AMERICAN BANKERS ASSOCIATION, ET. AL., HU BENTON, ET. AL.

Proposal and Comment Information

Title: Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-weighted Assets, R-1888

Comment ID: FR-2026-0008-01-C194

Submitter Information

Organization Name: American Bankers Association, et. al.

Organization Type: Organization

Name: Hu Benton, et. al.

Submitted Date: 06/18/2026

Please find attached a Joint Trades comment letter for Docket No. R-1888, and RIN 7100-AH21. Please let me know if you have any questions.

June 18, 2026

Via Electronic Mail

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551
Attention: Benjamin W. McDonough, Secretary

Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429
Attention: Jennifer M. Jones, Deputy Executive Secretary; Comments/Legal OES

Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, D.C. 20219
Attention: Chief Counsel's Office, Comment Processing

Re: Regulatory Capital Rule: Regulatory Capital and Standardized Approach for Risk-Weighted Assets (Federal Reserve Docket No. R-1888, RIN 7100-AH21; FDIC RIN 3064-AG23; Docket ID OCC-2026-0034, RIN 1557-AF49)

Ladies and Gentlemen:

The Bank Policy Institute, the American Bankers Association, the U.S. Chamber of Commerce, and the Consumer Bankers Association submit this letter in response to the joint notice of proposed rulemaking issued by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency that would amend the calculation of regulatory capital and the standardized approach for all firms other than Category I and II firms and firms that elect to apply the expanded risk-based approach.[1]

[1] OCC, Federal Reserve, and FDIC, *Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets*, 91 Fed. Reg. 15,332 (Mar. 27, 2026) (hereinafter, "Standardized Approach NPR"). The proposed elimination of the threshold deduction for mortgage servicing assets would apply to firms that have elected to use the community bank leverage ratio framework, but the other aspects of the proposal would not apply to those firms.

We support the agencies' tailored approach to capital requirements embodied in the proposal and the concurrent proposal to implement the 2017 Basel III standards,[2] which would apply to Category I and II firms (and, with respect to market risk and CVA risk requirements, certain other firms with significant trading activity) with the ability for other firms to opt into the expanded risk-based approach under that other proposal.[3] As the calibration of the revised risk weights in the standardized approach proposal is based in part on analysis of the risk weights that would apply under the Basel III proposal,[4] we encourage the agencies to update the calibration in the revised standardized approach based on the final version of the expanded risk-based approach.

We also support the agencies' goals of improving the calibration and risk sensitivity of the capital framework with respect to firms' core lending activities.[5] This letter contains recommendations aimed at further improving the calibration and risk sensitivity of the proposed revised standardized approach, as well as recommendations for how the proposal could be revised to reduce unnecessary operational burden on firms. In general, we appreciate the detailed explanations and impact analysis provided in the proposal, which have enabled us to more effectively evaluate the proposal and provide the recommendations in this letter. However, this letter also discusses issues arising from the proposed revisions to the definitions of "commitment," "unconditionally cancelable," "traditional securitization," and "synthetic securitization," which we strongly urge the agencies not to finalize in light of the ambiguity these proposed changes would create and the unassessed—and unassessable—effect they would have on firms' capital requirements. Apart from these changes, we encourage the agencies to finalize the proposal expeditiously, so firms and the broader economy can benefit from the improved risk sensitivity in the revised standardized approach.[6]

The first section of this letter provides recommendations regarding the proposed changes to the requirements for credit risk. The second section provides comments on the proposed changes with respect to credit risk mitigants. The third section provides comments related to other aspects of the

---

[2] OCC, Federal Reserve, and FDIC, *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 (Mar. 27, 2026) (hereinafter, "Basel III NPR").

[3] *Id.* at 14,956.

[4] *See* Standardized Approach NPR at 15,341.

[5] *Id.* at 15,332 ("The proposal would revise the risk-based capital treatment of certain exposure categories under the standardized approach, focusing on improving the calibration and risk sensitivity of risk weights that are particularly material to covered banking organizations' lending activities.").

[6] We also reiterate our recommendations set forth in BPI and ABA's June 2026 letter submitted on tailoring, which details the importance of indexing based on GDP growth, rather than inflation, as captured by the CPI-W. BPI and ABA, Regulatory Tailoring Thresholds and Framework (June 3, 2026). CPI-W only captures the prices of consumer goods and services, and therefore excludes key parts of U.S. economic growth, including the price of investment goods and technology (which banks directly finance), which are captured in nominal GDP growth. Federal Reserve, Joint Press Release, Statement on Bank Capital Proposals by Governor Christopher J. Waller (March 19, 2026), *available at* https://www.federalreserve.gov/newsevents/pressreleases/waller-statement-20260319.htm. Adjusting the thresholds based on nominal GDP would more accurately classify firms based on their systemic importance, which would result in a better match between firms' capital requirements and relative importance in the U.S. economy.

proposal. In addition, although this letter does not discuss the securitization framework, we support the recommendations with respect to the proposed changes to the securitization definition provided by the Structured Finance Association ("SFA") in their letter on the proposal.

Contents

I. Comments Related to Credit Risk

A. The final rule should retain the current definitions of "commitment" and "unconditionally cancelable."

The proposal would revise the definition of "commitment" to mean "a contractual arrangement, under which a [banking organization] and an obligor agree to terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes by the [banking organization], whether or not such arrangement is unconditionally cancelable."[7] The proposals would also provide that "[a] commitment is unconditionally cancelable if, by its terms, it either: (a) provides that a [banking organization] is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits a [banking organization], at any time, with or without cause, to refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law)."[8]

These revisions would be fundamental changes to the definitions of "commitment" and "unconditionally cancelable," but the preamble inaccurately describes the proposed changes as clarifications. The proposed revisions would substantively revise the definition of "commitment"—notably by removing the words "legally binding" and "obligates" as compared to the current definition, which provides that a commitment is a "legally binding arrangement that obligates a [banking organization] to extend credit or to purchase assets."[9]

The proposal would also substantively revise the term "unconditionally cancelable" by providing an entirely new description of what those words mean in the context of the capital rule. Under the proposal, a commitment would be unconditionally cancelable if, by its terms, it either: "(a) provides that a [banking organization] is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits a [banking organization], at any time, with or without cause, to refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law)." Clause (b) aligns with the current rule; clause (a), however, would contradict the current definitions of "unconditionally cancelable" and "commitment."

The capital rule currently expressly provides that an "unconditionally cancelable" commitment is a type of "commitment"—that is, a type of legally binding arrangement obligating a banking organization to extend credit or purchase assets. This is reflected in the syntax of the term. Under the current capital rule, "[u]nconditionally cancelable means *with respect to a commitment*, that a [banking organization] may, at any time, with or without cause, refuse to extend credit under the commitment (to the extent permitted under applicable law)."[10] The words "with respect to" make clear that the term "unconditionally cancelable" is describing a subset of "commitments," specifically, legally binding arrangements obligating a

---

[7] Proposed §§ 3.2 (OCC); 217.2 (Federal Reserve); 324.2 (FDIC).

[8] *Id*.

[9] 12 C.F.R. §§ 3.2 (OCC); 217.2 (Federal Reserve); 324.2 (FDIC).

[10] *Id.* (emphasis added).

banking organization to extend credit or purchase assets that are subject to cancelation by the banking organization.

Accordingly, as reflected in the plain, unambiguous meaning of the current rules text: (i) an arrangement that is not legally binding on a banking organization and does not obligate the banking organization to extend credit or purchase assets is not a "commitment" for purposes of the capital rule, (ii) an "unconditionally cancelable" commitment is a type of "commitment," and (iii) if an arrangement is not a "commitment," by definition, it is not an "unconditionally cancelable" commitment within the meaning of the capital rule. The preamble, therefore, inaccurately asserts that the proposed revision "*clarifies* that a contractual arrangement to extend credit, purchase assets, or issue credit substitutes, but *which does not obligate* the banking organization to do so, *is also considered a commitment* that is unconditionally cancelable."[11] This is a contradiction to the current definitions, not a clarification.

1. <u>The proposed definition is ambiguous and would introduce significant additional uncertainty into the capital framework.</u>

The capital rule should retain the existing definitions of "commitment" and "unconditionally cancelable." The current definition of "commitment" is anchored to the existence of a legally binding obligation to fund, which provides a clear standard for determining what is a "commitment." The proposal would depart from this objective, legally grounded standard clearly delineating when there is a "commitment" under the capital rule and when there is not. This change introduces substantial ambiguity and increases the likelihood of inconsistent application across firms as compared to the current definitions.

The agencies indicated that the proposed definition is intended to capture "an arrangement where the banking organization *could expect* to purchase assets or to extend credit to an obligor."[12] To implement this construct, the proposed definition would extend to any contractual arrangement that sets forth terms under which future extensions of credit *may* occur, even where the firm retains full discretion to decline funding at any point, given it is under no obligation to lend. Absent a legal obligation to fund, it is unclear: (i) under what circumstances a firm is deemed to have an exposure; (ii) how firms should determine whether potential funding creates a capital requirement; and (iii) how supervisors would consistently evaluate compliance across institutions. This lack of a clear legal anchor creates significant ambiguity and the prospect of increased inconsistency in application across firms, portfolios, and supervisory examinations. We see no prudential rationale—and the agencies offer none in the proposals—for adopting a broader, ambiguous definition that is based on highly subjective concepts such as an expectation of funding and that conflates legally and economically distinct arrangements.

The proposal would create unclear expectations around non-binding arrangements. By decoupling commitments from legally enforceable funding obligations, the proposed definition leaves ambiguous the standard a firm should use to determine whether a commitment exists. For example, the proposed revised definition does not specify which "terms" must be agreed to for a "contractual arrangement" to become a "commitment." The commentary in the preamble refers to a banking organization and a potential

---

[11] Standardized Approach NPR at 15,342 (emphases added). The same commentary appears in the Basel III proposal. Basel III NPR at 14,997.

[12] Standardized Approach NPR at 15,342 (emphasis added).

borrower having agreed to "the material terms on which such lending would take place."[13] The reference to "material" terms contributes to further uncertainty because it is unclear in this context which terms constitute "material" terms and which do not, or what the basis for "materiality" assessments would be. A firm would have to rely on its subjective view of the arrangement, which is inherently difficult to define, measure, or apply consistently and therefore is not suited for determining regulatory capital requirements. In practice, a firm may have any number of arrangements that outline potential future transactions without any obligation to proceed. The need to determine when such arrangements rise to the level of a "commitment" for capital purposes—without a clearly defined standard—would introduce substantial uncertainty that is incompatible with a rules-based capital framework imposing binding quantitative capital requirements.

The proposed definitional changes also create uncertainty in determining the amount of a "commitment." For example, there are certain arrangements in which a firm may not agree to or even disclose potential amounts of any future extensions of credit, let alone include figures in signed documentation. Such an arrangement would seem to be in scope of the proposed definition, but it would be difficult to determine the commitment amount. Although the proposal provides a methodology to determine this amount in the retail context,[14] it is unclear how a firm would determine the amount in non-retail contexts or in situations where the arrangement never comes to fruition and no lending (or purchase) ever occurs. Firms may use different methodologies to determine this amount (*e.g.*, their internal records or methodologies for measuring hypothetical usage), which would result in inconsistent treatment among firms.

In addition, the proposal would create inconsistency with other aspects of the banking regulatory framework, introducing confusing variations into the broader framework. For example, the agencies' liquidity coverage ratio and net stable funding ratio rules define a credit facility as "a *legally binding agreement* to extend funds if requested at a future date, including a general working capital facility such as a revolving credit facility for general corporate or working capital purposes."[15] The proposed definition would also create undue complexity in the overall prudential framework given the single-counterparty credit limits framework. That framework expressly excludes uncommitted lines of credit from the definition of "credit transaction."[16] In addition, under the single-counterparty credit limits framework, for committed credit lines and revolving credit facilities, a covered company is permitted to reduce gross credit exposure by the unused portion where the firm has no legal obligation to advance additional funds, and the used portion is fully secured by eligible collateral.[17] Further, it is not clear whether the proposed changes would affect reporting requirements. As discussed in more detail below, there has been a

---

[13] *Id*. at 15,342.

[14] *See id.* at 15,343 (describing the process for determining the exposure amount for commitments that are retail exposures without a pre-set limit).

[15] 12 C.F.R. §§ 50.3 (OCC); 249.3 (Federal Reserve); 329.3 (FDIC).

[16] 12 C.F.R. § 252.71(h)(1); 12 C.F.R. § 252.171(i)(1).

[17] 12 C.F.R. § 252.74(f)(1); 12 C.F.R. § 252.174(f)(1).

long-standing lack of clarity from the agencies as to whether reporting requirements are aligned with the capital rule's definitions in this area.[18]

Compounding the lack of clarity, the proposal also would deviate from U.S. GAAP. Under U.S. GAAP, commitments are recognized only when there is a legally enforceable obligation.[19] This alignment of accounting recognition and regulatory capital treatment has historically promoted clarity, consistency, and operational efficiency. Departing from the U.S. GAAP definition of a commitment would: (i) require firms to maintain parallel, non-aligned regulatory and accounting taxonomies; (ii) increase operational complexity and compliance burden; and (iii) heighten the risk of inconsistent interpretation across firms and regulators. In addition, inconsistency between FR Y-9C reports and annual and quarterly reports filed with the SEC could cause confusion for users of a firm's financial statements.

2. The proposed revisions would result in an increase in capital requirements, which is unquantifiable and not analyzed by the agencies.

The proposed revisions would expand the scope of what is an unconditionally cancelable commitment but do not set clear parameters for what qualifies. Under the current definitions of "commitment" and "unconditionally cancelable," a banking organization follows a clear two-step process to determine whether the arrangement is within the scope of the definition. First, there must be a *legal obligation* to lend, thereby creating a "commitment." As discussed in Section I.A.1 above, anchoring the first step in an objective legal standard creates clarity and promotes consistency. Second, if the banking organization is under an obligation to lend but is able to cancel the commitment at any time with or without cause (to the extent permitted by law), the commitment is unconditionally cancelable. If the banking organization is not under any legal obligation to fund in the initial instance, there is no commitment. These steps create a clear delineation between arrangements that create commitments but are classified as unconditionally cancelable and arrangements that are not commitments in the first place.

The proposal's revised definition would scope in a broader group of arrangements without creating clear bounds for that scope. The proposal refers to an intent to capture "advised credit lines" as commitments.[20] But "advised credit lines" is not a defined regulatory capital term. The proposal would give rise to questions about the "commitment" status of arrangements that are structured and documented such that the firm is not under any legal obligation to extend credit or purchase assets in the initial instance. These arrangements are non-binding and therefore are outside the scope of the current definition. They merely establish a framework for potential future transactions that would only arise upon the discretionary decision of the banking organization to actually become obligated to extend credit or purchase assets. In each and every instance, the banking organization must take an affirmative step to lend to the customer. These facilities therefore differ legally and economically from true unconditionally

---

[18] *See infra* notes 35, 36, and 37.

[19] FASB, Accounting Standards Codification 326-20-20 Financial Instruments – Credit Losses ("Loan commitments are legally binding commitments to extend credit to a counterparty under certain prespecified terms and conditions. They have fixed expiration dates and may either be fixed-rate or variable-rate.").

[20] Standardized Approach NPR at 15,342.

cancelable commitments, such as credit cards, where a banking organization must take an affirmative step to *stop* lending to a customer.

The impact of the proposed revisions is particularly significant in the context of the proposed expanded risk-based approach, which would provide a 10% credit conversion factor ("CCF") for unconditionally cancelable commitments,[21] as compared to the 0% CCF under the current standardized approach.[22] In addition, off-balance-sheet securitization exposures and certain uncommitted arrangements relating to securitizations would be subject to a securitization risk weighting applied to 100% of the undrawn committed amount. The impact of the revised definitions would therefore be even more significant for these exposures. As a result, the proposed definitional change would require firms to hold risk-based capital against arrangements that do not legally obligate a firm to lend. The revised definitions would also affect the calculation of the supplementary leverage ratio ("SLR") for firms subject to the SLR by increasing total leverage exposure, which in turn could also increase GSIB scores and result in higher associated capital surcharges, as applicable. As discussed further below, we are unable to even estimate this additional capital because the proposed definitions do not clearly delineate which arrangements would be considered commitments and which would not.

Overall, the proposed revisions to the definitions would cause the credit risk framework to be unaligned with underlying risk, resulting in over-calibration for credit risk and undermining the overall goal of increasing risk sensitivity. This over-calibration, though wide-ranging in scope, is also unquantified and unacknowledged in the proposals, as discussed below. Such a broad and unquantified change would also disrupt the joint calibration of the revised capital framework and the recent stress testing changes. The agencies have determined the overall calibration across both frameworks is "appropriate."[23] Yet if they finalized the proposed changes to the definition of "commitment" and "unconditionally cancelable," they would be making a wide-ranging change to the capital framework, the impact of which is unknown.

3. <u>The agencies' proposal to revise the definitions is not sufficient under the Administrative Procedure Act ("APA").</u>

The agencies' proposed revisions to the definitions of "commitment" and "unconditionally cancelable" would substantively revise, not merely clarify, the current definitions. The agencies have proposed these revisions without providing adequate explanation or an analysis of the substantive change in policy and effects of the revised definitions (which, as described above, are unknown but significant).

The APA, as interpreted by courts, imposes certain obligations on agencies wishing to revise their regulations. An agency must "examine the relevant data and articulate a satisfactory explanation for its action[,]" and a rule promulgated after the agency "entirely failed to consider an important aspect of the problem" generally fails to meet APA requirements.[24] An agency "fail[s] to consider an important aspect of

[21] Basel III NPR Proposed §§ 3.112(b)(1) (OCC); 217.112(b)(1) (Federal Reserve); 324.112(b)(1) (FDIC).

[22] 12 C.F.R. §§ 3.33(b)(1) (OCC); 217.33(b)(1) (Federal Reserve); 324.33(b)(1) (FDIC).

[23] Basel III NPR at 14,960.

[24] *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

the problem" when it does not "consider[] the costs and benefits associated with the regulation."[25] An agency also must disclose the "critical factual material" it considered during its deliberation to take the proposed action.[26] If an agency does not disclose such information, it must provide the public "further opportunity for comment."[27] Moreover, when an agency departs from precedent or its current practices, it must "'offer a reason to distinguish them' or 'explain its apparent rejection of their approach.'"[28] The agency must justify this departure by "show[ing] that 'the new policy is permissible . . . , that there are good reasons for it, and that [they] believe[] it to be better' than the previous policy."[29]

With respect to the proposed definitional changes, the agencies have not met these obligations. The agencies provide no explanation for why arrangements that impose no legally binding funding obligations on banking organizations, which are legally and economically distinct from unconditionally cancelable commitments such as credit cards, should be treated the same for capital purposes. The agencies justify the revised definition as a "clarification;" however, agencies cannot subvert APA requirements by merely stating that a substantive change is an "interpretation," or, in this case, a clarification.[30] As explained above, the revisions to the definitions of "commitment" and "unconditionally cancelable commitment" are not clarifications. The agencies' lack of explanation for the reasons for this substantive change indicates they have "entirely failed to consider an important aspect of the problem"[31] and have also failed to justify their departure from the unambiguous meaning of the current definition, which dates back to 1989.[32] Moreover, the delineation between not having a commitment and having an

---

[25] *Mexican Gulf Fishing Co.* v. *U.S. Dep't of Com.*, 60 F.4th 956, 973 (5th Cir. 2023) (citing *State Farm*, 463 U.S. at 43); *Michigan* v. *EPA*, 576 U.S. 743, 751 (2015).

[26] *Chamber of Com.* v. *SEC*, 443 F.3d 890, 900 (D.C. Cir. 2006).

[27] *Id.* at 900–01.

[28] *Southwest Airlines Co.* v. *FERC*, 926 F.3d 851, 856 (D.C. Cir. 2019) (quoting *Tennessee Gas Pipeline Co.* v. *FERC*, 867 F.2d 688, 692 (D.C. Cir. 1989)).

[29] *Am. Fed'n of Gov't Emps.* v. *FLRA*, 25 F.4th 1, 5 (D.C. Cir. 2022) (quoting *FCC* v. *Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009)).

[30] *Appalachian Power Co.* v. *EPA*, 208 F.3d 1015, 1024 (D.C. Cir. 2000) ("It is well-established that an agency may not escape the notice and comment requirements . . . by labeling a major substantive legal addition to a rule a mere interpretation.") (quoting *Paralyzed Veterans of America* v. *D.C. Arena L.P.*, 117 F.3d 579, 588 (D.C. Cir. 1997)). An interpretation must "spell[] out a duty fairly encompassed within the regulation that the interpretation purports to construe" rather than expand the scope of the rule. *Id.*

[31] *State Farm*, 463 U.S. at 43.

[32] Federal Reserve, *Capital; Risk-Based Capital Guidelines*, 54 Fed. Reg. 4,186, 4,204–05 (Jan. 27, 1989) ("Commitments are defined as any legally binding arrangements that obligate a bank to extend credit in the form of loans or leases; to purchase loans, securities, or other assets; or to participate in loans and leases. . . Facilities that are unconditionally cancellable (without cause) at any time by the bank are not deemed to be commitments, provided the bank makes a separate credit decision before each drawing under the facility."); OCC, *Risk-Based Capital Guidelines*, 54 Fed. Reg. 4,168, 4,177–78 (Jan. 27, 1989) (adopting the original definitions of "commitment" and "unconditionally cancelable"); FDIC, *Capital Maintenance; Final Statement of Policy on Risk-Based Capital*, 54 Fed. Reg. 11,500, at 11,514–15 (March 21, 1989) (adopting the original definitions of "commitment" and "unconditionally cancelable," codified at 12 C.F.R. pt. 325).

unconditionally cancelable commitment has also been a part of the SLR total leverage exposure determinations for more than a decade.[33] While "[a]gencies are free to change their existing policies[,] in explaining its changed position, an agency must be cognizant that longstanding policies may have 'engendered serious reliance interests that must be taken into account'" and provide an explanation for the change.[34] Yet the proposal completely fails to acknowledge that the revised definition is a substantive change that does not align with most firms' current practices.

Prior letters explain the prevailing industry practice for the classification of certain facilities under which a banking organization is not obligated to fund under the current capital rule,[35] which also makes clear for the agencies that the proposed definitional change is not a "clarification." It is generally industry practice to exclude those facilities from reporting as "unused commitments."[36] As prior letters have explained, this position is consistent with the plain, unambiguous meaning of the current definition of "commitment" in the capital rule.[37] The agencies state they "have observed an inconsistent application of

---

[33] Federal Reserve, OCC, *Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule*, 78. Fed. Reg. 62,018, 62,090–91 (Oct. 11, 2013); FDIC, *Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule* 78 Fed. Reg. 55,340 (Sept. 10, 2013).

[34] *Encino Motorcars, LLC* v. *Navarro*, 579 U.S. 211, 221–22 (2016) (quoting *Fox*, 556 U.S. at 515–16).

[35] *See* BPI, Letter re Streamlining the Call Report (OCC Docket ID: OCC-2025-0471; Federal Reserve Docket No. OP-1872; FDIC RIN: 3064-ZA51) (Jan. 30, 2026), *available at* https://bpi.com/wp-content/uploads/2026/01/BPI-Comment-Letter-Call-Report-RFI-1.30.26.pdf; BPI, Reporting of Certain Credit Facilities in the FR Y-9C (Jan. 5, 2026), *available at* https://www.federalreserve.gov/apps/proposals/comments/FR-0000-0145-01-C02**;** BPI and IIB, Capital Assessments and Stress Testing Reports, FR Y-14 A/Q/M Revisions (OMB Control Number: 7100-034) (August 20, 2024), *available at* https://bpi.com/wp-content/uploads/2024/09/BPI-FR-Y-14-Proposal-Comment-Letter-Final.pdf; BPI, Comments on Federal Reserve Implementation of Capital Assessments and Stress Testing Reports (FR Y-14A/Q/M; OMB No. 7100-0341) (May 2, 2022), *available at* https://bpi.com/wp-content/uploads/2022/05/BPI-Comments-on-Federal-Reserve-Implementation-of-Capital-Assessments-and-Stress-Testing-Reports.pdf; BPI, Reporting of Certain Credit Facilities in the FR Y-9C (March 27, 2020), *available at* https://www.federalreserve.gov/apps/proposals/comments/FR-0000-0145-01-C02 (attached as Appendix A).

[36] *See* BPI, Reporting of Certain Credit Facilities in the FR Y-9C, at 2 (Jan. 5, 2026)**,** *available at* https://www.federalreserve.gov/apps/proposals/comments/FR-0000-0145-01-C02**.**

[37] *See* BPI, Comments on Federal Reserve Implementation of Capital Assessments and Stress Testing Reports, at 3 (May 2, 2022), *available at* https://bpi.com/wp-content/uploads/2022/05/BPI-Comments-on-Federal-Reserve-Implementation-of-Capital-Assessments-and-Stress-Testing-Reports.pdf ("Under the U.S. capital rules, a 'commitment' is defined as any 'legally binding arrangement that obligates a banking organization to extend credit or to purchase assets.' The key factor for determining whether a credit arrangement is a commitment and therefore subject to a capital assessment is whether the lender in such an arrangement is legally obligated to extend credit. The U.S. capital rules require that risk-weighted assets and leverage exposure amounts be calculated in respect of off-balance sheet exposures, including commitments. Therefore, this proposed revision that would require Defined Facilities to be reported as commitments, would result in an inconsistency in the scope of the arrangements reported in Schedule H and those commitments that attract RWA within the capital framework.").

the current definition of commitment," but they have neither responded to these prior comments—either in the proposals or elsewhere[38]—nor have they analyzed which application aligns with the plain, unambiguous meaning of the current definition and which applications do not. The agencies have also not provided any detail on the applications they have observed or the questions they have received, which limits the ability of commenters to provide meaningful feedback on the proposal and the key data and other factual information the agencies relied on in constructing it.

In addition, the agencies "entirely failed to consider an important aspect of the problem"[39] because the proposals do not provide any analysis of the wide-ranging and potentially significant effects of the expanded scope of the definitions on capital requirements. Given that the proposed definitions do not clearly delineate which arrangements would be considered commitments and which would not, we are unable to estimate the additional capital that would be required. The agencies are not able to estimate the impact either. The agencies' estimation of the change in common equity tier 1 ("CET1") capital requirements for Category I and II firms under the combined expanded risk-based approach proposal, GSIB surcharge proposal, and stress testing proposals utilizes data from the special data collection, FR Y-9C, and FR Y-14 forms as of June 30, 2025.[40] Because firms submitted this data using the current definition, the impact analysis inherently does not reflect the effects of the proposed definition changes. There is currently no way to conduct such an analysis given that firms have not submitted data using the proposed definitions and, even if they were requested to, the ambiguity of the proposed definitions would present substantial challenges.

The agencies cannot proceed with the proposed changes to the existing definitions of "commitment" and "unconditionally cancelable commitment" unless and until they propose the revisions together with a reasoned analysis as to why the departure from the current definition is appropriate, as well as an analysis and explanation of the impact of the changes on capital requirements. Accordingly, the existing definitions should be retained, with the proposed revisions removed from the final rule. If the agencies choose to revise the definitions, they must do so through an APA-compliant notice-and-comment rulemaking. Any such rulemaking can and should be conducted separately from expeditiously finalizing the rest of the proposal.

Any subsequent rulemaking that the agencies undertake would, if finalized, ultimately result in a broader definition of a commitment that would, in turn, increase capital requirements. Because the agencies took an overall calibration approach to assessing the effects of the proposal and other pending changes to the capital framework, they must consider the broad calibration implications of any such potential future increase and be cognizant of those implications in any impact analysis provided in a final rule.

---

[38] *Cf. Reytblatt* v*. Nuc. Regul. Comm'n*, 105 F.3d 715, 722 (D.C. Cir. 1997) ("An agency need not address every comment, but it must respond in a reasoned manner to those that raise significant problems.").

[39] *State Farm*, 463 U.S. at 43.

[40] Standardized Approach NPR at 15,367–68.

B. The final rule should include a separate risk weight for investment grade corporate exposures to reflect the reduced risk of these exposures compared to general corporate exposures.

The proposal would not provide a separate 65% risk weight for investment grade corporate exposures, as the expanded risk-based approach would, and instead would provide a 95% risk weight for all corporate exposures. The final rule should include a separate risk weight for investment grade corporate exposures to reflect the reduced risk of these exposures compared to general corporate exposures if firms satisfy the requirements in the proposed expanded risk-based approach to make the investment grade determination.[41] The agencies should also provide additional guidance on those requirements and how the agencies expect to evaluate whether they are met for firms that do not currently use the Advanced Approaches and would need to build out the infrastructure for compliance.

Providing a separate risk weight for investment grade corporate exposures would encourage firms to make loans to investment grade obligors. Applying the same risk weight to investment grade and non-investment grade corporate exposures could weaken incentives for firms to differentiate exposures, potentially encouraging increased risk-taking and, over time, undermining safety and soundness objectives.

In addition, absent the ability to apply a separate, preferential risk weight for investment grade corporate exposures, firms subject to the standardized approach would face a competitive disadvantage. Although firms not subject to the expanded risk-based approach are permitted to opt into it, doing so would impose a substantial operational burden and related costs—driven in part by the required standalone operational risk capital calculation—which smaller firms may be less able to absorb. Category I and II firms already benefit from their size and scale compared to smaller firms, and requiring Category III and IV firms (and other smaller firms) to hold comparatively more capital against investment grade corporate exposures would further that advantage and could meaningfully affect pricing and market dynamics.

C. The final rule should provide a range of risk weights based on loan-to-value ("LTV") ratios for residential mortgages that do not satisfy the criteria in proposed § __.32(g)(1).

The proposed standardized approach would not change the 100% risk weight for residential mortgages that do not satisfy the criteria in proposed § __.32(g)(1).[42] However, for qualifying residential real estate exposures, the proposal would introduce a range of risk weights based on their LTV ratios and whether or not they are dependent on the cash flow generated by the real estate.[43] For performing residential mortgages that do not meet the criteria in § __.32(g)(1), the final rule should similarly provide a

[41] *See* Basel III NPR proposed § __.111(h)(1).

[42] Standardized Approach NPR at 15,338.

[43] Proposed §§ 3.32(g)(1) (OCC); 217.32(g)(1) (Federal Reserve); 324.32(g)(1) (FDIC).

range of risk weights that depend upon the LTV ratio over time and whether the loan is dependent on the cash flow generated by the real estate.[44]

The result of the treatment of residential mortgages that would have a 100% risk weight under the proposal is a permanent, outsized punitive impact for performing loans that do not meet the criteria in § __.32(g)(1), which may include specialized loan programs, including those for low-to-moderate income customers. Many of these loans have high LTV ratios at origination, and the performance of such loans under stress is already accounted for in the Federal Reserve's supervisory stress test for covered firms.

Providing a range of risk weights based on LTV ratios for such residential mortgages would align with the policy goals of promoting mortgage lending at banks and supporting homeownership and affordability,[45] and recognize the reduced risk posed by these loans as they perform and the LTV ratio decreases.

D. The final rule should provide a range of risk weights for commercial real estate exposures, like residential real estate exposures, based on their LTV ratios and whether or not they are dependent on the cash flow generated by the real estate.

The proposed standardized approach would provide a 95% risk weight for corporate exposures.[46] The expanded risk-based approach, in contrast, would provide a range of risk weights for commercial real estate exposures that do not otherwise qualify for a different risk weight (*e.g.*, as a statutory multifamily mortgage or a high volatility commercial real estate exposure) based on their LTV ratios and whether or not they are dependent on the cash flow generated by the real estate.[47]

For residential real estate exposures, the proposal would introduce a range of risk weights based on their LTV ratios and whether or not they are dependent on the cash flow generated by the real estate.[48] The preamble notes that the proposed range of risk weights for residential mortgage exposures would "improve risk sensitivity"[49] and "align more closely with the treatment of regulatory residential real estate

---

[44] Standardized Approach NPR at 15,338 ("Question 6: The agencies seek comment on the set of residential mortgage exposures that are eligible to use the LTV-based approach. What are the advantages and disadvantages of aligning the scope of mortgages eligible to use the LTV-based approach with the current capital rule's 50 percent risk weight category for residential mortgage exposures? What other alternatives should the agencies consider? Should covered banking organizations have the option to adopt the LTV-based approach or the option to retain the current treatment which applies less risk sensitive risk weights of 50 and 100 percent?").

[45] *See id.* at 15,382.

[46] Proposed §§ 3.32(f)(1) (OCC); 217.32(f)(1) (Federal Reserve); 324.32(f)(1) (FDIC).

[47] Basel III NPR proposed § __.111(f)(6).

[48] Proposed §§ 3.32(g) (OCC); 217.32(g) (Federal Reserve); 324.32(g) (FDIC).

[49] Standardized Approach NPR at 15,338.

exposures under the expanded risk-based proposal."[50] The proposal does not, however, explain why the same treatment would not extend to commercial real estate exposures.

As in the context of residential real estate exposures, the real estate collateral securing a commercial real estate loan makes such a loan fundamentally different from a general corporate exposure. Different risk weights should therefore apply. Like residential real estate exposures, there should be a range of risk weights depending upon the LTV ratio and whether the loan is dependent on the cash flow generated by the real estate.

Although firms not subject to the expanded risk-based approach are permitted to opt into it, doing so would impose a substantial operational burden and related costs—driven in part by the required standalone operational risk capital calculation—which smaller firms may be less able to absorb. Category I and II firms already benefit from their size and scale compared to smaller firms, and requiring firms subject to the standardized approach to hold comparatively more capital against commercial real estate exposures would further that advantage and could meaningfully affect pricing and market dynamics.

E. The final rule should reduce the risk weight for appropriately hedged mortgage servicing assets ("MSAs") from 250% to 100%.

MSAs are currently subject to a 250% risk weight, with balances above 25% of CET1 capital subject to a full deduction from regulatory capital (equivalent to a 1,250% risk weight assuming an 8% capital requirement) for non-Category I and II firms. The agencies have proposed eliminating the deduction while maintaining the 250% risk weight,[51] consistent with the risk weight in the current capital rule for MSAs that do not exceed the deduction threshold.[52] The proposal also seeks comment on whether the current capital treatment of MSAs continues to appropriately reflect the asset's risk profile. We strongly support the elimination of the deduction threshold and provide below further recommendations to achieve the objectives of the revised treatment of MSAs.

The imposition of a 250% risk weight for MSAs in 2013 contributed to a substantial decline in the share of mortgage servicing activity by banking organizations.[53] The Financial Stability Oversight Council has noted this development and raised concerns about systemic risk posed by the U.S. housing finance

---

[50] *Id*. at 15,340.

[51] *Id.* at 15,335.

[52] 12 C.F.R. §§ 3.32(l)(4) (OCC); 217.32(l)(4) (Federal Reserve); 324.32(l)(4) (FDIC); 3.131(e)(3)(vi) (OCC); 217.131(e)(3)(vi) (Federal Reserve); 324.131(e)(3)(vi) (FDIC).

[53] According to the U.S. Government Accountability Office, the share of loans in Agency mortgage-backed securities serviced by nonbanks rose from 27% in 2014 to 66% in 2024. *See* GAO, "Nonbank Mortgage Companies: Ginnie Mae and FHFA Could Enhance Financial Monitoring" (Feb. 2026), *available at* https://www.gao.gov/assets/gao-26-107436.pdf. Recent academic research has also established a causal link between the change in MSA risk-based capital charges and the increased share of servicing at nonbanks. *See* Naser Hamdi et al., "The Rise of Nonbanks in Servicing Household Debt" (2026), *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4550175.

system's reliance on nonbank servicers.[54] As discussed below, a reduction in the applicable risk weight for appropriately hedged MSAs to 100% would improve alignment between risk and capital and encourage a greater share of mortgage servicing activity to be conducted by institutions subject to comprehensive prudential federal oversight.[55]

MSA valuations represent the present value of the expected net income associated with servicing the underlying loans. The expected net income is dependent on servicing costs, which increase based on the share of non-performing mortgages, and borrower prepayment behavior, which accelerates when mortgage interest rates fall below those on the current loans. The present value calculation also depends on the discount rate applied to the expected cash flows.

The increased risk weight for MSAs implemented as part of changes to the capital rule adopted in 2013 primarily reflected the fallout from the U.S. housing market collapse, which included extraordinary valuation volatility, limited confidence in valuation models, and uneven governance practices for managing distressed mortgages. Since that time, the mortgage servicing environment has materially evolved, including the exit from high-risk lending, the establishment of national servicing standards, and the implementation of standardized loss-mitigation frameworks. Indeed, the COVID-19 pandemic demonstrated how these structural reforms improved the performance of mortgage servicing platforms under extreme operational stress.

MSA values are quite sensitive to interest rate movements—principally through prepayment dynamics. However, the attendant interest rate risk is well understood and managed through various hedging techniques. Moreover, the capital framework does not quantify interest rate risk exposure or create specific RWA charges for interest rate risk; rather, as has long been the case, interest rate risk is largely assessed through supervisory processes instead of binding capital charges. Thus, the current capital treatment for MSAs is inconsistent with that for other interest rate-sensitive balance sheet assets.[56] Relatedly, throughout the capital framework, exposures whose cash flows and value are economically linked to an underlying asset are assigned capital requirements that reflect the credit risk of that underlying exposure. This principle applies consistently even where the linked interest may exhibit greater valuation sensitivity than the underlying asset.[57]

---

[54] U.S. Financial Stability Oversight Council, "Report on Nonbank Mortgage Servicing" (2024), *available at* https://home.treasury.gov/system/files/261/FSOC-2024-Nonbank-Mortgage-Servicing-Report.pdf.

[55] To determine whether MSAs are appropriately hedged, the agencies could require firms to demonstrate that they have clearly defined hedging strategies or could allow firms to use any of the three effectiveness assessment methodologies set out in 12 C.F.R. § __.52(c)(2), namely the dollar-offset method, the variability-reduction method, or the regression method.

[56] For example, the value of residential mortgages, from which MSAs are derived, is similarly affected by interest rate movements, but capital requirements for exposures to residential mortgages are exclusively set based on default risk.

[57] Examples include: (1) accrued interest receivables, which are risk-weighted in accordance with the underlying exposure; (2) securitization exposures, where residual interests and cash-flow entitlements are capitalized based on the credit risk of the underlying asset pool rather than their standalone volatility; and (3) equity investments in funds, where standardized look-through approaches align capital treatment with underlying holdings.

Federal Reserve staff recently published a note exploring the value of MSAs under stress, using the models and scenarios from the 2024 stress test.[58] The severely adverse scenario featured an increase in the unemployment rate from 3.7% to 10% over two years, a decline in the mortgage rate from 7.3% to 3.1%, and a 36% decline in house prices. Long-run projections from the stress test model and scenario were then translated to conditional default and prepayment rates that were applied to confidential supervisory data for MSAs. Under the "base" stress scenario examined in the note, the loss in MSA value was 4.8%, increasing to 6% when applied to the most conservative portfolio composition reported (*i.e.*, the composition most sensitive to changes in conditional default rates)—in both cases below the 8% capital requirement associated with a 100% risk-weight for these exposures.[59] Moreover, these figures were produced using the stress testing framework, which is intended to produce buffer capital requirements beyond those determined by standardized risk-weights.

The credit risk associated with holding MSAs today is substantially less than during the 2007-2009 financial crisis and the attendant interest rate risk is well managed and subject to supervisory scrutiny. Notably, the Federal Reserve's analysis found that MSA value declines under a severely adverse stress scenario remained below the capital requirement associated with a 100% risk weight, even though the stress testing framework is itself designed to generate additional capital requirements beyond standardized risk weights. These findings suggest that the current capital treatment may be overly conservative and support a recalibration of the applicable risk weight for appropriately hedged MSAs. As a result, we believe that a risk weight of 100% is warranted for appropriately hedged MSAs.

F. The final rule should recognize adjustments for private mortgage insurance in the LTV ratio calculation.

The proposal would require firms to use the LTV ratio of a regulatory residential real estate exposure to determine the risk weight applicable to that exposure.[60] For the LTV ratio calculation, a firm would calculate the loan amount without making any adjustments for private mortgage insurance.[61]

The LTV ratio calculation in the final rule should recognize adjustments for private mortgage insurance. The recognition of adjustments for private mortgage insurance would further the proposal's objective to formulate more risk sensitive capital requirements as such adjustments would better reflect actual loss exposure. The agencies' Interagency Guidelines for Real Estate Lending Policies allow for the

---

[58] Ronel Elul, Karen Pence, Ben Ranish, and Michael Suher, "Mortgage Servicing Right Valuation Under Stress," FEDS Notes (June 4, 2026), *available at* https://www.federalreserve.gov/econres/notes/feds-notes/mortgage-servicing-right-valuations-under-stress-20260604.html.

[59] Two other scenarios were explored in the analysis that yielded higher loss rates: (i) assuming away all the COVID-era house price appreciation; and (ii) assuming that bank servicing portfolios were indicative of the broader market and hence included a much larger share of riskier Ginnie Mae servicing.

[60] Proposed §§ 3.32(g)(1) (OCC); 217.32(g)(1) (Federal Reserve); 324.32(g)(1) (FDIC).

[61] Proposed §§ 3.5(b) (OCC); 217.5(b) (Federal Reserve); 324.5(b) (FDIC).

incorporation of mortgage insurance in LTV ratios.[62] The calculation of these ratios for day-to-day credit risk management purposes should align with the calculation for risk-based capital purposes.

Further, the agencies justify the exclusion based on the fact that "[d]uring the 2007-2009 housing market stress, the performance of private mortgage insurance deteriorated at the same time as the underlying exposures."[63] However, there have been subsequent changes to the capital rules that apply to insurance companies, especially those that do business with the government-sponsored enterprises ("GSEs"), in the years since, which would mitigate the chances of a concurrent deterioration in private mortgage insurance and the underlying exposures, such as that that occurred during the financial crisis. For example, in 2015, the Federal Housing Finance Agency ("FHFA") required Fannie Mae and Freddie Mac to adopt the Private Mortgage Insurer Eligibility Requirements, which impose risk-based capital and liquidity standards on private mortgage insurers to ensure they have sufficient financial resources to pay claims even in recession environments,[64] and have continued to update these requirements to meet the changing economic environment.[65]

Adjustments for private mortgage insurance are recognized in the FHFA capital framework for Fannie Mae and Freddie Mac through the adjusted credit enhancement multiplier, which reduces the risk weight applicable to a mortgage loan covered by mortgage insurance.[66] When adopting its final capital rule, the FHFA explained that the framework "provides a more explicit mechanism than the U.S. banking framework for recognizing and assigning capital relief for mortgage insurance,"[67] and "provide[s] appropriate capital relief to account for the decrease in an Enterprise's exposure to unexpected loss on a single-family mortgage exposure subject to loan-level credit enhancement."[68]

In addition, the agencies' concern about the potential correlation between private mortgage insurance and the underlying exposures is already captured in the stress testing framework. Mortgage insurance recoveries are not considered when computing recoveries to calculate loss severity under the

---

[62] 12 C.F.R. § 160.101 app. (2019) (OCC); 12 C.F.R. pt. 208 app. C (2013) (Federal Reserve); 12 C.F.R. pt. 365 app. A (2021) (FDIC).

[63] Standardized Approach NPR at 15,339.

[64] FHFA, Fannie Mae and Freddie Mac Issue Revised Private Mortgage Insurer Eligibility Requirements (April 17, 2015), *available at* https://www.fhfa.gov/news/news-release/fannie-mae-and-freddie-mac-issue-revised-private-mortgage-insurer-eligibility-requirements.

[65] FHFA, Fannie Mae and Freddie Mac Update Their Private Mortgage Insurer Eligibility Requirements (Aug. 21, 2024), *available at* https://www.fhfa.gov/news/news-release/fannie-mae-and-freddie-mac-update-their-private-mortgage-insurer-eligibility-requirements-2024.

[66] *See* 12 C.F.R. § 1240.33(e)(2).

[67] FHFA and Off. of Fed. Housing Enter. Oversight., *Enterprise Regulatory Capital Framework*, 85 Fed. Reg. 82,150, 82,196 (Dec. 17, 2020).

[68] *Id*. at 82,172.

Federal Reserve's First Lien Mortgage Model.[69] Accordingly, the stress testing framework already accounts for the assumption that private mortgage insurance could deteriorate alongside the underlying exposures.

G. The final rule should recalibrate the risk weights and the operational risk add-on used to determine the risk weights in the standardized approach to reflect any recalibration of risk weights or of operational risk under the expanded-risk based approach.

Under the proposal, the risk weights for certain exposures include a "nominal add-on" to reflect operational risk since, unlike the proposed expanded risk-based approach, the revised standardized approach would not include a separate operational risk charge.[70] This "nominal add-on" is based on the agencies' analysis showing that RWAs for operational risk are approximately 12% of credit risk RWAs for lending activities.[71] The agencies therefore propose add-ons of approximately 5% for residential real estate exposures, 10% for corporate exposures, and 13% for other retail exposures.

To the extent that the agencies recalibrate the operational risk component of the expanded risk-based approach, the agencies should also recalibrate the add-on for operational risk reflected in the standardized approach risk weights. This would maintain the desired "consistency between the expanded risk-based approach and the standardized approach."[72] In general, any recalibration of the expanded risk-based approach when finalized should carry through to the calibration of the final version of the revised standardized approach to maintain the parity the agencies have attempted to create.

The agencies should also revise the definitions and recalibrate the risk weights in the standardized approach to align with any changes made to the definitions and risk weights in the expanded risk-based approach to further the stated goal of maintaining consistency between the expanded risk-based and standardized approaches.[73]

H. The final rule should extend bank exposure treatment to certain qualifying securities firms and other financial institutions.

The proposal would not treat any exposures to non-depository institution financial institutions as bank exposures and instead would generally treat them as corporate exposures.[74] We support extending bank exposure treatment to certain qualifying securities firms and other financial institutions in the final Basel III rule and in the final standardized approach rule. The agencies should apply the risk weights applicable to bank exposures to exposures to (i) eligible U.S. broker-dealer subsidiaries of U.S. bank holding companies or U.S. intermediate holding companies ("IHCs") subject to Regulation YY, which are

---

[69] See Federal Reserve, Supervisory Stress Test Model Documentation: Credit Risk Models, at 204, *available at* https://www.federalreserve.gov/supervisionreg/files/credit-risk-models.pdf.

[70] *See* Standardized Approach NPR at 15,341.

[71] *Id*.

[72] *Id. at 15,370*.

[73] *Id*.

[74] *Id.* at 15,373.

consolidated for the purposes of the parent company-level bank regulatory capital requirements, and (ii) certain foreign securities firm subsidiaries of U.S. bank holding companies or foreign holding companies.[75] For foreign securities firms, this treatment should be available so long as the securities firm is subject to bank-equivalent regulatory and supervisory requirements either at the (i) parent level or (ii) securities firm level. In particular, UK or EU investment firms subject to the UK or EU bank capital and liquidity requirements should be treated as bank exposures, with their risk weight determined based on the same criteria. Treating these exposures as bank exposures would improve the risk sensitivity of the U.S. capital framework by recognizing that these financial institutions pose less credit risk than general corporate exposures as a result of compliance with prudential standards and the supervision to which they are subject. This change would also achieve greater alignment with international standards.[76]

II. Comments Related to Credit Risk Mitigation

A. The final rule should confirm that firms may continue to apply their reservations of authority that permit credit-linked notes to be treated as synthetic securitizations.

The proposal would recognize "eligible prepaid credit protection arrangements" as a credit risk mitigant.[77] According to the proposal, fully funded credit-linked notes are a common example of a prepaid credit protection arrangement.[78] Many firms have received reservations of authority permitting credit-linked notes to be treated as synthetic securitizations, but it is unclear what the effect of the proposal would be on these reservations of authority.

The agencies should confirm that firms (1) may continue to issue credit-linked notes pursuant to the existing reservations of authority (in addition to issuing credit-linked notes in accordance with the provisions of the final rule on prepaid credit protection arrangements), and (2) may continue to recognize credit-linked notes issued under existing reservations of authority as credit risk mitigants.

B. The definition of eligible prepaid credit protection arrangement should be revised in line with the legal relationship underlying these arrangements.

The proposal would recognize prepaid credit protection arrangements, such as fully funded credit-linked notes.[79] Paragraph (5) of the definition of eligible prepaid credit protection arrangement requires that the arrangement "[p]rovide[] that entry of the protection provider into receivership, insolvency, liquidation, conservatorship, or similar proceeding does not change the amounts or timing of payments

---

[75] In the Basel III NPR, the agencies requested comment on the advantages of treating an exposure to a non-bank financial institution, such as a foreign holding company or broker-dealer subsidiary, as a foreign bank exposure when that foreign jurisdiction has determined that the financial institution is regulated and supervised in a manner equivalent to a bank. Basel III NPR at 14,967 (Question 14).

[76] *See* Basel Framework, CRE 20.40.

[77] Proposed §§ 3.37(c) (OCC); 217.37(c) (Federal Reserve); 324.37(c) (FDIC).

[78] Standardized Approach NPR at 15,350.

[79] Proposed §§ 3.37(c) (OCC); 217.37(c) (Federal Reserve); 324.37(c) (FDIC).

due to be paid by the protection purchaser under the arrangement."[80] This provision appears to reflect issues that are relevant in the context of executory contracts such as collateralized guarantees or credit derivatives, where the protection provider has continuing obligations that could be affected by insolvency proceedings, but those concerns are not relevant to prepaid credit protection arrangements. In a fully funded arrangement such as a credit-linked note, the protection provider fully performs at inception by making a cash payment and thereafter holds only a contractual claim under the note, with no further obligations to the protection purchaser.

When credit events occur on the underlying reference portfolio—as reflected in paragraph (7) of the definition[81]—the prepaid credit protection operates in accordance with its terms to reduce the principal amount owed by the protection purchaser without any further performance by the protection provider. In the capital markets, it is common for notes to have provisions—such as maturity and redemption provisions, conversion provisions, or variable principal amounts—that operate in accordance with their terms independent of and without any involvement of the noteholder. These terms are not remedies against the holder or its property, but rather a term or characteristic of the property (*i.e.*, the claim) itself. Insolvency-related risk with respect to the noteholder is not viewed as a potential impediment to whether the note can operate in accordance with its terms.[82,83]

---

[80] Proposed §§ 3.2 (OCC); 217.2 (Federal Reserve); 324.2 (FDIC).

[81] Paragraph (7) provides that an eligible prepaid credit protection arrangement, "[u]pon a failure by the obligor on the one or more reference exposures to make a contractually required payment, or the occurrence of other credit events as described in the arrangement, allows the protection purchaser promptly to reduce the outstanding balance of the initial principal amount due to the protection provider by the loss of the protection purchaser on the reference exposures without input from the protection provider." Proposed §§ 3.2 (OCC); 217.2 (Federal Reserve); 324.2 (FDIC).

[82] The proposed rule acknowledges that insolvency-related risk is not an impediment by requiring a 0% risk weight on the covered/protected portion of an eligible prepaid credit protection arrangement. Proposed §§ 3.37(c)(6) (OCC); 217.37(c)(6) (Federal Reserve); 324.37(c)(6) (FDIC); Standardized Approach NPR at 15,351 ("Under the proposal, if the protection amount of the eligible prepaid credit protection arrangement is greater than or equal to the exposure amount of the reference exposure, a covered banking organization would be allowed to assign a zero percent risk weight to the exposure"). In contrast, for other types of credit risk mitigants, firms would be required to apply the risk weight of the protection provider. Proposed §§ 3.36(a)(1) (OCC); 217.36(a)(1) (Federal Reserve); 324.36(a)(1) (FDIC).

[83] In contrast, with respect to a collateralized guarantee or derivative, the protection provider posts collateral to the protection purchaser, but the collateral remains property of the protection provider. The protection provider has an ongoing obligation to make credit protection payments, secured by the property that it has provided as collateral. When credit events occur with respect to the underlying reference portfolio, the protection purchaser is entitled either (i) to receive a payment from the protection provider or (ii) to realize upon the collateral pledged by the protection provider to it. In either case, the credit risk mitigant reflects an ongoing obligation of the protection provider, and the collateral remains property of the protection provider unless and until the protection purchaser exercises remedies against it. This is an essential and distinguishing characteristic of a prepaid credit protection arrangement, reflecting the different legal form. And because the legal form is different, the relevant legal issues are different as well.

Paragraph (5) of the definition should be revised to *prohibit* any term in a prepaid credit protection arrangement that would change the amounts or timing of payments due to be paid by the protection purchaser under the arrangement due to the entry of the protection provider into receivership, insolvency, liquidation, conservatorship, or similar proceeding. A prohibition, instead of an affirmative requirement as drafted in the proposal, would avoid potential undue constraints on the markets for prepaid credit protection arrangements or disproportionate burdens on firms when using prepaid credit protection arrangements.

In addition, paragraph (6) should be revised to read, "[i]s legally valid and enforceable under *the law governing the arrangement*" to avoid implicating jurisdictions other than those whose law governs the agreement. This is the only relevant law because the protection provider need not take any further action after the purchase price has been paid as long as the terms of the arrangement are enforceable. If paragraph (5) is retained as an affirmative requirement, it could be read together with paragraph (6) to require banking organizations to undertake wide-ranging insolvency-law analyses with respect to potential noteholders that would serve no purpose given the legal form of a prepaid credit protection arrangement. Moreover, if a credit-linked note is issued through a clearing agency, such as DTC, the ultimate beneficial owner of the note is not in privity of contract with the issuing banking organization, and an insolvency law analysis with respect to a beneficial owner not in privity of contract with the banking organization would not serve a useful purpose.

C. The outstanding investment grade debt security requirement in the definition of "eligible guarantor" should be eliminated and replaced with a requirement that the guarantor be investment grade.

To recognize the credit risk mitigation benefits of an eligible guarantee or eligible credit derivative, the current standardized approach allows substitution of the hedged exposure's risk weight with the risk weight applicable to an eligible guarantor (not any other counterparty).[84] The proposed revised standardized approach would retain this requirement, and the definition of "eligible guarantor" would not be revised.[85] As a result, it would continue to require that an "eligible guarantor" have issued and outstanding an unsecured debt security without credit enhancement that is investment grade and would continue to not include credit insurers as eligible guarantors.[86]

The eligible guarantor requirement should be eliminated. Guarantees and credit derivatives provided by persons or entities other than those that meet the definition of "eligible guarantor" still

---

[84] §§ 3.36(c)(1) (OCC); 217.36(c)(1) (Federal Reserve); 324.36(c)(1) (FDIC).

[85] Standardized Approach NPR at 15,345.

[86] 12 C.F.R. §§ 3.2 (OCC); 217.2 (Federal Reserve); 324.2 (FDIC); Standardized Approach NPR at 15,345. In Question 22, the agencies seek comment on the investment grade unsecured debt security requirement. Basel III NPR at 14,989 ("Question 22: The agencies seek comment on the requirement that the entity has issued and outstanding an unsecured debt security without credit enhancement that is investment grade to meet the definition of an eligible guarantor. What, if any, alternatives to this requirement should the agencies consider to help to ensure that eligible guarantors can be expected to perform on guarantees and what would the pros and cons of those alternatives be?").

provide credit risk mitigation benefits. Limiting eligible guarantees to those provided by eligible guarantors fails to recognize those benefits.

However, if the agencies retain the eligible guarantor requirement, the requirement to have an outstanding unsecured debt security should be eliminated and eligible guarantor status should be aligned with investment grade status (consistent with our recommendation in Section I.B to incorporate the investment grade concept into the standardized approach). The outstanding unsecured debt security requirement is unnecessarily limiting. The agencies' objectives with those requirements could be satisfied by requiring an eligible guarantor to be investment grade. The investment grade standard would be used elsewhere in a final rule if our recommendation is adopted and is easily operationalized. If the agencies adopt our recommendation in Section I.B, using the existing investment grade standard in this context as well would simplify the capital framework by harmonizing various aspects of it.

In addition, the definition of "eligible guarantor" requires that the guarantor's creditworthiness not be positively correlated with the credit risk of the exposures for which it has provided guarantees.[87] This prohibition on positive credit risk correlation reduces the utility of parent company guarantees when parent companies and guaranteed subsidiaries have similar risk profiles. The requirement that the guarantor's creditworthiness is not positively correlated with the credit risk of the exposures thus disqualifies most parent guarantees, which are a fundamental credit risk management tool. This requirement misapplies the wrong-way risk concept in the context of parent guarantees, where the relevant credit support is provided by the parent entity.

III. Comments Related to Other Issues Presented in the Proposal

A. The agencies should finalize the proposal expeditiously and allow firms to early adopt if they are able to do so.

The proposal does not include any discussion of the contemplated effective date of the proposal or the period between adoption of a final rule and the initial effective date and does not consider how its effective date interacts with the Federal Reserve's stress test proposal. The agencies should adopt the final rule promptly, with a mandatory implementation date that is the same as for the Basel III proposal. In addition, the agencies should follow the same approach taken in the recent eSLR final rule and allow firms to early adopt the final rule starting the first day of the calendar quarter following effectiveness of the final rule.[88] Firms should be able to adopt the proposed revised standardized approach early if they are operationally ready to do so. Allowing for early adoption will allow the agencies to align the mandatory implementation dates of the revised standardized approach proposal and the Basel III proposal without requiring firms subject to the standardized approach to wait the full implementation period, which is likely

---

[87] 12 C.F.R. §§ 3.2 (OCC); 217.2 (Federal Reserve); 324.2 (FDIC).

[88] *See* OCC, Federal Reserve, FDIC, *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. 55,248, 55,248 (Dec. 1, 2025).

more relevant for the Basel III proposal given its complexity as compared to the standardized approach proposal.

B. The final rule should preserve the accumulated other comprehensive income ("AOCI") phase-in period if a Category III or IV firm becomes a Category I or II firm during the phase-in period.

The proposal would provide a five-year phase-in for the inclusion of most components of AOCI in regulatory capital for Category III and IV firms.[89] The Basel III proposal would provide the same phase-in for a firm that elects to become subject to the expanded risk-based approach.[90] Under the proposed rules, however, it seems that a Category III or IV firm, or a firm with less than $100 billion in assets that elects to apply the expanded risk-based approach, that becomes a Category I or II firm during the transition period would cease to benefit from the transition period upon becoming a Category I or II firm.

The agencies should provide that previously applicable AOCI transition arrangements continue uninterrupted following a firm's change in category, and that firms do not forfeit any remaining AOCI transition relief solely as a result of becoming a Category I or II firm. There are potential cliff effects for firms that cross into the Category I or II threshold during the AOCI transition period, which would be mitigated by permitting the firms to continue using the phase-in. When the requirement to include most components of AOCI in regulatory capital was first established for Category I and II firms, those firms benefitted from a four-year phase-in period.[91] Firms not currently required to include most elements of AOCI in capital should likewise benefit from a full phase-in period. The final rule should also clarify that firms that cross the Category IV threshold after implementation and before the five-year phase-in period has ended may benefit from the remainder of the phase-in.

Further, the final rule should specify that the AOCI transition applies to the calculations of RWAs[92] and the denominator of the Tier 1 leverage and SLR ratios. Aligning the treatment across these various calculations would ensure consistency between the numerator and denominator across regulatory capital ratios.

---

[89] Proposed §§ 3.300 (OCC); 217.300 (Federal Reserve); 324.300 (FDIC); Standardized Approach NPR at 15,335, n.12.

[90] *See* Basel III NPR proposed §§ 3.300 (OCC); 217.300 (Federal Reserve); 324.300 (FDIC).

[91] OCC, *Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule*, 78. Fed. Reg. 62,018, 62,078 (Oct. 11, 2013).

[92] *See* 12 C.F.R. §§ 3.2 (OCC); 217.2 (Federal Reserve); 324.2 (FDIC) (defining "exposure amount" of an available-for-sale or held-to-maturity security to exclude net unrealized gains and losses if the firm has made an AOCI opt-out election).

C. Firms should be permitted to elect to immediately recognize most elements of AOCI in common equity tier 1 capital, rather than be required to do so over the course of the five-year phase-in period.

The proposal would not allow a Category III or IV firm to immediately recognize AOCI in capital, should it wish to do so. As written, the proposed rule requires firms that previously made an AOCI opt-out election to follow the five-year phase-in period.[93] Firms should be permitted to elect to immediately recognize most elements of AOCI in common equity tier 1 capital, rather than to do so over the course of the five-year phase-in period. For instance, the agencies could provide a mechanism for a firm to "revoke" its AOCI election.

The agencies requested comment on whether the five-year AOCI transition period should be optional.[94] We support making the transition period optional to preserve flexibility. As the agencies note in the proposal, firms with positive AOCI—for example, from unrealized gains on available-for-sale securities—would recognize less AOCI in their regulatory capital ratios during the transition period than they would if the full AOCI amount were recognized immediately.[95] Because firms will be affected by the requirement to recognize AOCI in regulatory capital differently, it should be the decision of the individual firm whether recognizing all AOCI sooner than the end of the transition period would be preferable.

D. The final rule should specify the opt-in mechanism for the expanded risk-based approach and allow firms to opt in as of the mandatory implementation date.

1. <u>The final rule should specify the opt-in mechanism for the expanded risk-based approach.</u>

The proposal does not specify how firms would opt into the expanded risk-based approach,[96] including whether the election would be public or confidential and how the agencies would need to confirm the firm's ability to use the expanded risk-based approach.

The agencies should specify what process, if any, the agencies expect to apply to confirm that a firm is able to opt into the expanded risk-based approach. An understanding of any process required in connection with approval to opt into the expanded risk-based approach would be important information for firms considering whether to opt in and would also allow firms that decide to do so to prepare more effectively.

Any opt-in process set forth in the final rule should permit firms to elect to use the expanded risk-based approach even if they lack minor data points required under the approach, so long as they treat those exposures more conservatively. For example, an exposure to a small or medium-sized entity ("SME")

---

[93] Proposed §§ 3.300(a) (OCC), 217.300(a) (Federal Reserve), 324.300(a) (FDIC).

[94] Standardized Approach NPR at 15,337.

[95] *Id*.

[96] *Id.* at 15,334.

could be treated as a corporate exposure rather than a regulatory retail exposure, and thus subject to a higher risk weight, if the firm lacks sufficient data to verify that the entity meets the SME definition.[97]

2. The final rule should permit firms to elect to be subject to the expanded risk-based approach as of the mandatory implementation date.

The final rule should permit firms to elect to be subject to the expanded risk-based approach as of the mandatory implementation date, as some firms may be prepared to meet the requirements at that point. A requirement for firms to wait 12 months after electing to apply the expanded risk-based approach following the implementation date would unnecessarily delay firms' becoming subject to a more risk sensitive framework. Allowing non-Category I and II firms to use the expanded risk-based approach as of the final rule's implementation date would impose a minimal burden on the agencies, as Category I and II firms would also become subject to the expanded risk-based approach on the implementation date.

* * * * *

[97] Basel III NPR at 14,974 ("Under the proposal, if an exposure to an SME does not meet the eligible product criterion and the aggregate limit criterion described above, then none of the exposures to that SME would qualify as retail exposures and all the exposures to that SME would be treated as corporate exposures."); Basel III NPR proposed § __.101(b) ("Retail exposure means an exposure that is not a real estate exposure and that meets the following criteria: (1) The exposure is to a natural person or persons, or (2) The exposure is to an SME and satisfies the criteria in paragraphs (1) through (2) of the definition of regulatory retail exposure.").

The Associations appreciate the opportunity to comment on the proposal. If you have any questions, please contact the undersigned at sarah.flowers@bpi.com, HBenton@aba.com, MFlood@USChamber.com, and rross@consumerbankers.com, respectively.

Respectfully submitted,

/s/ Sarah Flowers

Sarah Flowers
Senior Vice President, Head of Capital Advocacy
Bank Policy Institute

/s/ Hu Benton

Hu Benton
Senior Vice President and Policy Counsel
American Bankers Association

/s/ Mike Flood

Mike Flood
Senior Vice President, Center for
Capital Market Competitiveness
U.S. Chamber of Commerce

/s/ Rachel Ross

Rachel Ross
Vice President, Associate General Counsel,
Senior Regulatory Counsel
Consumer Bankers Association

The Associations

The Bank Policy Institute is a nonpartisan public policy, research and advocacy group that represents universal banks, regional banks, and the major foreign banks doing business in the United States. The Institute produces academic research and analysis on regulatory and monetary policy topics, analyzes and comments on proposed regulations, and represents the financial services industry with respect to cybersecurity, fraud, and other information security issues.

The American Bankers Association is the voice of the nation's $26.1 trillion banking industry, which is composed of small, regional and large banks that together employ over 2 million people, safeguard $20.5 trillion in deposits and extend $13.7 trillion in loans.

The U.S. Chamber of Commerce is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million businesses and professional organizations of every size, in every industry sector, and from every region of the country.

The Consumer Bankers Association is a member-driven trade association, and the only national financial trade group focused exclusively on retail banking—banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation for its members. CBA members operate in all 50 states. They include the nation's largest bank holding companies as well as regional and super-community banks. The vast majority of CBA's members are financial institutions holding more than $10 billion in assets.