their equity positions between 2020 and 2026, and similarly expect positive returns on their current holdings.¹⁸

The data likewise shows that risks from recapture, foreclosure, and bankruptcy have had negligible portfolio-level impact. While recapture events did occur — roughly half of respondents reported at least one — they comprised less than 1% of total investment activity and, critically, did not generate negative after-tax returns in any instance. No foreclosures on tax equity investment interests occurred. Bankruptcy exposure was similarly contained: a single respondent reported one bankruptcy, accounting for just 1% of that institution's portfolio, again with no negative after-tax return impact.¹⁹

III. The Treatment of Tax Equity Investments Under a Final Rule Should Be Modified

Due to the distinct risk profile of tax equity financing transactions, SEIA respectfully requests²⁰ that the Agencies modify the 400% risk weight category in Table 2²¹ and add a fourth 100% risk weight category specifically for “tax equity financing transactions.”

The final rule should define “tax equity financing transactions” as investments that meet **one of two existing sets of criteria**: (1) investments that meet the stringent criteria set by the OCC to qualify as loan equivalent (Section 12 CFR § 7.1025)²² **OR** (2) investments that qualify for the Financial Accounting Standards Board (“FASB”) rules for the proportional amortization method (“PAM”) of equity accounting (ASU 2023-02).²³

The table below reflects these changes:

¹⁸ ACORE, “The Risk Profile of Tax Equity Investments: 2026 Edition” (June 2026), *available at* <https://acore.org/wp-content/uploads/2026/06/The-Risk-Profile-of-Tax-Equity-Investments-2026.pdf>.

¹⁹ *Id.*

²⁰ *See also* ACORE comment letter on proposed rule (June 2026) (submitting similar recommendations regarding tax equity risk weight treatment).

²¹ “Table 2: Risk Weights Applicable to Equity Exposures under the Simple Risk-Weight Approach (SRWA),” 91 Fed. Reg. 14,952.

²² OCC Bulletin 2021-15, “Commercial Lending: Tax Equity Finance Transactions Pursuant to 12 CFR 7.1025” (March 25, 2021), *available at* <https://www.occ.gov/news-issuances/bulletins/2021/bulletin-2021-15.html>.

²³ FASB, “Accounting Standards Update No. 2023-02: Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method” (March 2023), *available at* <https://www.fasb.org> (ASU 2023-02).

Risk Weight	Equity Exposure
...	
100%	An equity exposure that qualifies as a community development investment under section 24 (Eleventh) of the National Bank Act.
	Non-significant equity exposures.
	The effective portion of a hedge pair.
	<u>Tax equity financing transactions.</u>
...	
400%	An equity exposure that is not publicly traded <u>and is not otherwise described in Table 2.</u>

The proposed rule maintains the existing regulatory capital “non-significant equity exposure” exception,²⁴ under which equity exposures receive a 100% risk weight only if a banking organization’s aggregate non-significant equity holdings remain below 10% of its total capital. This threshold is not a categorical carve-out for tax equity — it is a shared bucket across all non-publicly traded equity investments.

Banks that lead the tax equity market are precisely the Category I and II institutions and organizations with significant trading activity subject to this proposed rule. For these institutions, which collectively hold hundreds of billions in diversified equity portfolios across private equity, tax credit investments, and strategic holdings, the 10% threshold provides at best contingent and unpredictable relief. Unlike a categorical carve-out, the threshold requires ongoing portfolio monitoring and can create mid-cycle disruptions to long-term investments as portfolio composition shifts — precisely the commitments on which energy project finance depends.

The Inflation Reduction Act (IRA) added section 6418 to the Internal Revenue Code, which allows the sale of certain tax credits, including section 45X and 48E credits. Section 6418 was intended to expand the ability of taxpayers to monetize clean energy tax credits by creating a robust and liquid market for credits with diverse buyers (*e.g.*, large corporations) and sellers (*e.g.*, new market entrants with less experience in tax equity markets) and reducing transaction costs associated with traditional tax equity financing.

Nowhere in the IRA, however, did Congress express any intent to replace tax equity with transferability, or attempt to, for example, modify IRS partnership rules that enable credit monetization by partner investors with higher tax liabilities. In fact, it is reasonable to assume that because the IRA greatly expanded the types and amounts of credits available to developers of many types of energy technologies, transferability was intended to complement, not replace, traditional tax equity.

²⁴ 12 C.F.R. § 217.152(b)(3)(iii).

There are a number of reasons why tax equity will remain a preferred and growing financing vehicle even as the transferable credit market matures. First, the value of transferred credits is typically lower than for credits monetized through tax equity structures. Reported deals for transferred ITCs averaged approximately 92.5 cents on the dollar in 2024, with smaller deals transacting closer to 90 cents and larger deals averaging 93.5 to 95 cents depending on deal size and sponsor credit quality.²⁵ In addition, because no property interest is involved in a transfer transaction, transferred credits do not include other attractive elements of tax equity partnership investments, including accelerated depreciation, which in a typical tax equity transaction provides additional value equal to 10-20% of the project value.²⁶

Second, the long-term commitment structure of tax equity provides financing certainty that transferability cannot fully replicate. Banks providing tax equity make multi-year capital commitments that developers rely on to secure construction debt, sometimes from the same institution — a level of integrated, long-term financing certainty the transfer market cannot match. Furthermore, with traditional PTCs under Section 45Y, tax equity investments are underwritten with guaranteed 10-year access to PTC proceeds after a project is placed in service. The transfer market, while growing, remains primarily focused on current-year credits and near-term forward commitments.²⁷ The long-term financing certainty of tax equity is particularly critical for utility-scale energy projects that require multi-year construction and financing timelines.

Third, tax equity and the transfer market are complementary, not substitutes, and the health of one depends on the other. In 2025, hybrid tax equity structures designed to transfer a portion of credits to corporate buyers made up more than 60% of all tax equity commitments, confirming that banks remain the primary gateway through which credits reach the broader transfer market.²⁸ If tax equity markets contract or investors exit, the transfer market itself will be significantly impaired.

²⁵ CRUX, *2024 Transferable Tax Credit Market Intelligence Report* (2024), available at <https://www.cruxclimate.com/insights/transferable-tax-credit-pricing>.

²⁶ ACORE, “The Risk Profile of Renewable Energy Tax Equity Investments” (Dec. 2023), available at <https://acore.org/resources/the-risk-profile-of-renewable-energy-tax-equity-investments/>.

²⁷ *Id.*

²⁸ CRUX, “Highlights from Crux's 2025 Mid-Year Market Intelligence Report” (Sept. 2025), available at <https://www.cruxclimate.com/insights/highlights-crux-2025-mid-year-market-intelligence-report>.

IV. CET1 Deduction for DTAs Arising from Transferable Tax Credits Should Be Modified

SEIA also respectfully requests²⁹ that the Agencies address a related capital treatment issue: the current requirement that deferred tax assets (DTAs) arising from tax credit carryforwards be directly deducted from Common Equity Tier 1 (CET1) capital. Under current rules, such DTAs “arise from net operating loss and tax credit carryforwards, net of any related valuation allowances,” and must be fully deducted from CET1.³⁰ This treatment was designed to address the risk that DTAs might be worthless in periods of stress, when a bank lacks sufficient taxable income to realize them.

That rationale no longer applies to DTAs arising from transferable tax credits under the IRA. Because these credits can be sold for cash regardless of the holder's own tax position, they are not dependent on future taxable income — the concern that motivated the original deduction requirement. The presence of an established, liquid market with transparent pricing, which reached approximately \$25 billion in 2024,³¹ further supports their value even in stress scenarios.

Instead of requiring full CET1 deduction, transferable-credit DTAs should receive the same treatment as DTAs arising from temporary differences — subject to threshold-based deduction and risk-weighted at 250% if not deducted. This approach would bring regulatory capital treatment into alignment with the economic reality of these assets, reduce unnecessary capital constraints on tax equity and credit transfer market participants, and further expand the tax equity and transfer markets by removing a disincentive for banks to hold transferred credit positions.

V. Conclusion

SEIA appreciates the Agencies' efforts to strengthen the resiliency of the banking system and reduce systemic risks. However, we believe the proposed rule does not adequately analyze the low risk profile of tax equity investments, instead assigning them a default risk weighting by association that is substantially out of step with demonstrated risks to investors.

Thank you for the opportunity to provide comments. If you have any questions, please contact Ben Norris at (202) 556-2909 or bnorris@seia.org, or Alec Ward at award@seia.org.

²⁹ See also ACORE comment letter on proposed rule (June 2026) (submitting similar recommendations regarding the treatment of deferred tax assets).

³⁰ 12 C.F.R. § 3.22(a)(3) (OCC); 12 C.F.R. § 217.22(a)(3) (Board); 12 C.F.R. § 324.22(a)(3) (FDIC).

³¹ CRUX, “2024 Transferable Tax Credit Market Intelligence Report” (2024), available at <https://www.cruxclimate.com/insights/transferable-tax-credit-pricing>.

Sincerely,

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