DAVID ZARING

Proposal and Comment Information

Title: GSIB-Regulatory Capital Rule: Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15), R-1889

Comment ID: FR-2026-0009-01-C24

Submitter Information

Name: David Zaring

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June 10, 2026

Ms. Benjamin McDonough
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
Request for Information and Comment on Reserve Bank Payment Account Prototype (OP-1877)

Re: GSIB-Regulatory Capital Rule: Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15) [R-1889]

Dear Mr. McDonough:

My perspective
I am the Elizabeth F. Putzel Professor at the Wharton School of the University of Pennsylvania.
I have written extensively on financial regulatory institutions and banking regulation, and am among the most cited active scholars in both administrative law and financial regulation. My scholarship sits at the intersection of financial regulation, international law, and domestic administration.
My work has often focused on the relationship between American regulators and the Basel Committee on Banking Supervision, especially with regard to the various iterations of the Basel capital accords. I am the author or co-author of, to give three representative examples:

- THE GLOBALIZED GOVERNANCE OF FINANCE (2020).
- Peter Conti-Brown & David Zaring, The Foreign Affairs of the Federal Reserve, 44 J. CORP. L 665 (2019).
- David Zaring, Finding Legal Principle in Global Financial Regulation, 52 VA. J. INT'L L. 683 (2012).

I offer this perspective on my own behalf. I have no financial interest in the outcome of this matter and have not been compensated by any party for providing this comment.

My recommendation
The United States, its financial institutions, and its financial regulators have benefited from participation in the Basel capital accord process. The process has improved oversight of foreign banks, including foreign banks to which US firms have exposure. It has also created a level playing field for American banks doing business abroad. The original Basel III Endgame proposal departed too much from the basic Basel III standard, risking the creation of an uneven playing field in ways that would reduce the ability of American banks to compete internationally; this standard does not do so. I recommend its adoption.

The current proposed rule is consistent with the Basel III framework
The original 2023 proposal departed from the Basel III accord in several material respects. For example, it increased risk weights for residential real estate beyond the European and British approaches, restricted preferential treatment for "investment grade" corporate exposures to publicly traded issuers, declined to adopt Basel's reduced risk weightings for small and medium enterprise exposures, and omitted the Basel framework for simple, transparent, and comparable securitizations. The cumulative effect of these differences would have been a cumulative capital increase of 16% for American banks, while British banks faced a 3% increase in capital, and European banks 10%. As noted by Federal Reserve Chair Jerome Powell, that proposal "exceeds what is required by the Basel agreement, and exceeds as well what we know of plans for implementation by other large jurisdictions."

The new proposal addresses those concerns and returns the U.S. framework to the international baseline that the Basel Committee adopted in December 2017. It "generally implement[s] the 2017 Basel agreement," with the agencies acknowledging that prior U.S. risk weights had run materially higher than those applied to foreign banks under Basel standards as implemented elsewhere, and that the proposal's "downward calibrations would bring them much closer in line." Residential real estate risk weights have been recalibrated along Basel-style loan-to-value bands and the securitization risk-weight floor is reduced from 20% to 15%, both of which are more in line with the international capital standards. "Investment grade" corporate exposures, identified through banking organizations' internal credit ratings, receive the 65% risk weight prescribed by Basel.

The result is a U.S. capital regime set at a level consistent with—rather than materially above—the Basel III baseline, conforming domestic practice to the international standard.
By promulgating the rule, American financial regulators can once again lead an important effort to standardize regulations across borders
The timing of the new proposal is significant. The European Commission has twice exercised its delegated authority to postpone application of the remaining Basel III rules, citing in each instance the absence of clarity regarding implementation in "other major jurisdictions." The United Kingdom has followed the same course: in January 2025 the Prudential Regulation Authority delayed the implementation of Basel 3.1 by one year, expressly grounding the deferral in uncertainty about U.S. timing. Because the Basel Committee operates as a soft-law standard-setter whose practical content is determined by reciprocal national implementation, a f

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The current proposed rule is consistent with the Basel III framework
The original 2023 proposal departed from the Basel III accord in several material respects.[2] For example, it increased risk weights for residential real estate beyond the European and British

[1] I want to thank Amy Chen for help preparing this comment.

[2] Reports on the differences between the proposed American rule and the approaches in other jurisdictions may be found at Jason J. Cabral, et. al., *Federal Banking Agencies Issue Basel III Endgame Package of Reforms*, GIBSON

approaches, restricted preferential treatment for "investment grade" corporate exposures to publicly traded issuers, declined to adopt Basel's reduced risk weightings for small and medium enterprise exposures, and omitted the Basel framework for simple, transparent, and comparable securitizations. The cumulative effect of these differences would have been a cumulative capital increase of 16% for American banks, while British banks faced a 3% increase in capital, and European banks 10%.[3] As noted by Federal Reserve Chair Jerome Powell, that proposal "exceeds what is required by the Basel agreement, and exceeds as well what we know of plans for implementation by other large jurisdictions."[4]

The new proposal addresses those concerns and returns the U.S. framework to the international baseline that the Basel Committee adopted in December 2017. It "generally implement[s] the 2017 Basel agreement,"[5] with the agencies acknowledging that prior U.S. risk weights had run materially higher than those applied to foreign banks under Basel standards as implemented elsewhere, and that the proposal's "downward calibrations would bring them much closer in line."[6] Residential real estate risk weights have been recalibrated along Basel-style loan-to-value bands and the securitization risk-weight floor is reduced from 20% to 15%, both of which are more in line with the international capital standards.[7] "Investment grade" corporate exposures, identified through banking organizations' internal credit ratings, receive the 65% risk weight prescribed by Basel.[8]

The result is a U.S. capital regime set at a level consistent with—rather than materially above—the Basel III baseline, conforming domestic practice to the international standard.[9]

DUNN (Aug. 23. 2023), https://www.gibsondunn.com/federal-banking-agencies-issue-basel-iii-endgame-package-of-reforms/; Alejandro Johnston, et. al., *Basel III Endgame: Complete Regulatory Capital Overhaul*, PWC (Aug. 2023), https://www.pwc.com/us/en/industries/financial-services/library/our-take/basel-iii-endgame.html; *Basel III 'Endgame': Regulators Propose Significant Revisions to Capital Rules Applicable to Large Banks*, SULLIVAN & CROMWELL (Aug. 1, 2023), https://www.sullcrom.com/SullivanCromwell/_Assets/PDFs/Memos/sc-publication-basel-iii-endgame.pdf; Travis Hill, Statement by Travis Hill, Vice Chairman, FDIC, on the Proposal to Revise the Regulatory Capital Requirements for Large Banks (July 27, 2023), available at https://www.fdic.gov/news/speeches/2023/spjul2723b.html.

[3] Kyle Campbell, *Basel III Endgame: 5 Things to Watch in 2024*, AMERICAN BANKER (Dec. 25, 2023), https://www.americanbanker.com/list/basel-iii-endgame-5-things-to-watch-in-2024.

[4] Jerome Powell, Statement by Chair Jerome H. Powell (July 27, 2023), available at https://www.federalreserve.gov/newsevents/pressreleases/powell-statement-20230727.htm.

[5] Travis Hill, Statement by Chairman Travis Hill on Risk-Based Capital Proposals (Mar. 19, 2026), https://www.fdic.gov/news/speeches/2026/statement-chairman-travis-hill-risk-based-capital-proposals.

[6] 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 (proposed Mar. 27, 2026) (to be codified at 12 C.F.R. pts. 3, 6, 32, 208, 217, 225, 238, 252, 324).

[7] *See* Matthew Bisanz et al., US Banking Regulators Propose Reforms to Capital Requirements, MAYER BROWN (Mar. 20, 2026), https://www.mayerbrown.com/en/insights/publications/2026/03/us-banking-regulators-propose-reforms-to-capital-requirements.

[8] *See id*. at 13.

[9] Governor Barr's dissent characterizes the Proposal as a material downward deviation from Basel III citing two examples. *See* Michael S. Barr, Statement on Bank Capital Proposals by Governor Michael S. Barr (Mar. 19, 2026), https://www.federalreserve.gov/newsevents/pressreleases/barr-statement-20260319.htm. But his characterization overstates the departure. First, the output floor is designed to limit internal model-driven reductions in capital, and Basel expressly provides that a jurisdiction may remain compliant even if it "does not implement some or all of the internal-modelled approaches" and instead implements only standardized approaches. *Finalising Post-Crisis Reforms, supra* note 9, at ¶ 8; *see also* Category I and II Banking Organizations, *supra* note 4, at 14,959 (omitting

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The timing of the new proposal is significant. The European Commission has twice exercised its delegated authority to postpone application of the remaining Basel III rules, citing in each instance the absence of clarity regarding implementation in "other major jurisdictions."[10] The United Kingdom has followed the same course: in January 2025 the Prudential Regulation Authority delayed the implementation of Basel 3.1 by one year, expressly grounding the deferral in uncertainty about U.S. timing.[11] Because the Basel Committee operates as a soft-law standard-setter whose practical content is determined by reciprocal national implementation, a faithful U.S. adoption of the new proposal would set the calibration toward which other major jurisdictions are likely to converge. Finalizing the new proposal in 2026 would thus position the United States as the leading implementer of the proposal and restore the harmonized baseline contemplated by the 2017 international agreement.

The case for finalizing the new proposal is reinforced by a broader observation: in an interconnected global economy, some degree of international cooperation is inescapable. It is efficient for business, efficient for regulators, and increasingly a baseline requirement of modern administration. Firms that operate transnationally bear the cost of every divergence between jurisdictions, and harmonized rules create a level playing field. Airlines for America has publicly applauded the International Civil Aviation Organization's CORSIA carbon regime precisely because it "will prevent a patchwork of global measures to address international aviation emissions."[12] Major shipping lines have urged the International Maritime Organization to accelerate a global framework for green fuels, warning that "a growing patchwork of unilateral regulations" would raise costs without delivering results.[13] Circle has called for transatlantic alignment on stablecoins to avert "global regulatory arbitrage."[14]

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the output floor because the proposed requirements would be "almost completely standardized"). The securitization point is likewise better understood as a U.S.-specific calibration within the standardized securitization framework. Although Basel reserves the lower SEC-SA supervisory parameter for STC securitizations, the new proposal applies that lower parameter to securitization exposures generally, while retaining other securitization-specific safeguards, including tranche-sensitive attachment and detachment inputs, delinquency adjustments, a higher resecuritization parameter, and risk-weight floors. *See* Category I and II Banking Organizations, *supra* note 4 at 15,185-86. Nor is securitization recalibration unique to the United States. The European Commission has likewise proposed lowering capital requirements for certain senior securitization tranches while describing the changes as consistent with Basel's "spirit and logic." European Comm'n, *Revitalising EU Securitisation* (June 27, 2025), https://finance.ec.europa.eu/news/revitalising-eu-securitisation-2025-06-27_en.

[10] European Comm'n, *Commission Proposes to Postpone by One Additional Year the Market Risk Prudential Requirements Under Basel III* (June 12, 2025), https://finance.ec.europa.eu/news/commission-proposes-postpone-one-additional-year-market-risk-prudential-requirements-under-basel-iii-2025-06-12_en; European Comm'n, *Commission Proposes To Postpone By One Year The Market Risk Prudential Requirements Under Basel III In The EU* (July 23, 2024*)*, https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3981.

[11] Prudential Regul. Auth., Bank of Eng., *The PRA Announces a Delay to the Implementation of Basel 3.1* (Jan. 17, 2025), https://www.bankofengland.co.uk/news/2025/january/the-pra-announces-a-delay-to-the-implementation-of-basel-3-1 (delay justified by uncertainty over U.S. implementation timing).

[12] Airlines for America, *A4A Statement on ICAO Agreement* (Oct. 7, 2022), https://www.airlines.org/news-update/a4a-statement-on-icao-agreement/.

[13] World Shipping Council, *Global Shipping Industry Reaffirms Support for the IMO Net-Zero Framework* (Oct. 9, 2025), https://www.worldshipping.org/news/global-shipping-industry-reaffirms-support-for-the-imo-net-zero-framework.

[14] Dante Disparte, *Payment Stablecoin Policy Principles*, Circle, https://www.circle.com/executiveinsights/payment-stablecoin-policy-principles (last visited Feb. 24, 2026).

Cross-border cooperation is a critical component of regulation

Cross-border cooperation is also how agencies do their jobs. Banking regulators learned this in the 1970s, after a series of cross-border bank failures, and have been harmonizing capital buffers ever since; the Basel framework is the direct result.[15] The Food and Drug Administration participates as a founding member of the International Council for Harmonisation and in a half-dozen other regulator networks because the pharmaceutical supply chain is global.[16] The Federal Aviation Administration's work, similarly, is intertwined with the work of the International Civil Aviation Organization.[17] Congress has recognized this: the FDA's organic statute requires the agency to "harmonize regulatory requirements" with foreign counterparts,[18] and a separate federal standards statute directs every federal agency to take international standards into account when developing its own.[19]

Indeed, international cooperation has become the daily work of the administrative state. The U.S.-Canada Regulatory Cooperation Council produced joint standards for personal flotation devices and, after a 2013 rail accident, drove the Department of Transportation and Transport Canada to adopt coordinated flammable-liquid tank car safety rules.[20] Cooperation on commercial motor vehicle safety standards with Mexico followed the same model.[21] The Department of Transportation has gone so far as to revise its ex parte communications policy in response to the recognition that restrictive rules on external contacts were producing unnecessary divergence from international standards.[22] Banking supervision is part of this broader pattern, not an exception to it.

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[15] *See* Basel Comm. on Banking Supervision, *International Convergence of Capital Measurement and Capital Standards* (1988), https://www.bis.org/publ/bcbs04a.htm; Basel Comm. on Banking Supervision, *Basel II: International Convergence of Capital Measurement and Capital Standards: A Revised Framework* (2004), https://www.bis.org/publ/bcbs107.htm; Basel Comm. on Banking Supervision, *Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems* (2011), https://www.bis.org/publ/bcbs189.htm.

[16] *See* U.S. Food & Drug Admin., *International Regulatory Harmonization*, https://www.fda.gov/drugs/cder-international-program/international-regulatory-harmonization (last visited Apr. 21, 2026); U.S. Food & Drug Admin., *CDER International Program*, https://www.fda.gov/drugs/guidance-compliance-regulatory-information/cder-international-program (last visited Apr. 21, 2026).

[17] Fed. Aviation Admin., *International Aviation*, https://www.faa.gov/newsroom/international-aviation (FAA "work[s] closely with the International Civil Aviation Organization"); Fed. Aviation Admin., *Safety Management*, https://www.faa.gov/about/initiatives/sms/international (describing FAA efforts to harmonize safety management with ICAO Annex 19).

[18] 21 U.S.C. § 393(b)(3) (requiring the FDA to "participate through appropriate processes with representatives of other countries to reduce the burden of regulation, harmonize regulatory requirements, and achieve appropriate reciprocal arrangements").

[19] 19 U.S.C. § 2532(2)(A) ("[E]ach Federal agency, in developing standards, shall take into consideration international standards and shall, if appropriate, base the standards on international standards.").

[20] *See* Emily Cain, *A Conversation with OIRA Administrator Shelanski on International Regulatory Cooperation* (May 3, 2016), https://obamawhitehouse.archives.gov/blog/2016/05/03/conversation-oira-administrator-shelanski-international-regulatory-cooperation; *see also* Van Ness Feldman LLP, *PHMSA Issues Final Rule on Enhanced Tank Car Standards and Rail Operational Controls for Flammable Liquid Transport* (May 8, 2015), https://www.vnf.com/phmsa-issues-final-rule-on-enhanced-tank-car.

[21] *See* Int'l Trade Admin., *U.S.-Mexico High Level Regulatory Cooperation Council (HLRCC)*, https://legacy.trade.gov/nacp/hlrcc.asp.

[22] U.S. Dep't of Transp., *Guidance on Ex Parte Communications*, https://www.transportation.gov/regulations/guidance-ex-parte-communications.

Conclusion
Finalizing the new proposal substantially in its current form would honor that pattern, vindicate two and a half decades of U.S. leadership at the Basel Committee, and signal—to peer regulators that have been waiting on this jurisdiction, and to the firms and customers who rely on a coherent global financial system—that the United States remains committed to the international cooperation that has, until now, served it well.