BETTER MARKETS, PHILLIP BASIL

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

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Subject

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Submitter Information

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June 18, 2026

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

Re: Notice of Proposed Rulemaking—Regulatory Capital Rule (Regulation Q): Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15), Docket No. 1889, RIN 7100-AH22

Dear Secretary McDonough:

Better Markets[1] appreciates the opportunity to comment on the Board of Governors of the Federal Reserve System's ("Board") proposed amendments ("Proposal")[2] to the risk-based capital surcharge ("GSIB Surcharge") for global systemically important bank holding companies ("GSIBs").

I. Overview

The Proposal addresses important aspects of the GSIB surcharge framework and contains both elements that we support and elements that we oppose. Better Markets' comments[3] are organized as follows:

- **Section II**: We outline eight legal and procedural deficiencies the Board must address in a separate notice prior to the issuance of any final rule. These include the statutory

[1] Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street, and make our financial system work for all Americans again. Better Markets works with allies—including many in finance—to promote pro-market, pro-business, and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans' jobs, savings, retirements, and more.

[2] Federal Reserve Board. Notice of Proposed Rulemaking. *Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15)*. 91 FR 14908. (March 27, 2026), available at: https://www.federalregister.gov/documents/2026/03/27/2026-05961/regulatory-capital-rule-regulation-q-risk-based-capital-surcharges-for-global-systemically-important.

[3] Better Markets has also concurrently submitted comment letters in response to the notice of proposed rulemakings from the Board, Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation on its risk-based capital frameworks for GSIBs and other large banks ("Basel III proposal") and to update the standardized approach ("standardized approach proposal"). *See* Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations, 91 FR 14952 (March 27, 2026) *and* Federal Reserve Board, Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation. Regulatory Capital and Standardized Approach for Risk-Weighted Assets**,** Proposed Rule. Docket ID OCC-2026-0034, Docket No. R-1888, RIN 1557-AF49, RIN 7100-AH21, RIN 3064-AG23; 91 FR 15332 (March 27, 2026).

requirements under numerous sections of the Dodd-Frank Act ("Dodd-Frank")[4] and other Administrative Procedure Act ("APA") requirements that this Proposal has not met.

- **Section III**: We strongly oppose the proposed one-time downward adjustment to the method 2 coefficients. Current GSIB capital requirements should be increased, not decreased, in order to account for the significant and growing expected negative economic impact such banks would pose to the U.S. economy upon failure. As a key part of that, the Board should reassess the reference bank based on the U.S. Government's ("USG") use of the "systemic risk exception" for Silicon Valley Bank ("SVB") and Signature Bank ("Signature").[5] Further, the Board's economic analysis in the Basel III proposal materially understates the extent to which RWA optimization would significantly reduce capital requirements for GSIBs under the combined effect of the Board, Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation (collectively, "agencies") Basel III ("Basel III proposal")[6] and GSIB proposals (together, "large bank capital proposals"), compounding the significant decrease in capital requirements for GSIBs.

- **Section IV**: We conditionally support annual GDP indexing of method 2 coefficients, subject to a binding 2 percent annual cap. Automatic annual indexing above that threshold would result in procyclical capital requirements for GSIBs, which is legally inconsistent with Section 616 of Dodd-Frank, and would structurally reduce surcharges precisely when systemic risk is most elevated.

- **Section V**: We strongly support removing risk-weighted assets ("RWA") from the short-term wholesale funding category ("STWF") denominator and measuring STWF in absolute dollars. We support the recalibration of the new STWF coefficient to approximately 20 percent of aggregate method 2 scores.

- **Section VI:** We strongly support and recommend strengthening the more frequent data averaging requirements. We also support the smaller method 2 buckets to reduce incentives for GSIBs to engage in window dressing and encourage the Board to consider

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4 *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010) (codified as amended in scattered sections of 12 U.S.C.). available at: https://www.congress.gov/bill/111th-congress/house-bill/4173.

5 Joint Statement by the Department of the Treasury, Federal Reserve, and FDIC, "Joint Statement by Treasury, Federal Reserve, and FDIC" (March 12, 2023), available at: https://www.federalreserve.gov/newsevents/pressreleases/monetary20230312b.htm; *see also* Remarks by President Joseph R. Biden Jr. on Maintaining a Resilient Banking System and Protecting Historic Economic Recovery (March 13, 2023), available at: https://bidenwhitehouse.archives.gov/briefing-room/speeches-remarks/2023/03/13/remarks-by-president-biden-on-maintaining-a-resilient-banking-system-and-protecting-our-historic-economic-recovery.

6 *Supra* 3.

this approach in method 1 as well. Better Markets recommends that the Board should finalize these aspects of the Proposal immediately.

- **Section VII:** We generally support the proposed amendments to systemic indicator measurement and the FR Y-15 reporting form, with recommended additions, notably to include crypto-asset exposures, private credit exposures, and Federal Home Loan Banks in the definition of financial institution for the intra-financial system assets and liabilities indicators.

- **Sections VIII, IX and X:** Better Markets offers additional recommendations for the Board to address known deficiencies in its GSIB framework.

Better Markets also provides responses to various questions from the Proposal and provides additional information in the Appendix section.

II. Immediate Actions That the Board Must Undertake Prior to Any Final Rule

The GSIB surcharge is one of the USG's most important and direct responses to the too-big-to-fail problem that has plagued the American government and economy since the 1980s. Its premise is straightforward: the more systemically important a banking organization is, the more capital it must have to equalize the expected impact of its failure to a bank that is not systemically important.[7] It is a dynamic and variable capital requirement that intends to make our banking system fairer to the vast majority of banks whose failure would not require extraordinary government intervention. Therefore, a proposal that would significantly weaken it now (and in the future) deserves special scrutiny.

The singular importance of bank capital is empirically demonstrated as the main determinant of whether banks survive periods of stress. A recent study[8] by researchers at the Federal Reserve Bank of New York, the Federal Reserve Bank of Richmond, and MIT's Sloan School of Management, reviewing 160 years of U.S. bank failure data spanning every major financial crisis from the Panic of 1873 through the 2007-2009 global financial crisis, concluded that bank failures are almost always a solvency (i.e., capital) problem, not a liquidity problem. The study found that bank failures—both those accompanied by depositor runs and those that occurred without runs—are "essentially always associated with weak fundamentals, proxied by bank capitalization, profitability, and reliance on expensive funding," and that "runs do not trigger the failure of observably stronger banks." The authors found that low recovery rates on failed banks—

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7 The GSIB surcharge applies to eight U.S. bank holding companies. At the end of 2025, 4,328 other commercial banks and savings institutions operated in the U.S., which the Board and other federal banking agencies do not consider to be GSIBs. Therefore, it is of critical importance to ensure these systemically important institutions are required to have sufficient capital so that their failure would not adversely affect the vast majority of banking organizations in the U.S., particularly community banks, if they were to fail.

8 Correia, Luck, and Verner. "Bank Failures: The Roles of Solvency and Liquidity." NBER Working Paper No. 34853, at 3 (Feb. 2026), available at: https://www.nber.org/system/files/working_papers/w34853/w34853.pdf.

averaging 75 cents on the dollar, including for banks that experienced runs—suggest that most failed banks were likely insolvent before the run began, and that the run was a consequence rather than a cause of their distress. The critical policy implication for this Proposal that the authors draw is that "policies focused on maintaining and restoring bank solvency, beyond merely providing liquidity support, are necessary for preventing the most adverse consequences of banking crises." This finding directly implicates the calibration of the GSIB surcharge. The largest and most systemically consequential banking organizations are precisely those whose failure would generate the broadest economic distress. The evidence compiled over a century and a half of banking history confirms that the margin of safety provided by strong capital is the variable that most reliably separates banks that survive crises from those that do not. The Board should bear this evidence in mind in calibrating any adjustment to the GSIB surcharge framework, including the proposed change to the coefficients and the GDP indexing mechanism, in order to ensure that the resulting capital requirements remain robust across the full range of economic conditions.

As detailed below, Better Markets supports certain technical improvements to the GSIB surcharge framework that we recommend the Board finalize immediately. However, we strongly object to the Proposal's decrease of the current method 2 coefficients along with a steady state, procyclical reduction based on a variable exogenous to large banks.

Before the Board may lawfully finalize the proposed changes to the method 2 coefficients included in the Proposal, it must satisfy in a reproposal a series of eight threshold legal obligations imposed by Congress through recent Supreme Court cases, Dodd-Frank and the Administrative Procedure Act ("APA"). They are affirmative legal prerequisites to valid rulemaking—each independently sufficient, if left unaddressed, to render a final rule that includes the method 2 coefficient update arbitrary and capricious.[9]

Failure to address these issues would create significant litigation risk and raise substantial questions under the APA and Dodd-Frank. In light of the Supreme Court's recent decision in *Corner Post, Inc. v. Board of Governors of the Federal Reserve System*,[10] such a challenge may be brought within six years of the date of injury—not merely six years from the rule's promulgation—expanding the universe of potential challengers and the temporal window of legal exposure for any unlawfully promulgated final rule. Further, given the Supreme Court's concurrent elimination of Chevron deference in *Loper Bright Enterprises v. Raimondo* ("Loper Bright")[11], courts are asked to exercise independent judgment on questions of statutory interpretation rather than deferring to the Board's construction of its own authority.

A. The Board Must Disclose the Public Record for the Proposed Method 2 Adjustment and Reconcile with Vice Chair for Supervision Bowman's Sworn Congressional Testimony

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[9] 5 U.S.C. § 706(2)(A) and *Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

[10] 603 U.S. 799 (2024).

[11] 603 U.S. 369 (2024)

First, the Board must publicly explain whether the 1.2 coefficient reduction factor was the product of evidence-based analysis or a non-analytically driven compromise figure by the Board. This explanation is compelled by the APA. Vice Chair for Supervision Bowman testified before the House Financial Services Committee that the 1.2 factor[12] to reduce method 2 coefficients was a "compromise" to satisfy the demands of Board members and secure additional "yes" votes on the proposal, not a figure derived from an evidence-based process or analytical methodology based on reasoned decision-making.[13] Her testimony contravenes public remarks prior to and at the Board meeting for the Proposal when she described the rationale undergirding the Proposal. Specifically, in a March 12, 2026 speech[14] and her remarks on March 19, 2026[15] at the Board meeting to consider the large bank capital proposals, she repeatedly stated that she took a "bottom-up" approach to the proposals (not a targeted level), that they "did not begin by setting an aggregate 'target' and working backward," and that "each requirement is evaluated on its merits—examining whether it is properly calibrated to risk, achieves its intended purpose, and avoids creating unintended outcomes." These two explanations cannot be reconciled on the current record.

The Proposal presents the 1.2 factor to the public as though it were the product of a rigorous, evidence-based calibration. These two characterizations are irreconcilable, and the Board cannot leave commenters to guess which is true for the purposes of engaging in the comment process. As the Board should be aware, courts have found that "the process of notice and comment

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12 *Supra* 2 at Section II.A.i. "One time adjustment to Fixed Method 2 Coefficients."

13 *See* Testimony of Vice Chair for Supervision Michelle Bowman. House Financial Services Committee. (June 4, 2026). Under oath, the Vice Chair for Supervision stated in a response to Congressman Brad Sherman, "You are referring to the G-SIB surcharge calibration. I'll be honest with you, the reason that we started at 2019 was because in working with my Board to understand how I could get support for moving this proposal forward. This was the compromise that we were able to strike. We also recognize that in 2019 many of my board members stated that the level of capital in the banking system was just about right, so it was, as I said, it was a compromise. We did discuss and review going back to 2015 it would have lowered the capital requirements to a level that some were uncomfortable with." available at: https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=411130.

14 *See* Vice Chair for Supervision Bowman. "Capital Rules for the Real Economy." (March 12, 2026), available at: https://www.federalreserve.gov/newsevents/speech/bowman20260312a.htm. *"In our work to modernize the capital framework, we evaluated changes in the aggregate while taking a bottom-up approach to ensure that the overall framework is appropriate. We did not begin by setting an aggregate "target" and working backward. Instead, each requirement is evaluated on its merits—examining whether it is properly calibrated to risk, achieves its intended purpose, and avoids creating unintended outcomes."*

15 *See* Federal Reserve Board. Statement on Bank Capital Proposals by Vice Chair for Supervision Michelle W. Bowman. March 19, 2026. available at: https://www.federalreserve.gov/newsevents/pressreleases/bowman-statement-20260319.htm. "*Building on these lessons, our proposed approach to modernize the capital framework starts from a bottom-up review of each element of the framework. We evaluated each requirement on its merits—examining whether it aligns with risk, achieves its intended purpose, and avoids creating unintended outcomes. We also assessed the aggregate impact of these changes to ensure that the calibration of requirements for particular risks and activities is appropriate."*

rule-making is not to be an empty charade."[16] The APA's notice-and-comment requirements exist precisely to allow the public to engage meaningfully with an agency's reasoning. A commenter cannot evaluate, challenge, or respond to a calibration decision without knowing its actual technical basis.[17] The Proposal suggests that the 1.2 factor rests on analytical methodology. Conversely, if it rests on a political compromise—as the Vice Chair for Supervision explicitly stated[18]—then the Proposal's analytical framing is a misrepresentation of the decisional basis that deprives commenters of the ability to provide informed comment, which is itself an independent APA deficiency.

Because Vice Chair for Supervision Bowman's sworn congressional testimony raises substantial questions regarding the rationale presented by the Board in the Proposal, based on her testimony, commenters, including Better Markets, could reasonably assume that the 1.2 factor is a non-reasoned political compromise rather than an analytically derived conclusion. A core calibration decision (in this case, the most significant change for the purposes of the dollar amount of capital required for the GSIBs) in a major agency rulemaking that is not grounded in reasoned analysis will not withstand arbitrary-and-capricious review.[19]

The Board must either (a) disclose the full analytical record supporting the 1.2 factor in a supplemental notice that reopens the comment period, or (b) withdraw and re-propose the coefficient reduction section with a transparent and legally adequate statement of basis and purpose. Failure to do either would leave the Proposal vulnerable to substantial litigation risk.

B. The Board Must Demonstrate Compliance with Section 616 of the Dodd-Frank

Second, the Board must demonstrate—with specific, quantitative, institution-level analysis (i.e., each GSIB on an individual basis)—that the proposed annual indexing of method 2 fixed coefficients to nominal U.S. GDP growth is consistent with the countercyclicality mandate of Section 616(b) of Dodd-Frank.[20] Section 616(b) directs the Board to seek to make capital

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[16] *Conn. Light & Power Co v. Nuclear Regulatory Comm'n*, 673 F.2d 525, 528 (D.C. Cir. 1982).

[17] *Id.* at 530 ("If the notice of proposed rule-making fails to provide an accurate picture of the reasoning that has led the agency to the proposed rule, interested parties will not be able to comment meaningfully upon the agency's proposals.").

[18] Vice Chair for Supervision Bowman's testimony before the House Financial Services Committee carries legal weight. *See* Vice Chair for Supervision Bowman's signed False Statements Certification, available at: https://docs.house.gov/meetings/BA/BA00/20260604/119353/HHRG-119-BA00-TTF-BowmanM-20260604.pdf. Therefore, her testimony constitutes highly relevant evidence regarding the Board's rationale for the 1.2 factor decision in the Proposal. (June 4, 2026), available at: https://docs.house.gov/meetings/BA/BA00/20260604/119353/HHRG-119-BA00-Wstate-BowmanM-20260604.pdf. *"The proposals are calibrated using a bottom-up review of each capital element, not by reverse-engineering capital requirements to reach a predetermined outcome."*

[19] *Supra* 9.

requirements "countercyclical, so that the amount of capital required to be maintained by a company increases in times of economic expansion and decreases in times of economic contraction." The Board cannot satisfy this obligation through a conclusory assertion that the GDP indexing mechanism is a technical measurement correction rather than a substantive capital policy choice.

A potential defense that absolute capital levels still increase as GSIB balance sheets grow, even as coefficients are scaled downward, would still not satisfy Section 616. If this reasoning were valid, the Board could eliminate GSIB surcharges entirely and satisfy Section 616 by pointing to nominal balance sheet growth. That result is inconsistent with what Congress intended. The surcharge framework is explicitly designed to impose a systemic risk premium above the capital requirements that apply to non-systemically important firms. Further, that premium must itself increase during economic expansions to satisfy the statute. Section 616(b) reads: the Board "shall seek to make such requirements countercyclical, so that the amount of capital required to be maintained by a company increases in times of economic expansion." The text admits no exception for measurement corrections or nominal scaling adjustments. Congress wrote an unqualified obligation into Section 616.

As discussed in Section IV in detail, the Board's countercyclical capital buffer's persistent zero setting makes this statutory issue more challenging to defend. The Board adopted the CCyB in 2016 and has never activated it above zero. Its own Policy Statement commits the Board to annual consideration. The GSIB surcharge is therefore the only capital instrument that, in practice, imposes increasing systemic risk requirements during expansions. Adopting an indexing mechanism that reduces the surcharge during those same expansions eliminates the one binding tool Congress provided to accomplish Section 616's mandate. An agency cannot satisfy a statutory countercyclicality obligation by pointing to an instrument it has never used, while simultaneously weakening the instrument it has.

The Supreme Court has held that an agency must examine the relevant data and articulate a satisfactory explanation for its action, including a rational connection between the facts found and the choice made.[21] A mechanism that structurally reduces GSIB surcharges during economic expansions while not increasing them during contractions does not satisfy Section 616 merely because the Board characterizes it as a calibration adjustment rather than a capital policy. The reproposal must include an affirmative, empirically grounded demonstration—including a formal analysis of the mechanism's behavior across historical economic cycles—showing that the GDP indexing produces capital outcomes consistent with Section 616's countercyclical mandate over

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20 *Supra* 4. 12 U.S.C. § 1844(b). "The Board is authorized to issue such regulations and orders, including regulations and orders relating to the capital requirements for bank holding companies, as may be necessary to enable it to administer and carry out the purposes of this chapter and prevent evasions thereof. In establishing capital regulations pursuant to this subsection, **the Board shall seek to make such requirements countercyclical**, so that the amount of capital required to be maintained by a company increases in times of economic expansion and decreases in times of economic contraction, consistent with the safety and soundness of the company."

21 *Supra* 9.

the full business cycle. Absent that ability for public comment, the Board cannot finalize the annual indexing provision as proposed. Better Markets provides additional suggestions to improve this element of the Proposal in Section IV.B.

C. The Board Should Affirmatively Demonstrate Collins Compliance

Third, the Board should provide a complete, institution-specific quantitative analysis demonstrating that the proposed one-time retroactive downward adjustment of method 2 fixed coefficients by a factor of 1.2—which the Board projected to reduce the average method 2 GSIB surcharge from approximately 2.7 percent to 2.3 percent—will not produce capital outcomes at any U.S. GSIB that are quantitatively lower than the requirements in effect as of Dodd-Frank's enactment date of July 21, 2010.

This is a statutory requirement based on Section 171(b)(1)(A) of Dodd-Frank (the "Collins Amendment"), which provides that minimum risk-based capital requirements "may not be quantitatively lower than the requirements in effect for insured depository institutions" as of July 21, 2010. The Board's obligation is not obviated by demonstrating compliance in the aggregate or on average across the eight current GSIBs. The Board should demonstrate that each institution's effective capital requirement—computed as the full interaction of the proposed coefficient reductions, the simultaneous Basel III proposal RWA reductions, and the foreseeable RWA optimization strategies (as Better Markets describes in its Basel III proposal comment letter) that sophisticated GSIBs, especially with large broker-dealers, will deploy under FRTB—would satisfy the Section 171 floor individually. Neither the Proposal nor the Basel III proposal contains such analysis. The Board should provide this information in the reproposal for public comment before finalizing any version of the retroactive coefficient reduction, or that provision may render the rule vulnerable to vacatur. Better Markets has provided additional substantive Collins Amendment-related concerns in its corresponding comment letters to agencies' Basel III proposal and the standardized approach proposal.

D. The Board Must Demonstrate Compliance with Section 165 of Dodd-Frank

Fourth, the Board must confront and resolve the tension between the proposed GDP indexing mechanism and Section 165(a)(1) of Dodd-Frank, which directs the Board to establish enhanced prudential standards for large bank holding companies that "increase in stringency" based on the systemic importance of the covered institution.[22] The Board's Proposal does not explain how it adheres to this statutory requirement. GSIBs' balance sheets, trading books, and systemic interconnectedness tend to expand during periods of economic growth—precisely the periods when the GDP indexing mechanism would reduce method 2 scores and associated surcharges. The Board must explain, with reference to the empirical record, how a surcharge framework that mechanically relaxes relative stringency as the economy grows satisfies a statute that requires stringency to increase with systemic importance. The Board may not satisfy this obligation by pointing to the existence of other capital tools that might separately provide

[22] *Supra* 4. 12 U.S.C. § 5365(a)(1). "Enhanced supervision and prudential standards for nonbank financial companies supervised by the Board of Governors and certain bank holding companies"

countercyclical protection. Section 165 imposes the increasing-stringency requirement on the enhanced prudential standards framework itself—not merely on the capital framework in aggregate—and the GSIB surcharge is the Board's primary Section 165 instrument for risk-based capital that applies exclusively to GSIBs. The Board must provide this information in the reproposal for public comment and cannot provide this explanation in a final rulemaking record.

E. The Board Must Disclose Whether the Proposed GSIB Recalibration Was Based on a Complete Assessment of GSIB Interconnectedness with Nonbank Financial Institutions

Fifth, the Board must explain whether its calibration of the proposed method 2 coefficient reduction and GDP indexing mechanism incorporated a complete and accurate assessment of the systemic risk posed by GSIB interconnectedness with nonbank financial institutions ("NBFIs"), including private credit vehicles, and if not, why that gap does not independently render the Proposal arbitrary and capricious.

This obligation arises directly from Vice Chair for Supervision Bowman's previously cited congressional testimony before the House Financial Services Committee on June 4, 2026. In her testimony, the Vice Chair for Supervision acknowledged that bank lending to NBFIs, including private credit, has grown rapidly in recent years but claimed that the Board lacks a clear picture of where those funds are actually flowing, stating "it's been very difficult for us to have a clear understanding of where those funds have been flowing."[23] She further acknowledged that the Board has only recently initiated a supervisory data collection series to improve transparency into this space and to better understand "how bank funding is being used within the nonbank space, particularly private credit."[24]

This admission is deeply problematic in the context of this Proposal. The GSIB surcharge framework is calibrated to measure and price the systemic externalities associated with the failure of the largest and most interconnected banking organizations in the U.S. The Proposal's reduction in GSIB surcharges—permanently and automatically, through both a one-time coefficient reduction and a GDP indexing mechanism—rests on a finding that the current framework overstates systemic risk. However, the Vice Chair for Supervision has now testified that the Board does not have the information necessary to understand and properly quantify their interconnectedness with the nonbank financial sector—the fastest-growing and most systemically significant dimensions of GSIB risk. Indeed, GSIBs' lending to NBFIs increased more than 50 percent last year, as compared to zero growth for all other types of lending.[25]

The APA's arbitrary-and-capricious standard requires agencies to examine the relevant data and articulate a satisfactory explanation for their actions, including a rational connection

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23 *Supra* 13.

24 *Id*.

25 Analysis based on balance amounts for NBFI loans and all other loan types as reported on the FR Y-9C.

between the facts found and the choice made.[26] An agency cannot satisfy that standard when it simultaneously reduces the capital requirements designed to buffer systemic interconnectedness while admitting to Congress that it lacks visibility into the largest and most opaque component of that interconnectedness. Therefore, the Board cannot establish that GSIBs are overcapitalized relative to their NBFI-related systemic exposures if it does not know the size, structure, concentration, leverage, or loss-absorbing capacity of the NBFIs that those GSIBs are financing. Notably, certain GSIBs have significant exposure to NBFIs that are themselves highly leveraged; for example, the 10 largest hedge funds have 24-to-1 leverage, which is largely supported by bank lending.[27] Such leverage-on-leverage dynamics would greatly exacerbate the effects of stress periods.

As Better Markets discusses in Section VII.B. below, bank credit commitments to nonbank financial entities reached over $2.6 trillion in the second half of 2025. Governor Barr also underscored the significance of this figure in his recent speech, noting that banks and nonbanks are now "closely entwined and interdependent, with banks acting as liquidity providers to nonbanks, which in turn take on credit risk," and that fire sales by distressed nonbanks "could harm bank portfolios as well."[28] Governor Barr's assessment directly contradicts the Proposal's implicit premise that current GSIB surcharge levels adequately reflect, and indeed overstate, systemic risk. It also demonstrates that at least one sitting Board member believes the Board is moving in the wrong direction at precisely the moment when the bank-NBFI interconnectedness nexus is expanding most rapidly and is least well understood.

The Vice Chair for Supervision's testimony has highlighted an irreconcilable tension at the core of this Proposal. The Board is proposing to permanently reduce the capital buffer that is specifically designed to accurately measure and offset the systemic consequences of GSIB failure—while acknowledging that it cannot currently track where trillions of dollars of GSIB lending to the nonbank sector is going, while a new supervisory data collection initiative is still in its early stages, and, critically, before it has the information necessary to assess whether GSIB interconnectedness with private credit and other NBFIs has increased or decreased systemic risk relative to the Board's 2015 calibration baseline.

Before the Board may lawfully reduce GSIB surcharges, it must either (a) demonstrate, with institution-specific quantitative analysis, that its NBFI interconnectedness data collection is sufficiently complete to support the conclusion that GSIB systemic risk has been overstated, or (b) acknowledge that it lacks that data and withdraw the coefficient reduction until the supervisory data collection initiative is complete and its results are made available for public comment. Proceeding to reduce capital requirements before obtaining the information necessary to assess whether those requirements are adequate is the definition of acting without a rational basis in the record—and it is independently sufficient to render any final rule that includes the coefficient

26 *Supra* 9.

27 According to data published by the Office of Financial Research in its "Hedge Fund Monitor," available at https://www.financialresearch.gov/hedge-fund-monitor/.

28 *See* Governor Michael Barr. "Deregulating in a Financial Boom: What Could Go Wrong?" (June 6, 2026), available at: https://www.federalreserve.gov/newsevents/speech/barr20260606a.htm.

reduction vulnerable to substantial litigation risk.

F. The Board Must Reissue its Economic Analysis as No Alternative Considered Would Increase GSIB Capital Requirements and the Inadequate Reference Bank Alternative Violates the APA

Sixth, the Board's impact analysis contains significant procedural deficiencies that must be remedied in a new notice. The Board's chosen alternatives in the impact analysis section do not constitute a meaningful evaluation of regulatory options because every alternative considered results in lower capital requirements for GSIBs than under the Board's current framework. All three alternatives embed the same directional assumption—that capital should fall—and differ only with respect to the magnitude of the reduction.

By limiting the universe of alternatives to varying degrees of capital reduction, the Board effectively presumes that the current GSIB framework produces requirements that are excessive, while it is in fact legally required to justify that presumption and, via at least one of the alternatives in the impact analysis, it should consider a more stringent approach than the current framework.

A meaningful alternatives analysis would evaluate, at minimum, (1) retention of the current framework, (2) the proposed reduction, and (3) one or more alternatives that increase systemic risk capital requirements. Without such analysis, the Board has failed to demonstrate that the preferred alternative maximizes public benefits, promotes financial stability, or appropriately internalizes the systemic externalities created by the largest banking organizations.

The Board presents three alternatives to the proposal. Alternative 1—the "inflation indexing" approach —would apply the same changes to the STWF score as the proposal but would substitute CPI-W indexing going back to December 2015 data for the one-time coefficient adjustment to the method 2 coefficients. Alternative 2 would use the "global denominator" approach to adjust the fixed coefficients (not the one-time downward adjustment of 1.2x). Alternative 3—the "reference bank" approach—would apply the same systemic indicator and STWF changes as the proposal but would reduce all method 2 systemic indicator coefficients by 40 percent, "which is the cumulative growth rate differential between the method 2 scores and the method 1 scores of the 'reference bank' used in the original calibration of the GSIB surcharge framework, estimated from the fourth quarter of 2015 to the fourth quarter of 2024."[29]

As noted above, each alternative would reduce GSIB capital requirements relative to the current framework. The full range of decreases runs from Alternative 2, which holds current coefficients nominally flat while eroding them in real terms through future GDP indexing, to Alternative 3, which cuts them by 40 percent in a single action. Critically, not a single alternative attempts to assess whether the post-2015 evidence would warrant an increase in GSIB surcharges. This choice is not consistent with best practices for creating alternatives in rulemakings. In fact,

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29 *Supra* 2.

OMB Circular A-4[30]—while not currently binding on this rulemaking—reflects widely recognized best practices for regulatory analysis. It instructs agencies to evaluate a reasonable range of alternatives and compare regulatory options against an appropriate baseline, including alternatives that may better achieve the agency's stated objectives. Contravening that approach, the Board has structured its entire set of alternatives around the question of how much to reduce current capital requirements. The range of alternatives appears constrained not by a neutral assessment of what level of capital would best promote safety and soundness, but by the objective of identifying a politically and institutionally acceptable reduction in capital requirements.

The selection of alternatives appears to be a predetermined outcome. However, the APA does not permit such an approach. The Board's statutory mandate under Section 165 of Dodd-Frank requires enhanced prudential standards that "increase in stringency" based on firms' size and risk characteristics. The Board's stated purpose for the Proposal is to "better align surcharges with GSIBs' systemic risk profiles." Conversely, the economic analysis does not ask whether the current surcharge calibration understates systemic risk. As explained in detail in Section III, the Board should have—but did not—describe the impact and implications of its systemic risk exception interventions of SVB and Signature Bank on its reference bank selection. An agency that structures the range of alternatives to exclude the outcome its own actions most rationally support has not engaged in "reasoned decisionmaking."[31]

i. <u>The Reference Bank Methodology Is Opaque, Unreviewable, and Has Been Overtaken by Events</u>

The Board's use of Alternative 3 "reference bank" is deeply flawed and brings about significant analytical and policy concerns. The 2015 white paper presented four distinct reference bank holding company ("BHC") options with method 1 scores ranging from approximately 3 (a \$50 billion BHC) to 130 (a hypothetical firm at the GSIB cut-off line). The Board chose the most demanding anchor—Option 4 at 130 basis points—deliberately selecting a reference firm whose failure would come as close as possible to posing systemic risk without crossing the line.

The USG's actual systemic risk intervention threshold, as revealed by its actions to protect SVB's uninsured depositors and create the Bank Term Funding Program, demonstrated unambiguously that the GSIB threshold is not a banking organization with a method 1 score of 130 basis points or above. It is, at most, approximately 19 basis points based on the invocation of the "systemic risk exception" for SVB (and even lower for Signature). Therefore, revealed preferences actually show the Board's chosen reference bank for systemic importance is likely wrong by a factor of roughly eight.

The USG's response to SVB's failure is a categorical refutation of the expected-impact

30 *See* Office of Management and Budget, Circular A-4, Regulatory Analysis (November 9, 2023), at 6–8, available at: https://bidenwhitehouse.archives.gov/wp-content/uploads/2023/11/CircularA-4.pdf. The Circular cautions against limiting analysis to a narrow set of options that predetermine the outcome of the rulemaking.

31 *Supra* 7.

framework's foundational premise. If the GSIB framework is to mean what the Board claims it is (i.e., to equalize a GSIB's expected systemic loss to the expected loss of a firm below the government's actual intervention threshold to receive extraordinary support) **the reference bank must reflect what the government has revealed it will actually do**.

By presenting Alternative 3 as a reasonable alternative while failing to disclose the identities of the reference institutions, the underlying calculations, or the implications of the 2023 systemic risk interventions, the Board has deprived commenters of the information necessary to determine whether Alternative 3 would in fact better align surcharges with systemic risk profiles or instead materially misstate them. As detailed in Section III.A.ii, Better Markets has applied the Board's own 2015 methodology with SVB as the method 1 reference bank. Using that conservative approach, the method 1 surcharges for U.S. GSIBs would nearly triple, which reflects the Board's acknowledgment in its 2015 white paper that the linear LGD assumption likely understates harm at larger institutions. The Proposal would incorrectly move in precisely the opposite direction.

ii. Footnote 105 Poses Serious APA Concern

Alternative 3's grounding in the reference bank growth differential highlights the opacity of footnote 105. The footnote states only that "the Board estimated the 40 percent growth rate differential for the reference bank by using the same methodology and the same three non-GSIB bank holding companies as the Board's 2015 white paper." The 40 percent figure is the quantitative basis for a specific alternative the Board presents as "reasonable," and it is the same growth differential the Board used to calibrate the gap between the proposal and its alternative. Yet the three non-GSIB institutions that generate this figure remain anonymous and undisclosed eleven years after the white paper was published. They appeared only as "BHC A," "BHC B," and "BHC C" in 2015. While the non-disclosure may have been appropriate prior to the effective date of the GSIB surcharge, not naming them in this notice is inexplicable given that all the relevant FR Y-15 systemic risk indicator data are public.

The footnote does not include the selection criteria for the institutions, the methodology, or the time period covered. The Proposal does not explain whether any of the three institutions have since failed or been acquired, whether SVB, Signature, or First Republic—all large non-GSIBs that received extraordinary government support—were considered for inclusion, or what including them would imply for the 40 percent estimate. Given that SVB's failure is the central real-world event that most directly bears on the reference bank calibration, the Board's failure to explain whether and why SVB was excluded from the reference bank sample is particularly indefensible.

The result is that one of the most consequential quantitative inputs in the Board's economic analysis —the number that defines both Alternative 3 and the Board's own explanation of the outcome gap between its Proposal and its own methodology—is supported by a footnote citing eleven-year-old work involving three institutions that have never been publicly identified. Under *State Farm*, that is an assertion, and not a satisfactory explanation.

The Board must in a reproposal disclose: (1) the identity of the three non-GSIB bank holding companies and the criteria for their selection; (2) the complete data and methodology underlying the 40 percent growth rate differential, including the time period, data sources, and any sensitivity analysis; (3) whether SVB, Signature Bank, and First Republic were considered for inclusion and, if not, they should include those firms and explain why they were not included in the Proposal; (4) a quantitative analysis showing what the 40 percent differential would be if the reference period were updated through the fourth quarter of 2025 and if one or more of the three original institutions were replaced; and (5) a specific on-the-record explanation of why a firm with a method 1 score of approximately 19 basis points—well below the Board's most conservative 2015 reference option—triggered the systemic risk exception, and what that fact implies for the reference bank assumption underlying both the proposal and Alternative 3. These questions go to the analytical core of the rulemaking, and the Board cannot finalize a coefficient adjustment of any magnitude without directly and comprehensively answering them.

G. The Board Must Provide Institution-Level Impact Analysis, Not Aggregate Figures

Seventh, the Board must provide a complete, integrated quantitative analysis of the combined and cumulative capital relief that each GSIB will receive from the simultaneous operation of: (a) the proposed one-time retroactive method 2 coefficient reduction; (b) the proposed annual GDP indexing of method 2 coefficients; (c) the combined effects of the capital proposals; and (d) the foreseeable reduction (as demonstrated by Better Markets) in market risk RWA that GSIBs (particularly those with large broker-dealers) will engineer through portfolio optimization, internal model recalibration, and legal entity restructuring under the Fundamental Review of the Trading Book. Better Markets conservatively estimates the reduction to be a 10 percent decrease in overall RWA (primarily via the market risk framework) based on historical precedent from prior Basel RWA calculation transitions that involve model-based approaches.

The Board's isolated, component-by-component treatment of each of these relief mechanisms is a fundamental failure of reasoned decision making. The Board must demonstrate awareness of the full consequences of its action.[32] A final rule that grants GSIBs, especially those with large broker-dealers, simultaneous relief through multiple overlapping mechanisms, without modeling their combined effect on effective capital levels, systemic risk, and financial stability, cannot withstand review by a court. The Board must conduct and publicly disclose this integrated analysis—including confidence intervals, stress scenarios, and sensitivity analyses reflecting the range of plausible RWA optimization outcomes—and issue the analysis for public comment in a reproposal. This is the minimum analytical showing required by the APA and the Supreme Court's settled jurisprudence on reasoned decision making.

H. The Board Must Correct and Explain an Apparent Material Error in the Basel III Proposal Before Finalizing the GSIB Proposal

Eighth, the Board must publicly explain and correct an apparent error in the Basel III proposal that directly affects commenters' ability to evaluate the Proposal and the agencies'

[32] *Supra* 7.

corresponding Basel III proposal.

Specifically, in discussing the complex and critical proposed interactions between the Basel III proposal and the Proposal, the agencies in the Basel III Proposal state that this Proposal would apply a 5 percent CCF to certain low-utilization retail commitments.[33] However, neither the Proposal nor the relevant preamble section to the Basel III proposal contains any reference to the purported 5 percent CCF. Further, the regulatory text of both proposals does not reference such a 5 percent CCF. The agencies do not clearly identify the affected exposures, explain the calibration, or quantify the capital effects associated with the purported 5 percent CCF.

In effect, the agencies in the Basel III proposal describe a capital treatment that the Proposal includes (but does not). Commenters should not be expected to determine whether the agencies intended to propose the treatment but omitted the regulatory text, whether the discussion reflects language carried forward from an earlier draft, whether the treatment appears elsewhere in the proposal package, or whether the agencies (or the Board) made a drafting mistake. However, the current administrative record does not provide an answer.

This failure and resulting confusion are particularly troubling because the reference appears in the agencies' discussion of the interaction between the Basel III proposal and this GSIB proposal. The Board and the agencies have repeatedly asserted that commenters must evaluate the combined effects of the various capital proposals. However, commenters cannot meaningfully assess the interaction of the proposals when the agencies themselves appear unable to clearly identify where a particular capital treatment is being proposed or whether it is being proposed at all.

The Board should also explain the origin of the referenced 5 percent CCF. Better Markets has been unable to identify a corresponding treatment in the Basel framework for off-balance sheet exposures[34], the Basel III proposal, or the proposed regulatory text. As a result, commenters cannot determine whether the agencies intended to establish a new U.S.-specific capital treatment that departs from the Basel framework, whether the agencies intended to implement an existing Basel standard but described it incorrectly, or whether the reference is an error.

If the agencies intended to create a new 5 percent CCF category, they should identify the relevant Basel provision, explain why a departure from Basel is warranted if no such provision exists, quantify the resulting capital effects, and describe whether the treatment was discussed with or reviewed by the Basel Committee as part of the agencies' broader implementation efforts. Conversely, if no such treatment was ever intended to be proposed, the agencies should explain how the reference appeared in the proposal and whether it affected any aspect of the agencies' impact analysis, calibration decisions, or discussion of the interaction between the Basel III proposal and the GSIB proposal.

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[33] *Supra* 3 "Basel III proposal" at 15150. "The proposal would also introduce a 5 percent credit conversion for certain low-utilization retail exposures and a treatment for retail commitments with no pre-set limit."

[34] *See* Basel Committee on Banking Supervision. *The Basel Framework.* Available at: https://www.bis.org/baselframework/BaselFramework.pdf.

The current record provides no answer to any of these critical public policy questions. Commenters are therefore left in the untenable position of attempting to evaluate the interaction of multiple capital proposals while lacking certainty as to whether a capital treatment described by the agencies actually exists.

The discrepancy also raises broader concerns regarding the quality control applied to the proposal package by the Board. Across the Basel III proposal, the standardized approach proposal, and this Proposal, the Board is proposing changes to capital requirements that would affect over $20 trillion in assets and exposures across the largest banking organizations in the U.S., while materially weakening the principal capital framework designed to address the risks posed by globally systemically important banking organizations. Commenters and the broader public should be able to assume that the preamble, impact analysis, and regulatory text have been reviewed for consistency before publication in the *Federal Register*. When a proposal describes a capital treatment that cannot be located in the operative text, that assumption is called into question.

The Board routinely expects banking organizations to maintain robust governance, documentation, validation, and quality-control processes for capital models, regulatory reporting, and risk management systems. In fact, this Proposal would require the GSIBs to increase their reporting requirements for the FR Y-15, which will require a significant (but justified) increase in compliance costs. The Board should hold itself to the same standard. Commenters should not be required to identify and reconcile apparent errors in order to determine what proposal is actually before them.

Accordingly, the Board should publicly explain this critical discrepancy, identify whether a 5 percent CCF was actually intended to be proposed, disclose whether the treatment was incorporated into the agencies' quantitative analyses, and describe the steps taken to verify that similar discrepancies do not exist elsewhere in the proposal package. If the agencies determine that the proposal record does not accurately describe the treatment under consideration, they should issue a correction and provide the public with an opportunity to comment on the corrected proposal.

At a minimum, the Board should acknowledge the error and explain how it occurred. Meaningful notice and comment are impossible when commenters cannot determine whether the capital framework described in the proposal is the same framework contained in the proposed regulatory text.

III. The Board Should Not Adopt the One-Time Downward Adjustment to Method 2 Coefficients

Notwithstanding the eight significant unresolved legal and procedural obligations the Board must satisfy prior to any final rule, Better Markets is providing comments on the policy elements of the Proposal.

A. Current GSIB Capital Levels Are Too Low for the Systemic Risk They Pose to the U.S.

The Board's premise for the one-time coefficient reduction is that method 2 scores have increased over time in a manner not fully explained by changes in firms' systemic risk profiles, and that a 20 percent downward adjustment to fixed coefficients is therefore warranted. Better Markets disagrees with the logic of this assertion put forth in the Proposal. The divergence between method 1 and method 2 GSIB scores reflects genuine increases in GSIB systemic footprints rather than an *ex-post-facto* calibration flaw requiring a broad, permanent reduction in required capital. In fact, the divergence reflects the structural flaws of method 1 more than structural issues with method 2 (which, while less, should be addressed via the Proposal's indexing approach), but that conclusion irresponsibly was not even considered by the Board and adds to the evidence that the Board pursued only options that would decrease the method 2 GSIB surcharge.

The post-2019 expansion of GSIB balance sheets—which the Board identifies as the primary driver of rising method 2 scores—reflects increased systemic risk. It coincided with a substantial real increase in the size, complexity, and interconnectedness of U.S. GSIBs. The contention that an increase in deposits does not make a bank larger or more systemic in failure is difficult to reconcile with the structure and purpose of the GSIB framework. Total assets of the eight U.S. GSIBs have grown dramatically since 2020, and that growth reflects actual increases in systemic footprint. Method 2 scores have increased because GSIB balance sheets and other indicators have grown, which is precisely what the framework was designed to capture. Better Markets acknowledges that while some level of relative measurement is appropriate to contextualize systemic risk, it is best addressed via a future indexing approach as described in Section IV.

Furthermore, independent assessments of GSIB capital adequacy—including stress test results, leverage ratios, and comparisons to international peers—do not suggest that U.S. GSIBs are overcapitalized relative to their systemic risk. In fact, the Proposal's impact analysis never explicitly asserts that GSIBs are overcapitalized. That is likely because the evidence overwhelmingly shows that GSIBs are undercapitalized and that some component or all components of the risk-based capital framework—the Basel III risk weighting framework, the SCB, or the GSIB surcharge—are materially under-calibrated relative to the systemic risk posed by the GSIBs.

To illustrate this point, Better Markets' analysis concludes that, in aggregate across the GSIBs, the tier 1 risk-based capital requirement with the estimated aggregate GSIB surcharge from the Proposal results in an amount of required tier 1 capital that would translate to only a 4.5 supplementary leverage ratio.[35] Therefore, despite the aggregate effect of the SCB and GSIB surcharge buffers that apply to the GSIBs, the effective equivalent leverage ratio is nearly the same

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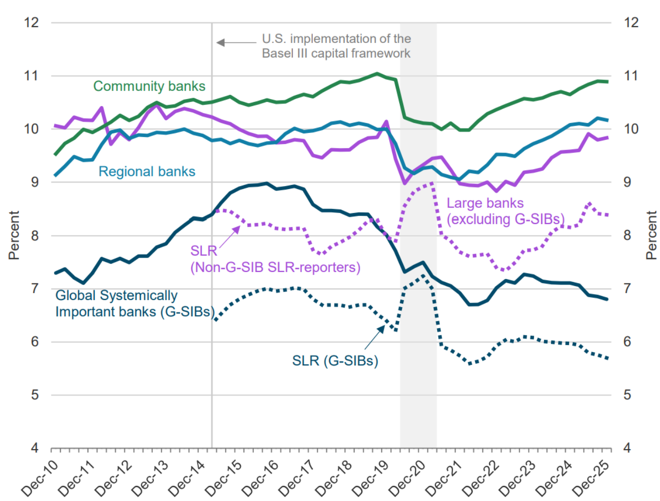
35 Better Markets' analysis adds the 6 percent tier 1 risk-based capital minimum, the weighted average current stress capital buffer requirement of 2.9 percent, and a weighted average estimated GSIB surcharge requirement of 2.9 percent (estimate based on the estimated percentage reduction cited in the Proposal). That percent amount was multiplied by the aggregate GSIB 2025 year-end RWA to determine the aggregate required tier 1 capital amount, which was then divided by the aggregate GSIB 2025 year-end total leverage exposure to determine the aggregate equivalent leverage requirement.

as the leverage requirement for all other banks.[36] Put another way, if the Proposal is implemented, the total tier 1 risk-based capital requirement for the GSIBs would be nearly equivalent to their enhanced supplementary leverage ratio requirement—currently a weighted average of 3.9 percent. That is slightly below the tier 1 leverage ratio requirement for banks not subject to the supplementary leverage ratio ("SLR") requirement (non-Category I, II and III banks) and half the community bank leverage ratio requirement. This near-equivalency demonstrates that the GSIB surcharge—and indeed the entire risk-based framework that applies to the GSIBs—is inadequate and is not serving its intended purpose of ensuring that the largest, most complex, most connected banks of global systemic importance have appropriately stronger capital requirements than other banks, especially community banks.

Reducing capital requirements for GSIBs would have negative implications for financial stability and would reduce the system's buffer against the next crisis.

i. <u>Low Leverage Capital at GSIBs Reinforces the Importance of Ensuring Higher Risk-Based Capital Requirements for the GSIBs</u>

Chart 1. SLR and Tier 1 Leverage Ratio
U.S. Banking Organizations by Supervisory Portfolio Group (% weighted average)



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[36] The comparison between the leverage requirements applicable to smaller banks (particularly community banks) subject to the tier 1 leverage ratio requirement and those applicable to large banking organizations subject to the SLR is appropriate because smaller banks generally do not engage in the substantial off-balance-sheet activities that motivated the SLR framework after the global financial crisis, particularly large-scale derivatives activities, securities financing transactions, and repurchase agreement exposures. As a result, a community bank's tier 1 leverage ratio denominator (average consolidated assets) is generally much closer to its total leverage exposure than is the case for large banking organizations subject to the SLR. Put differently, if the SLR framework were applied to most community banks, the resulting leverage requirement would likely be materially similar to the existing Tier 1 leverage requirement because these institutions typically lack the significant off-balance-sheet exposures that cause total leverage exposure to exceed on-balance-sheet assets. Accordingly, comparing the leverage requirements applicable to community banks with those applicable to large banking organizations subject to the SLR provides a reasonable basis for evaluating the relative stringency of the capital framework across institutions with very different systemic footprints.

As demonstrated in Chart 1 above from the Federal Reserve Bank of Kansas City, the GSIBs already operate with materially lower leverage capital ratios than nearly every other segment of the U.S. banking system, meaning they have smaller capital cushions to absorb losses across their financial activities, despite what is shown in the risk-based capital framework. A leverage ratio is a straightforward representation of a bank's capital adequacy (as it represents the percentage of losses a bank can absorb across its financial activities, as compared to the more complex risk-based capital measures). GSIBs reported a weighted-average tier 1 leverage ratio of only 6.81 percent and a SLR of 5.70 percent as of year-end 2025—well below the leverage ratios of large non-GSIB banks (9.8 percent), regional banks (10.2 percent), and community banks (10.9 percent). The same report demonstrates that leverage ratios at GSIBs have been declining in recent years even as the size, concentration, and systemic importance of these institutions have increased.

This longstanding trend has critical implications for the integrity of the GSIB surcharge framework. The lower a bank's leverage ratio requirement and level, the more important the integrity and calibration of the risk-based capital regime becomes (particularly to a bank's ability to absorb unexpected losses). Unlike community and regional banks, GSIBs maintain extraordinarily large derivatives books, securities financing exposures, off-balance-sheet commitments, payment system interconnections, and operational dependencies that are not fully captured by simple leverage metrics alone. That is precisely why Congress and the Basel Committee developed enhanced risk-based surcharges for the largest banking organizations. Weakening those surcharges while GSIBs already operate with the lowest leverage capital levels in the U.S. banking system would significantly increase the probability that losses at these firms overwhelm available common equity during periods of stress.

Moreover, the Board's own recent enhanced SLR recalibration rulemaking explicitly justified reducing leverage requirements on the grounds that risk-based capital requirements would instead become the primary binding constraint for GSIBs. Having deliberately weakened leverage constraints, the Board cannot now simultaneously weaken the risk-based surcharge framework without materially reducing overall capital resiliency at the largest banking organizations. As shown in the previous section, if the Proposal is implemented, the risk-based framework requirement for the GSIBs will be nearly equivalent to their leverage requirement, undermining the stated purpose of having two requirements and allowing the GSIBs to minimize their capital levels. The Proposal therefore risks amplifying a regulatory gap in which neither leverage requirements nor risk-based capital surcharges function as robust constraints on systemic risk. That outcome would be directly inconsistent with the post-crisis prudential framework established after 2008 and would leave the U.S. financial system materially more vulnerable to future episodes of instability.

ii. <u>The 2023 Extraordinary Government Support in Response to SVB and Signature Undercuts the Entire Rationale of the One-Time Coefficients Reduction</u>

The 2023 failures of SVB and Signature require the Board to revisit the foundational "reference bank" assumption in its 2015 GSIB surcharge calibration. The Board's white paper calibrated the surcharge by equalizing the expected impact of a GSIB's failure with that of a large non-GSIB reference bank, and it expressly recognized that the surcharge depends on the ratio between the GSIB's systemic loss given default ("LGD") score and the reference bank's LGD score.[37] However, SVB demonstrated that the USG could not tolerate the disorderly failure of a banking organization with a method 1 score of only approximately 19 basis points without invoking the systemic risk exception and using other extraordinary government interventions.[38] The Board's Inspector General found that SVB reached $217 billion in assets, had deposits above $200 billion, and had more than 94 percent uninsured deposits at year-end 2022. If SVB—not a hypothetical 130 basis point method 1 institution—represents the revealed systemic risk threshold at which public authorities intervene, then the Board's expected-impact framework implies substantially higher GSIB surcharges under method 1.

Better Markets has applied the Board's own 2015 methodology to approximate what an SVB reference-bank score of 19 basis points would imply for method 1 surcharges based on GSIBs 2015 method 1 scores and the most recent data.[39] For 2015 method 1 scores, the result in the table below is roughly 5.6 to 7.2 percent for JPMorgan Chase, 5.4 to 6.8 percent for Citigroup, 4.9 to 6.3 percent for Bank of America, and more than 3.5 percent even for BNY Mellon and State Street. The Proposal should, but does not, confront this critical implication for its GSIB framework. Instead, it is proposing to materially weaken the GSIB surcharge even though the **most important and tangible post-2015 evidence** (i.e., the USG's threshold for systemic risk) shows that the actual government-intervention threshold is far below the Board's assumed reference bank from its 2015 white paper.

Bank	**2015 Method 1 score**	**Implied Method 1 surcharge using SVB as reference**
JPMorgan Chase	473	**5.6%–7.2%**
Citigroup	409	**5.4%–6.8%**
Bank of America	311	**4.9%–6.3%**
Goldman Sachs	248	**4.6%–5.7%**
Morgan Stanley	224	**4.4%–5.5%**
Wells Fargo	197	**4.2%–5.3%**
BNY Mellon	149	**3.7%–4.7%**
State Street	146	**3.7%–4.7%**

37 Federal Reserve Board. *Calibrating the GSIB Surcharge.* (July 20, 2015), available at: https://www.federalreserve.gov/aboutthefed/boardmeetings/gsib-methodology-paper-20150720.pdf

38 *See* Federal Deposit Insurance Act, 12 U.S.C. § 1823(c)(4)(G). SVB's estimated method 1 GSIB score of approximately 19 basis points—well below the 130 basis point threshold that would trigger a 1.0 percent GSIB surcharge, the lowest possible surcharge under 12 CFR 217.402—underscores that the systemic risk exception operates as a de facto government guarantee extending far below the formal GSIB designation threshold, reinforcing rather than limiting, the too-big-to-fail problem the GSIB surcharge framework was designed to address.

39 *See* Appendix for more information on the calculation approach used to estimate the method 1 surcharge ranges with an updated reference bank.

Source: FR Y-15 Data, Board calibration white paper *Calibrating the GSIB Surcharge*, and related explanatory materials describing the expected-impact framework and calibration methodology; (3) SVB's 4Q22 FR Y-15 and the Board's 2022 method 1 global denominators. See *Appendix* for more information.

Applying that framework to 2025 method 1 scores and using SVB's approximate 19 basis point method 1 score as the revealed reference-bank threshold also would still produce dramatically higher surcharges relative to today's method 1 surcharges—approximately 5.4 to 6.8 percent for JPMorgan Chase, 4.9 to 6.3 percent for Bank of America, 4.8 to 6.2 percent for Citigroup, and roughly 3.5 or more even for the least systemic GSIBs (BNY Mellon and State Street). Those estimates are conservative because the Board's white paper assumes a linear relationship between GSIB score and systemic loss given default, while acknowledging that systemic harm likely increases more than proportionally with size, complexity, STWF, and other systemic indicators.

Bank	**2025 OFR Method 1 score**	**Implied Method 1 surcharge if SVB = reference bank**
JPMorgan Chase	458	**5.4%–6.8%**
Bank of America	350	**4.9%–6.3%**
Citigroup	341	**4.8%–6.2%**
Goldman Sachs	250	**4.5%–5.6%**
Morgan Stanley	189	**4.0%–5.1%**
Wells Fargo	165	**3.8%–4.9%**
BNY Mellon	151	**3.7%–4.7%**
State Street	144	**3.6%–4.6%**

Source: Office of Financial Research GSIB Data available at: https://www.financialresearch.gov/bank-systemic-risk-monitor/. Board calibration white paper *Calibrating the GSIB Surcharge*, and related explanatory materials describing the expected-impact framework and calibration methodology; (3) SVB's 4Q22 FR Y-15 and the Board's 2022 method 1 global denominators. See *Appendix* for more information.

Accordingly, the Board should withdraw the proposed reduction in GSIB surcharge calibration and instead initiate a separate public rulemaking reevaluating the appropriate "reference bank" under the expected-impact framework in light of the 2023 banking crisis.

The Board must publish a quantitative analysis showing:

(1) the method 1 score and systemic characteristics of the reference bank currently embedded in the surcharge framework;
(2) the estimated method 1 score at which the USG would today invoke extraordinary support measures or systemic risk exception authority; and
(3) the resulting GSIB surcharge calibration implied by those assumptions.

The Board should further analyze whether Silicon Valley Bank, or a similarly situated institution whose disorderly failure required extraordinary government intervention, more accurately reflects the revealed systemic risk threshold in the modern financial system. Until the Board completes that analysis, it cannot conclude that GSIB surcharges are too high.

To the contrary, the available evidence strongly suggests that the current GSIB framework materially understates the level of capital necessary to offset the systemic externalities posed by the largest and most interconnected banking organizations in the U.S.

iii. The Board Has Not Demonstrated That Current and Proposed GSIB Calibration Reflects Actual Government Intervention Thresholds

The USG's extraordinary intervention in response to the failure of SVB is just one example that the Board needs to consider.[40] The Board should conduct and publish a comprehensive historical back testing analysis of the GSIB surcharge framework against actual episodes of financial stress and government intervention before finalizing any reduction in surcharge calibration.

The Proposal assumes that current GSIB surcharge levels overstate systemic externalities, yet the Board provides no empirical demonstration that the framework as currently calibrated would have meaningfully reduced or prevented the most significant episodes of financial instability since its adoption.

The Board should analyze how the GSIB framework performed relative to actual stress events including: (1) the March 2020 Treasury market and dash-for-cash crisis; (2) the 2019 repo market disruption; (3) the 2021 Archegos failure; (4) the 2022 U.K. liability-driven investment ("LDI") crisis; (5) the other 2023 bank failures of Signature and First Republic Bank; and (6) critically, the 2023 failure and emergency rescue of Credit Suisse (a foreign GSIB). These events collectively represent the most important real-world tests of the post-crisis prudential framework and provide substantially more probative evidence regarding systemic externalities than the theoretical assumptions underlying the Proposal.

The Board should specifically analyze whether the current GSIB surcharge framework accurately predicted which firms, activities, funding structures, or market functions generated the greatest systemic stress during these episodes and whether higher capital requirements would likely have reduced the need for extraordinary government intervention, emergency liquidity support, forced mergers, systemic risk exception determinations, or central bank market backstops. The Proposal currently contains no meaningful attempt to reconcile its conclusion that GSIB surcharges should fall with the reality that, since 2019 alone, public authorities have repeatedly intervened to stabilize repo markets, Treasury markets, uninsured depositors, money markets, and globally systemic banking organizations.

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40 In addition to the systemic risk exception for uninsured depositors of SVB and Signature, the Federal Reserve's Bank Term Funding Program was unprecedented because it allowed Federal Reserve Banks to lend to banks against collateral valued at par value rather than market value during a liquidity crisis, eliminating the haircuts usually imposed. Available at: https://www.federalreserve.gov/financial-stability/bank-term-funding-program.htm.

The omission is particularly glaring given the Board's repeated emphasis throughout the Proposal on "measurement accuracy" and "alignment with systemic risk." A framework that cannot be demonstrated to perform effectively against the most important real-world stress events since its adoption cannot credibly claim to be properly calibrated. Indeed, several recent crises suggest that the current framework may materially understate—not overstate—the systemic externalities associated with large banking organizations and interconnected market intermediaries. For example, the March 2020 Treasury market disruption demonstrated that even the deepest and most liquid financial market in the world became dependent on extraordinary Federal Reserve intervention when dealer balance sheets became constrained during stress. Similarly, the 2023 banking crisis demonstrated that modern uninsured deposit runs can occur at extraordinary speed and spread contagion across the banking system even among institutions far below the GSIB threshold. Most strikingly, Credit Suisse—a GSIB subject to only a 1 percent GSIB surcharge immediately prior to its failure—still required extraordinary intervention, emergency liquidity support from the Swiss National Bank, loss guarantees from the Swiss government, and a forced acquisition by UBS to prevent broader financial contagion.[41] The failure of a GSIB operating with only a modest surcharge directly undermines the Proposal's premise that current surcharge levels systematically overstate systemic risk.

The Board should therefore publish institution-specific and system-wide backtesting analyses showing, among other things: (1) estimated losses and capital depletion under the actual stress-event conditions listed above; (2) the degree to which GSIB scores correlated with realized systemic stress transmission; (3) whether firms receiving extraordinary support would have remained viable under higher GSIB surcharge assumptions; (4) whether the framework appropriately captures uninsured deposit concentration, operational concentration, and Treasury market intermediation risk; (5) whether the current calibration accurately reflects the government's revealed intervention threshold following the 2023 banking crisis; and (6) what the Board's reference bank analysis would imply under method 1 and method 2 given intervening events since the 2015 white paper. Absent such analysis, the Board has failed to demonstrate that lowering GSIB surcharges is consistent with financial stability, the purposes of Section 165 of Dodd-Frank, or the Board's own expected-impact framework.

iv. <u>The Board Has Not Identified a Single Banking Organization that Demonstrates Its Current GSIB Surcharge Framework Overstates Systemic Risk</u>

The most fundamental flaw in the entire Proposal is the Board's failure to identify a single banking organization, failure, or episode of financial stress demonstrating that current GSIB surcharges overstate the systemic externalities associated with large banking organizations. The Proposal repeatedly asserts that the framework should be recalibrated because measured systemic importance has increased over time for reasons unrelated to actual systemic risk. Yet nowhere does the Board identify an institution whose experience validates that conclusion. Instead, virtually every significant financial stress event since the adoption of the GSIB framework in 2015 points

41 *See* Financial Stability Board. 2021 List of Globally Systemically Important Banks. (November 23, 2021), available at: https://www.fsb.org/uploads/P231121.pdf.

in the opposite direction.

As mentioned above and most prominently, in March 2023, SVB and Signature immediately triggered extraordinary government intervention despite having approximately $217 billion in assets and a method 1 score of only approximately 19 basis points—far below the GSIB threshold and dramatically below the score of the "reference bank" embedded in the Board's expected-impact framework.[42] Signature Bank also required extraordinary intervention. First Republic Bank required extraordinary support from the largest U.S. banks before ultimately failing and being acquired in a government-facilitated transaction. In each case, public authorities concluded that allowing disorderly failure posed unacceptable risks to financial stability. These events do not suggest that systemic externalities have been overstated. They suggest that the government's actual intervention threshold may be substantially lower than assumed by the current calibration framework.

The international experience is equally problematic for the Board's position. Credit Suisse was not a hypothetical institution or a theoretical calibration exercise. It was a designated global systemically important bank subject to enhanced supervision, resolution planning requirements, total loss-absorbing capacity requirements, and a GSIB surcharge. As noted above, Credit Suisse required extraordinary central bank liquidity support, government loss guarantees, and a forced acquisition orchestrated by Swiss authorities to prevent broader financial instability. Notably, Credit Suisse was assigned a 1 percent GSIB surcharge immediately prior to its failure. If a globally systemic institution operating with a 1 percent surcharge still required extraordinary intervention to avoid systemic consequences, the Board should explain why this experience supports reducing GSIB surcharges rather than increasing them.

Financial market episodes since the surcharge was introduced also undercut the Proposal's conclusions. In September 2019, the Federal Reserve intervened to stabilize the repo market after severe funding market disruptions. In March 2020, the Federal Reserve undertook unprecedented interventions in Treasury markets after dealer intermediation capacity proved insufficient to absorb extraordinary market stress. During both episodes, public authorities concluded that market functioning had deteriorated to such an extent that extraordinary intervention was necessary. These events occurred after implementation of the GSIB framework and involved precisely the types of activities—dealer intermediation, short-term funding, liquidity provision, and market-making—that the surcharge is intended to address. Again, the evidence points toward persistent systemic fragility rather than excessive conservatism in the existing framework.

Taken together, these episodes reveal a striking pattern. Every major stress event since the

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42 *See* U.S. Department of the Treasury. Speech by Assistant Secretary of the Treasury For Financial Institutions. Graham Street. (July 23, 2023), available at: https://home.treasury.gov/news/press-releases/jy1648. *See* footnote 8: "A U.S. bank holding company is designated as a systemically important bank under the Method 1 calculation of the Federal Reserve Board's GSIB surcharge framework. See 12 C.F.R. § 217.402. This score analysis uses SVB's FR Y-15 Systemic Risk Report data for 4Q22, (https://www.ffiec.gov/npw/FinancialReport/ReturnFinancialReportPDF?rpt=FRY15&id=1031449&dt=20221231), and the most recently published Federal Reserve Board GSIB framework denominators, see Board of Governors of the Federal Reserve System, GSIB Framework Denominators, (https://www.federalreserve.gov/supervisionreg/basel/denominators.htm)."

adoption of the GSIB surcharge framework has resulted in either extraordinary government intervention, emergency central bank support, government-facilitated acquisitions, systemic risk exception determinations, or some combination thereof. The Board points to none that demonstrate the opposite. The Proposal has not identified an institution whose failure demonstrates that current GSIB surcharges are too high. Further, it has neither identified a financial market episode that demonstrates systemic externalities have been overstated nor a market disruption showing that the largest banking organizations hold excessive capital relative to the risks they pose. Instead, the Proposal effectively asks the public to accept that systemic risk has been overestimated despite a decade of evidence showing repeated dependence on extraordinary public support to stabilize the financial system.

This omission is particularly significant because, under the APA, the Board bears the burden of demonstrating that lower capital requirements are consistent with safety and soundness and financial stability. If the Board believes that current GSIB surcharges materially overstate systemic externalities, it should be able to identify at least one institution, one failure, one market disruption, or one historical episode supporting that conclusion. The Proposal includes none of these. The absence of such evidence is telling and suggests that the Board's recalibration effort is not driven by observed improvements in financial stability but rather by an assumption that rising systemic indicator scores must necessarily reflect measurement drift. Recent history provides little support for that assumption.

Before finalizing any reduction in GSIB surcharges, the Board should identify the empirical evidence demonstrating that the current framework overstates systemic risk. It should explain which institutions, failures, or episodes of financial stress from 2015 to the present support its conclusion that systemic externalities from GSIBs have declined. Absent clear and direct evidence, the Proposal will continue to rest on speculation and assertions rather than experience and would fail to justify weakening one of the most important safeguards protecting the financial system from the failure of its largest and most interconnected institutions.

v. <u>The One-Time Coefficient Reduction Is Not Necessary to Achieve the Board's Stated Goals for the GSIB Framework</u>

The Proposal states that the purpose of the one-time adjustment is to ensure that method 2 scores reflect systemic risk rather than macroeconomic growth. But the GDP indexing mechanism proposed in Section II.A of the NPR—which we provisionally support with modification—already achieves that goal on a prospective basis. If the concern is that GDP growth will inflate method 2 scores going forward, GDP indexing addresses that concern directly. If the concern is also about historical divergence since 2019, the GDP indexing can be calibrated to address that at a measured pace over time without a sudden, cliff-like reduction in required capital.

A one-time coefficient reduction of 1.2x is a blunt instrument that has not been adequately explained. It cannot distinguish between score increases attributable to macroeconomic factors and those attributable to genuine increases in systemic risk. It will reduce surcharges for the firms that have grown the most—precisely the firms that have increased their systemic footprint the most. The Board should not adopt the one-time adjustment and maintain the current coefficients.

IV. The Board Should Adopt GDP Indexing Subject to a Binding 2 percent Annual Cap

A. Annual GDP Indexing Is a Sound Structural Improvement

Subject to the condition outlined in Section IV.B, Better Markets conceptually is in favor of the Proposal's approach to index method 2 coefficients to nominal GDP growth. As the Board correctly observes, the use of fixed coefficients since 2015 has likely contributed to some of the increase in method 2 scores over time, particularly as the U.S. economy has grown over this period. A prospective indexing mechanism—properly calibrated and with appropriate safeguards—could help to prevent the accumulation of any future divergence without requiring periodic rulemaking to reset coefficients.

The use of a three-year moving average of nominal GDP growth is a reasonable smoothing mechanism that reduces year-to-year volatility in the adjustment. Better Markets generally supports this design choice.

B. Indexing Must Be Capped at 2 Percent to Support the Required Countercyclicality and Avoid Legal Vulnerability

However, Better Markets has a serious concern with the uncapped nature of the proposed indexing mechanism. The Proposal would allow method 2 coefficients to be reduced by the full annual rate of nominal GDP growth, regardless of how high that rate may be in any given year. This creates a critical structural flaw: the faster the U.S. economy grows, the more the GSIB surcharge is reduced. That is the definition of a procyclical effect.

During periods of rapid nominal GDP growth—which often coincide with periods of elevated asset prices, credit expansion, and financial exuberance—GSIB balance sheets tend to grow fastest. These are precisely the conditions under which systemic risk is most elevated and under which capital requirements should be most stringent. Under the uncapped proposal, a hypothetical period of sustained 3 percent nominal GDP growth (plausible given historical experience) could result in persistent annual reductions in method 2 coefficient values, unwinding years of hard-won capital adequacy improvements at the worst possible time.

Beyond the policy concern, we believe uncapped indexing creates legal risks under Sections 165 and 616 of Dodd-Frank as noted above.[43] Section 165 requires that enhanced prudential standards for GSIBs increase in stringency based on the size and risk characteristics of the covered company and must be calibrated to reduce the probability of failure of a GSIB to a level commensurate with non-systemic large bank holding companies. Section 165(b)(1)(B) requires the Board to consider the extent to which a firm's material financial distress would pose a threat to the financial stability of the U.S.

Section 616(c) amended the Bank Holding Company Act to require that the appropriate

[43] *Supra* 4.

federal banking agency "shall seek to make such [capital] requirements countercyclical, so that the amount of capital required to be maintained by a company increases in times of economic expansion and decreases in times of economic contraction, consistent with the safety and soundness of the company."[44] The Board itself has recognized this authority as a legal foundation for its capital rules for bank holding companies, including in this very proposal.[45]

As proposed, the annual nominal GDP indexing mechanism would operate in a manner that is in tension with—and in certain economic conditions would affirmatively contravene—the countercyclicality Congress demanded in Section 616 of Dodd-Frank. Under the Proposal, when nominal GDP grows, the method 2 coefficients are scaled downward by a proportionate amount, which has the effect of reducing a GSIB's method 2 score relative to what the unindexed coefficients would produce. The practical consequence is that a GSIB whose nominal footprint grows in proportion to the economy will see its method 2 score remain flat or decline even during an economic expansion—precisely when Section 616 requires capital requirements to increase. The inverse is equally problematic: in a nominal GDP contraction, the coefficients would be scaled downward, compressing the denominator and mechanically inflating GSIB scores and associated surcharges at the moment when additional capital costs are most procyclically harmful.

The Board's stated rationale for indexing—that fixed nominal coefficients cause method 2 scores to inflate for reasons unrelated to systemic risk as the economy grows over time—is sound as a matter of measurement policy. A GSIB that grows proportionally to the economy has not, as a general matter, necessarily become more systemically important in relative terms. However, the Proposed remedy is overbroad. In years of robust nominal GDP growth—which, by definition, coincide with periods of economic expansion—uncapped indexing would systematically suppress the capital signal that Section 616 requires to strengthen. There is no mechanism in the proposal to prevent this outcome even in years where nominal GDP growth substantially exceeds the long-run trend.

The Board has long maintained that the Countercyclical Capital Buffer ("CCyB"), established under Regulation Q pursuant to Section 616(c), is the primary instrument through which the countercyclical mandate is fulfilled.[46] Yet the Board has never activated the CCyB since the Board adopted its CCyB Policy Statement in 2016. It has been set at zero throughout a period of economic expansions, including the credit expansion of 2017 through 2019 and the post-pandemic recovery of 2021 through 2024—both periods during which Section 616 plainly contemplated that capital requirements should have been increasing. The Board's persistent failure to deploy the CCyB means that the countercyclical mandate of Section 616 has been honored in

44 12 U.S.C. § 1844(b).

45 *Supra* 2 citing 12 U.S.C 1844(b) as statutory authority.

46 *See* 12 CFR 217.11(b); 81 FR 63682 (September 16, 2016).

form but not in substance.[47] Against that backdrop, the Board should not now adopt a GDP indexing mechanism that further erodes the countercyclical character of the GSIB surcharge, which is the one capital instrument that actually binds the largest and most systemically consequential institutions throughout the financial cycle.

The legal stakes of this structural failure were previewed in the comment letters filed by major bank trade associations in response to the Board's 2014 GSIB surcharge proposal, which raised explicit APA objections to the rule's calibration methodology and its failure to account for post-crisis regulatory changes—objections the Board acknowledged but did not resolve on the merits in the final rule.[48] Although these objections were ultimately resolved on other grounds, the underlying tension between the surcharge as calibrated under Section 165 and the countercyclical obligations imposed by Section 616 was never authoritatively resolved. A final rule that adopts uncapped GDP indexing without addressing how the Board complies with the requirements of Section 616 is therefore vulnerable to challenge on the ground that the Board has failed to satisfy its statutory obligation to ensure its capital requirements are countercyclical.

The Board should preserve both the measurement integrity rationale for indexing and compliance with Section 616 by capping the annual GDP growth adjustment at two percent. A two-percent cap is grounded in the Federal Open Market Committee's own long-run inflation target of two percent and approximates the inflation component of nominal GDP growth over a full business cycle. Accordingly, a cap at this level ensures that the indexing adjustment does not suppress surcharge levels in real terms while preventing the well-documented problem of nominal GDP growth mechanically inflating GSIB scores during non-inflationary expansions. Capital requirements would therefore neither erode in real terms during expansions nor spike artificially during contractions, preserving the countercyclical character that Section 616 demands.

Moreover, a two-percent cap would provide regulatory predictability for the covered institutions. Nominal GDP growth is volatile and can diverge substantially from trend in any given year. An uncapped adjustment exposes GSIBs and the Board to significant year-to-year swings in

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47 The Board last voted to affirm the zero percent CCyB in December 2020 even though the Board noted in its CCyB Policy Statement it would vote on the CCyB annually. (December 18, 2020), available at: https://www.federalreserve.gov/newsevents/pressreleases/bcreg20201218c.htm. The Board cannot cite the mere existence of the CCyB (a tool it has never utilized and has failed to inform the public of its consideration of) as a reasoned-basis to fulfill its Section 616 responsibilities under Dodd-Frank. *See also* Appendix A to Part 217 – The Federal Reserve Board's Framework for Implementing the Countercyclical Capital Buffer. Communication of the U.S. CCyB with the Public. 12 CFR Appendix-A-to-Part-217 5.(a). available at: https://www.ecfr.gov/current/title-12/chapter-II/subchapter-A/part-217/appendix-Appendix%20A%20to%20Part%20217. "The Board expects to consider at least once per year the applicable level of the U.S. CCyB. The Board will review financial conditions regularly throughout the year and may adjust the CCyB more frequently as a result of those monitoring activities."

48 *See* The Clearing House Association, SIFMA and Financial Services Roundtable Comment Letter. Proposed Rule. *Risk-Based Capital Guidelines – Implementation of Capital Requirements for Global Systemically Important Bank Holding Companies*. 79 FR 75473 (April 2, 2015), available at https://www.theclearinghouse.org/-/media/Files/Association-Related-Documents/20150402-TCH-Comment-Letter-on-GSIB Surcharge.pdf?rev=f974b8fe2f9043e694732e7eac3bad7b&hash=7E36C05D9194AB1246B79E366F48803E.

effective capital requirements driven not by changes in systemic risk profiles but by macroeconomic fluctuations entirely outside the control of any covered firm. A cap limits this volatility while still achieving the proposal's stated objective of preventing long-run nominal drift in fixed coefficients.

For the foregoing reasons, we urge the Board to adopt a cap of two percent on the annual nominal GDP indexing adjustment applicable to method 2 coefficients. This modification would bring the proposal into compliance with the countercyclical mandate of Section 616, improve the predictability of the surcharge framework, and ensure that the Board's chosen calibration mechanism does not undermine the financial stability objectives the GSIB surcharge was designed to serve.

Better Markets recommended approach reflects our judgment regarding both legal constraints and sound prudential policy on this matter of significant public importance:

- At or below 2 percent nominal GDP growth, indexing is consistent with a healthy but not overheating economy. Adjusting coefficients at this rate merely offsets inflation and modest real growth and is unlikely to reduce surcharges in a manner that undermines financial stability.
- Above 2 percent, nominal GDP growth increasingly reflects asset price inflation and credit expansion rather than merely real economic output growth—the conditions most associated with the buildup of systemic risk. Reducing GSIB surcharges in this environment would be procyclical and inconsistent with Section 165's mandate for stringency to scale with risk.
- A 2 percent cap is also calibrated to ensure capital requirements maintain some level of countercyclicality during periods of frothy economic activity.

V. Better Markets Strongly Supports Removing RWA from the STWF Category Denominator

Better Markets strongly supports the Board's proposal to measure a GSIB's STWF as an absolute dollar amount rather than as a ratio scaled to a firm's average RWA. This element of the Proposal is conceptually sound.[49]

A. The Absolute Dollar Measure Captures What Actually Matters for Systemic Risk

Run risk in STWF is a function of the absolute dollar volume of flighty, roll-over-sensitive funding—not its relationship to a bank's risk-weighted balance sheet. When Bear Stearns, Lehman Brothers, and more recently Silicon Valley Bank experienced liquidity crises, the damage was driven by the absolute dollar volume of funding that ran, not by how that funding compared to the bank's reported RWA. The Board's own rationale for the STWF indicator—that reliance on STWF creates systemic vulnerability through the run channel and the fire-sale channel—is entirely consistent with measuring that vulnerability in absolute dollars.

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49 *See* Christopher Appel "The Fed's GSIB Proposal Admits the Limits of Risk-Weighted Assets" (May 7, 2026), available at https://bettermarkets.substack.com/p/the-feds-gsib-surcharge-proposal.

Moreover, the Board's other systemic risk indicators—size, interconnectedness, substitutability, complexity, and cross-jurisdictional activity — are all calibrated to reflect absolute levels of activity and exposure, not ratios to RWA. The original inclusion of RWA in the STWF denominator introduced an inconsistency with this broader framework design. The Proposal corrects that inconsistency.

B. The RWA Denominator Created Perverse Incentives That Absolute Measurement Eliminates

Under the current formula—(STWF/RWA) × 350—the STWF score can counterintuitively be reduced by inflating the RWA denominator. A bank that increases its reported RWA, whether by taking on genuinely riskier assets or by choosing not to aggressively arbitrage its RWA, sees its STWF score fall. Conversely, a bank that engages in RWA optimization—reducing its reported risk weights without reducing actual risk—sees its STWF score rise as the denominator shrinks. Neither dynamic reflects a genuine change in the run risk posed by the firm's STWF. — Therefore, the Proposal appropriately removes RWA and the denominator more broadly from the STWF formula.

RWA arbitrage makes this dynamic worse: a bank that inflates its reported risk-weighted assets is rewarded with a lower STWF score, while a bank that games its RWA downward is penalized with a higher one. In both cases, the score moves in the wrong direction relative to actual systemic risk. The formula penalizes legitimate risk reduction and rewards the appearance of it. Measuring STWF in absolute dollars eliminates these perverse incentives entirely.

C. The Recalibration of the STWF Coefficient Requires Greater Empirical Justification

Better Markets supports the Board's recognition that the use of the RWA denominator has caused STWF to drift from its intended weight and agrees that recalibration is warranted. However, we urge the Board to do more than restore the original 20 percent target since 2015. In this matter, the original design and intent are not the same as optimal calibration. Therefore, the Board should provide the public with a more rigorous empirical basis for why 20 percent remains the appropriate weight given material changes in market structure since the framework was first established in 2015.

The case for empirical rigor is reinforced by the Board's own research on the critical importance of STWF in the GSIB framework. A 2017 empirical research paper[50] co-authored by the Board's representative to the Macroprudential Group at the Basel Committee (the group that administered the GSIB surcharge) found that the Basel Committee's GSIB capital surcharges were

[50] *See* Passmore and H. von Hafften. "Are Basel's Capital Surcharges for Global Systemically Important Banks Too Small?" Board of Governors of the Federal Reserve System. Finance and Economics Discussion Series 2017-021. (February 2017), available at: https://www.federalreserve.gov/econres/feds/are-basels-capital-surcharges-for-global-systemically-important-banks-too-small.htm.

"too small" in part because the framework failed to adequately account for STWF. The paper estimated that GSIBs reliant on short-term wholesale funding should face surcharges materially higher—by as much as 175 to 550 basis points—than levels then in effect.

That analysis was conducted when STWF represented approximately 20 percent of aggregate method 2 scores—precisely the weight the Proposal would attempt to restore. If Board staff concluded at that time that the framework's treatment of STWF was already insufficient at 20 percent, the Board must explain what has changed to make that weight adequate today, particularly in light of the deposit run dynamics observed during the March 2023 bank failures. Those events confirmed the acute systemic consequences of short-term wholesale funding dependence.

Critically, the current contribution of STWF scores to approximately 30 percent of aggregate method 2 scores may not have been a measurement distortion. The Proposal merely includes assertions on this issue and importantly does not provide data or evidence that this occurred. In fact, the Board must assess if the issue reflected an actual trend—namely, actual increases in the systemic footprint of STWF across GSIBs over the intervening decade.

Prior to any change to update the coefficient to return the category contribution to 20 percent of scores, the Board must assess whether that trend reflected underlying growth in STWF-related systemic risk that the framework was inadvertently capturing. Recalibrating without answering that question risks undercounting a risk category that post-SVB experience has shown to be acutely consequential.

Better Markets therefore urges the Board to: (1) publish the empirical analysis supporting the 20 percent figure as appropriate for current market conditions, not merely consistent with original design intent; and (2) commit to periodic review of the STWF coefficient tied to observed short-term funding dynamics across GSIBs, rather than treating the restored 20 percent weight as a permanent settlement.

Better Markets further urges the Board to engage the Basel Committee on Banking Supervision to include a measure of STWF in its international GSIB framework. This policy process has been previously considered but never acted upon by the Basel Committee.[51]

VI. Better Markets Supports Daily Data Averaging and Narrow Buckets to Prevent Window Dressing, With a Recommended Modification

The Proposal would require certain systemic indicators—currently measured on a point-in-time basis at year-end—to be calculated as averages of daily or monthly values over the year. The stated rationale is to reduce the incentive for firms to make temporary adjustments to their systemic indicator values around December 31 measurement dates in order to reduce their GSIB

51 *See* Basel Committee on Banking Supervision. Consultative Document. Global systemically important banks – revised assessment framework. March 2017, available at: https://www.bis.org/bcbs/publ/d402.pdf at page 15, "The Committee solicits public comments on this [STWF] issue and will arrive at a final decision in September 2017."

surcharge. Better Markets strongly supports this rationale and the proposed averaging requirement.

As described below, the practice of temporarily reducing balance sheet exposures around regulatory measurement dates—commonly called "window dressing"—is well-documented in financial markets research and in supervisory observations.

In fact, window dressing by GSIBs is such an open secret that JPMorgan Chase's Chief Executive Officer recently told investors that "we will obviously use our brainpower to do something I don't like doing, which is trying to find a lot of ways to serve our clients properly and reduce the GSIB charge, which is usually called arbitrage. So, I'm not sure the outcome is great for the system, but we will find ways to do it."[52]

It is deeply troubling that the CEO of the largest and most systemically important bank that the Board supervises publicly announces that it will deploy its "brain power" to arbitrage the very capital requirement the Board primarily uses to appropriately capitalize its systemic risk. When a regulated institution publicly announces it will game a core prudential requirement, it is a clear sign that evasion has become standard operating procedure and tacitly accepted by the Board as a legitimate approach.

As background, banks reduce certain positions in the weeks before December 31 only to rebuild them in January, artificially suppressing their year-end reported indicators. This practice is particularly prevalent in repo markets, derivatives, and securities financing transactions. The result is that the GSIB surcharge is calibrated to a snapshot that does not reflect a firm's systemic footprint on any other day of the year, undermining the framework's ability to accurately measure systemic risk.

Daily averaging would directly address this problem by making temporary year-end reductions insufficient to materially alter a firm's systemic indicator score. This improves the accuracy of the framework and removes a significant gaming incentive.

A. Window Dressing Is a Real and Documented Problem that Must be Addressed Immediately

Given the criticality of the GSIB surcharge as a post-crisis tool to combat too-big-to-fail banks, a flaw in the framework, obvious in hindsight and arguably obvious in prospect, was that a bank's score is primarily measured based on year-end data on one business day (December 31). This flaw in the calculation of a bank's score means that if a bank could temporarily shrink its systemic footprint just at year-end—by compressing its OTC derivatives book, pulling back from repo markets, or otherwise temporarily manipulating its balance sheet—it could lock in a lower surcharge for twelve months, then immediately rebuild its systemic exposures on January 1st.

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52 *See* JPMorgan Chase 1Q26 Earnings Call Transcript, at page 18, available at: https://www.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/investor-relations/documents/quarterly-earnings/2026/1st-quarter/1q26-earnings-transcript.pdf.

Upon the implementation of the GSIB framework, supervisors and market analysts immediately noticed that GSIBs were engaging in window dressing after the framework was introduced.[53] Further, the Board's own economists found that OTC derivatives held by GSIBs dropped 13.4 percent relative to non-GSIBs at year-end—a large effect—and that this seasonal adjustment became more pronounced after the GSIB surcharge was introduced in 2016.[54] That paper was published in January 2020. The rule being discussed here was proposed in March 2026. Six years elapsed between the Board's economists documenting the problem and the institution proposing a meaningful fix. During those six years, the big banks kept compressing and gaming the Board's requirement in plain sight while Board economists wrote research papers about it.

In fact, the systematic reduction of cross-jurisdictional and other indicators at year-end, followed by an immediate rebound in the 1st quarter of the calendar, has been visible in the data since at least 2014—banks like JPMorgan show indicator scores that drop sharply in December and bounce right back in March, a "V" shape replicated across Goldman Sachs, Bank of America, Morgan Stanley, and others. This is a coordinated, institution-by-institution, year-after-year arbitrage of the most important capital requirement in the world.

The mechanism is particularly well-documented in repo markets and OTC derivatives, precisely because those instruments are liquid enough to be scaled up and down quickly. Research exploiting daily transaction-level repo market data found that GSIBs that are close to bucket thresholds significantly reduce repo volumes, specifically on positions that appear on the balance sheet—and thus contribute to the GSIB score—in the last four days of the year, while maintaining volumes on positions that do not appear on the balance sheet.

The year-end contractions have been measured in the magnitude of several trillions of dollars for notional OTC derivatives, and hundreds of billions for repos[55]—producing rather sharp "V-shapes" in aggregate data following the implementation of capital surcharges in 2016. Window dressing has become widespread in the decade since the GSIB surcharge's enactment, with one empirical study concluding that GSIBs strategically reduce their scores by 11 basis points at year-

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53 *See* Benjamin Munyan. "Regulatory Arbitrage in Repo Markets." Office of Financial Research Working Paper. (October 29, 2015), available at: https://www.financialresearch.gov/working-papers/2015/10/29/repo-arbitage/.

54 *See* Jared Berry, Akber Khan, and Marcelo Rezende. Board of Governors of the Federal Reserve System "How Do U.S. Global Systemically Important Banks Lower Their Capital Surcharges." FEDS Notes, (January 31, 2020), available at: https://www.federalreserve.gov/econres/notes/feds-notes/how-do-us-global-systemically-important-banks-lower-their-capital-surcharges-20200131.html.

55 *See* Grill, Jakovicka, Lambert. "Recent developments in euro area repo markets, regulatory reforms and their impact on repo market functioning" ECB Financial Stability Review. The report documented quarter-end reductions in large banks' repo exposures. (2017), available at: https://www.ecb.europa.eu/press/financial-stability-publications/fsr/shared/pdf/ecb.sfcfinancialstabilityreview201711.en.pdf

end on average.[56] That is a systematic, measurable, sustained business practice repeated annually by the most sophisticated banks in the world, all at the expense of the safety buffer that is supposed to protect the public from the impact of their failure.

The Proposal includes no explanation of why the Board has not acted since it became clear banks were gaming its own framework. Concrete policy options, including requirements to report data averages across quarter-end, month-end or, through daily observations, have been discussed by supervisory authorities for years as straightforward remedies.

The Basel Committee consulted on averaging requirements for the GSIB framework in 2024.[57] Academics and central bankers had been proposing these fixes since at least 2019. The Fed is proposing in 2026 what was technically feasible—and clearly necessary—in 2016. Every year of delay since has been another year in which the biggest banks in America have evaded capital requirements against their actual systemic risk. The Board's GSIB framework has likely misidentified some banks' buckets and misallocated capital requirements.

B. Better Markets Recommends Daily Averaging for All Systemic Risk Indicators Except Level 3 Assets

The Proposal would require certain indicators to be averaged over daily values and others over monthly values, based on data availability and measurement frequency. Better Markets recommends that the Board extend the averaging requirement to be based on daily values for all systemic indicators that are not already daily-reported (with the exception of Level 3 assets, which should be measured based on monthly values).

Reporting systemic risk indicators based on an average of daily values would provide a meaningful improvement over the current year-end point-in-time reporting for the window-dressing problem and is operationally feasible given that banks already report their supplementary leverage ratio denominator value for total assets based on an average of daily values.[58] Given prior precedents of data collection and quality, the vast majority of any compliance increase would occur in the transition to a higher frequency of collection, not in the steady state. Therefore, the incremental burden of daily calculation and recording will be modest relative to the significant improvement in measurement accuracy along with increased public confidence in the Board's

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56 *See* Matthew Naylor, Renzo Corrias, and Peter Wells. "Banks' Window-Dressing of the G-SIB Framework: Causal Evidence from a Quantitative Impact Study." Basel Committee on Banking Supervision (March 7, 2024), available at: https://www.bis.org/bcbs/publ/wp42.pdf.

57 *See* Basel Committee on Banking Supervision. *Basel Committee consults on measures to address window-dressing in the G-SIB framework*. (March 7, 2024), available at: https://www.bis.org/press/p240307.htm. *See also* Better Markets Comment Letter in response to the consultation. available at https://bettermarkets.org/wp-content/uploads/2024/06/Better-Markets-Comment-Letter-BCBS-GSIBS-Revised-Assessment-Framework.pdf.

58 *See* FFIEC 101. Schedule A. Item 2.1. On-balance sheet exposures. "Report this item as the mean of the amount calculated as of each day of the reporting quarter." available at: https://www.ffiec.gov/sites/default/files/data/reporting-forms/ffiec101-form-instructions.pdf.

framework by limiting banks to game the GSIB calculation. In addition, GSIBs are also already required to produce daily data for the liquidity coverage ratio and elements of the single counterparty credit limit requirements, among other prudential standards.

Better Markets recommends that Level 3 assets be excluded from a daily averaging requirement because they consist of illiquid positions valued using unobservable inputs. Daily fair value measurement of Level 3 positions would impose unnecessary operational costs and introduce potentially unreliable valuations based on model estimates that may vary substantially from month to month for reasons unrelated to changes in the underlying positions.

The operational burden of daily valuation for Level 3 assets would be structurally inconsistent with how Level 3 assets are priced. These instruments typically require bespoke model runs, external appraisals, or committee-level valuation sign-off. Daily values are not audited and are generally not subject to the same internal controls as period-end accounting reports. A more balanced averaging approach for Level 3 assets would be to use an average of monthly measurements while ensuring the Board applies a robust annual supervisory review of any significant quarter-to-quarter changes in Level 3 assets around measurement dates.

Better Markets therefore recommends the following averaging framework for the GSIB indicators:

- On-balance sheet indicators that are currently measured as an average of daily values: retain current measurement approaches.
- On-balance sheet indicators currently measured at quarterly frequency (excluding Level 3 assets): move to average of daily values.[59]
- Level 3 assets: move to an average of monthly averaging with enhanced supervisory scrutiny of changes around year-end reporting dates.

i. <u>The Board Must Engage the Basel Committee to Address Window Dressing in the International Surcharge</u>

The Board should engage the Basel Committee as soon as possible to ensure that it also requires other GSIBs and large banks included in the GSIB sample to apply increased averaging to their collection of data for the annual GSIB assessment. Given the international element of the GSIB assessment, only applying averaging requirements to U.S. GSIBs would leave the broader set of GSIBs without guardrails to continue window dressing (and would increase U.S. GSIBs scores due to the relative measurement).

Similar to the delay in domestic changes, a coordinated approach to address window dressing (for both the leverage ratio and GSIB requirements) has been too long in coming. The

[59] Better Markets recommends that off-balance sheet exposures should be measured as an average of monthly values over the year for the purposes of the GSIB surcharge calculation.

Basel Committee issued a newsletter in October 2018[60] stating plainly that "window-dressing by banks is unacceptable," that it "undermines the intended policy objectives of the leverage ratio requirement," and that it "risks disrupting the operations of financial markets."

In June 2019, the BCBS[61] finalized revisions to leverage ratio Pillar 3 disclosure requirements requiring banks to disclose leverage ratios based on daily average values of securities financing transactions alongside their quarter-end figures—a step in the right direction, but one limited to SFTs and disclosure only, not a comprehensive averaging requirement across the G-SIB indicator set.

Finally, the Committee's March 2024 consultative document[62] on the revised G-SIB assessment framework represented a more meaningful development, proposing that banks be required to report and disclose GSIB indicators based on average values over the reporting year rather than year-end values. The BCBS explicitly stated that it sees benefits in using the average of daily values for stock data items and proposed a transitional period beginning January 1, 2026, with full implementation by January 1, 2027. However, the Committee has taken no action on its consultation to date, presumably due to similar inaction by the Board on its domestic proposal.

The Board must act with alacrity to address this known gaming of its own standard and work with the Basel Committee to apply a conservative standard internationally. It is beyond time for the Board to end this loophole in its rules and restore confidence to the GSIB framework.

C. The Final Rule Should Include Narrow Buckets But Only Under Daily Averaging Requirement

Better Markets supports the Proposal's narrower method 2 score band ranges that would apply surcharges in 10 basis point increments. The current 100-basis-point bucket structure has been a known driver of gaming behavior since the surcharge framework went live. When a single bucket boundary separates a 1.5 percent surcharge from a 2.0 percent surcharge—a 50-basis-point difference in required common equity tier 1 ("CET1") capital applied to a GSIB's balance sheet measured in the trillions—the financial incentive to engineer a score just below the threshold is material. For example, a 50-basis point difference for JPMorgan equals $10.2 billion in CET1 capital (based on an RWA of $2.042 trillion).[63]

The academic and supervisory literature on window-dressing has consistently identified

60 *See* Basel Committee on Banking Supervision. *Statement on Leverage Ratio Window-Dressing Behaviour*. BCBS Newsletter. (October 18, 2018), available at: https://www.bis.org/publ/bcbs_nl20.htm.

61 *See* Basel Committee on Banking Supervision. *Revisions to Leverage Ratio Disclosure Requirements*. Standards. (June 26, 2019), available at: https://www.bis.org/bcbs/publ/d468.htm.

62 *Supra* 57.

63 *See* JPMorgan Chase. 1Q26 Financial Results. available at: https://www.sec.gov/Archives/edgar/data/19617/000162828026025013/a1q26_earningsxpresentat.htm.

bucket-threshold proximity as the primary predictor of year-end score compression.[64] The research has found that GSIBs proximate to bucket thresholds significantly reduce balance-sheet repo positions, specifically in the final four trading days of the year. The wide buckets are, in a meaningful sense, the root cause of the window-dressing problem. The proposed averaging remedy addresses the timing mechanism of score manipulation; narrower buckets address the underlying financial motivation. Both are necessary, and neither is sufficient without the other.

The Board should adopt 10-basis-point score bands rather than the 50-basis-point bands apparently contemplated in the proposal. At 100-basis-point bands, the surcharge is insensitive to almost all meaningful variation in a GSIB's systemic risk profile—a bank can grow its systemic footprint by tens of billions of dollars without crossing a threshold, while a bank near a boundary faces outsized incentive to shrink by a trivial amount. Ten-basis-point bands would make the surcharge approximately continuously sensitive to changes in systemic risk within the range of scores currently occupied by GSIBs, eliminating the discrete threshold dynamics that drive gaming while preserving the transparency and predictability of a banded structure. The change would be technically straightforward to implement given the quarterly FR Y-15 reporting infrastructure already in place.

The Board may face industry comment arguing that narrower bands undermine capital planning predictability—that firms cannot manage their balance sheets responsibly if minor fluctuations in systemic indicators translate into surcharge changes. This line of argument should be given little weight. The firms or their trade associations requesting wide bands to protect capital planning "certainty" are the same firms that have demonstrated, repeatedly and across multiple institutions, a consistent willingness to compress their balance sheets by, in some cases, trillions of dollars in notional exposures over the final days of each December to avoid crossing those same score bands.

In effect, that argument would attempt to maintain those firms' current ability to be required to have less capital against a given level of systemic risk than the framework would require if it were measured accurately and continuously (as proposed). The Board's statutory mandate under Section 165 of Dodd-Frank is to establish enhanced prudential standards that increase in stringency with systemic risk—put another way, it is not to calibrate those standards at a level of precision that happens to minimize inconvenience to the firms being regulated. In other words, the Board should prioritize safety-and-soundness considerations over firms' claims of "inefficiency" and "burden" in their reporting requirements.

VII. Better Markets Supports the Indicator Amendments and Recommends the Board Explicitly Include Crypto-Asset Exposures, Private Credit Exposures, Industrial Loan Companies and Trust Banks In the Interconnectedness Category

Better Markets supports the proposed amendments to the measurement of systemic

64 See, e.g., Basel Committee on Banking Supervision Working Paper No. 42, *Banks' Window-Dressing of the G-SIB Framework: Causal Evidence from a Quantitative Impact Study* (March 2024), available at https://www.bis.org/bcbs/publ/wp42.pdf.

indicators in the Proposal, including the updates to the definition of financial institution for interconnectedness purposes, the treatment of exchange-traded funds, refinements to derivatives measurement, improvements to the cross-jurisdictional activity indicators, and clarifications to the payments activity and STWF indicators. These are largely technical improvements that improve the accuracy and consistency of the framework, and we support their adoption.

A. *The Board Should Update the Definition of Financial Institution To Explicitly Include Crypto-Asset Entities*

As noted above, the Proposal would amend the definition of "financial institution" used in the interconnectedness category of the GSIB surcharge framework to improve consistency with Basel Committee methodology. Better Markets supports this amendment but recommends that the Board use this opportunity to explicitly include crypto-asset financial institutions—including both centralized and decentralized crypto exchanges (either as presently constituted or as may be permitted in future legislation), permitted payment stablecoin issuers ("PPSI") and other stablecoins, crypto custodians, or crypto brokers—within the scope of counterparties counted as financial institutions for intra-financial system assets and intra-financial system liabilities systemic risk indicators.

i. The Board Should Treat Stablecoin Reserve Deposits As a New Category of Concentrated, Confidence-Sensitive GSIB Liability

The interconnectedness indicators exist to capture the degree to which a GSIB's balance sheet is financially connected with other financial sector counterparties in a manner that could transmit distress throughout the financial system upon the GSIB's failure—or, critically, transmit distress from those counterparties back to the GSIB. Stablecoin reserve deposits held at GSIBs are precisely this type of exposure, and they are structurally more dangerous than most conventional financial institution liabilities that the IFSA and IFSL indicators already capture.

Under the GENIUS Act[65], PPSIs are required to back their outstanding issuance one-to-one with high-quality liquid assets, a significant proportion of which may be held as deposits at insured depository institutions, including GSIBs. The OCC's implementing proposal[66] noted estimates that stablecoin issuance could reach between $1 trillion and $2 trillion within a few years.

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65 Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act), Public Law 119–27, 139 Stat. 419 (2025) (codified at 12 U.S.C. 5901–5916).

66 Office of the Comptroller of the Currency. "Implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act for the Issuance of Stablecoins by Entities Subject to the Jurisdiction of the Office of the Comptroller of the Currency." Proposed Rule, 91 FR 10202 (March 2, 2026), available at https://www.occ.treas.gov/news-issuances/federal-register/2026/91fr10202.pdf. *See also* Better Markets Comment letter on the Proposal, available at: https://bettermarkets.org/wp-content/uploads/2026/05/Better-Markets-Comment-Letter-OCC-GENIUS-Act-Stablecoins.pdf.

The FDIC's implementing proposal[67] for its prudential requirements for PPSIs would permit a single PPSI to maintain up to 40 percent of its reserves at a single institution. Therefore, at that potential scale, a single large stablecoin issuer could hold billions of dollars in deposits at a single GSIB. These deposits are very different than conventional corporate deposits. They are the reserve backing of a continuously redeemable digital instrument whose holders can run—and have demonstrated that they will run—within hours of any adverse crypto market event or signal about the safety of the underlying reserves.

The March 2023 SVB failure provided the definitive real-world demonstration of this risk. Circle, the issuer of USD Coin ("USDC"), held approximately $3.3 billion in deposits at SVB—nearly all of it uninsured. When SVB's insolvency became public on March 10, 2023, USDC depegged to $0.87 on the dollar within hours as stablecoin holders ran the product upon learning of Circle's concentrated, uninsured SVB deposit exposure.[68] The speed and severity of that run—which threatened to transmit contagion far beyond SVB into the broader stablecoin and money market ecosystem—was a direct function of the structural linkage between a stablecoin issuer's reserve deposits at a single bank and the confidence of millions of stablecoin holders in the stability of that instrument. The FDIC's subsequent invocation of the systemic risk exception to protect SVB's uninsured depositors, at a cost of approximately $16.7 billion to the Deposit Insurance Fund[69], was driven in material part by the systemic contagion risk that uninsured depositor losses—including those that would have cascaded through the stablecoin ecosystem—would have produced.

That episode involved $3.3 billion in stablecoin reserve deposits at a single non-GSIB institution. The GENIUS Act now creates the legal architecture for stablecoin reserve deposits measured in the hundreds of billions to accumulate at the largest GSIBs. The GSIB surcharge framework—which is specifically designed to measure and price the systemic externalities of GSIB failure—must be updated to capture this exposure before it reaches systemic scale, not after.

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67 *See* Federal Deposit Insurance Corporation. "Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions." Proposed Rule, 90 FR 242 (December 19, 2025), available at https://www.govinfo.gov/content/pkg/FR-2025-12-19/pdf/2025-23510.pdf; and "GENIUS Act Requirements and Standards for FDIC-Supervised Permitted Payment Stablecoin Issuers and Insured Depository Institutions." Proposed Rule, 91 FR 69 (April 10, 2026), available at https://www.fdic.gov/board/federal-register-notice-genius-act-requirements-and-standards-fdic-supervised-permitted. *See also* Better Markets Comment Letters on the Proposals, available at: https://bettermarkets.org/wp-content/uploads/2026/05/Better-Markets-Comment-Letter-FDIC-Stablecoins.pdf and https://bettermarkets.org/wp-content/uploads/2026/06/Better-Markets-Comment-Letter-FDIC-GENIUS-Act.pdf.

68 *See* CNBC. "Stablecoin USDC breaks dollar peg after firm reveals it has $3.3 billion in SVB Exposure." (March 11, 2023), available at: https://www.cnbc.com/2023/03/11/stablecoin-usdc-breaks-dollar-peg-after-firm-reveals-it-has-3point3-billion-in-svb-exposure.html.

69 *See* Federal Deposit Insurance Corporation. *Special Assessment Pursuant to Systemic Risk Determination.* "Currently, the FDIC estimates the total cost of the failures of Silicon Valley Bank and Signature Bank that must be recovered through the special assessment is approximately $16.7 billion." (April 17, 2026), available at: https://www.fdic.gov/deposit-insurance-assessments/special-assessment-pursuant-systemic-risk-determination.

ii. The Board Should Update the IFSL Indicator that Systematically Understates Stablecoin-Related Interconnectedness

A GSIB that accepts large-scale stablecoin reserve deposits is accepting a contingent liability whose redemption dynamics are categorically different from conventional deposits. Conventional uninsured corporate deposits at a GSIB run slowly, over days or weeks, constrained by operational friction and rational calculation. Stablecoin redemptions can be triggered algorithmically, executed on-chain in seconds, and propagate globally without any of the institutional friction that slows conventional bank runs. Redemptions can also be highly-correlated to wider dynamics in the volatile underlying crypto market. A GSIB that holds $50 billion in stablecoin reserve deposits is exposed to a funding cliff that can materialize in hours—a risk profile more analogous to overnight repo than to term corporate deposits, yet one that would not appear in the STWF indicator because stablecoin reserve deposits are structured as demand deposits, not short-term wholesale funding instruments.

The IFSL indicator is designed to measure precisely the type of large, concentrated, confidence-sensitive financial sector liability that creates systemic vulnerability upon stress. Stablecoin reserve deposits satisfy every criterion for inclusion. They are held by a financial sector counterparty—the stablecoin issuer—whose distress would be transmitted to the GSIB through mass simultaneous redemption of the deposits backing that issuer's outstanding stablecoins. They are highly correlated: all stablecoin reserve deposits at a GSIB would be subject to simultaneous redemption pressure if the stablecoin depegged, regardless of which specific PPSI held the account, because the depegging signal would trigger runs across all holders of that instrument. They are also materially concentrated as the FDIC's proposal to place a 40 percent single-institution concentration limit would mean that a small number of large PPSIs could generate deposit liabilities at a single GSIB that dwarf those of any conventional financial institution counterparty.

Absent explicit inclusion of stablecoin issuers in the financial institution definition and stablecoin reserve deposits in the IFSL calculation, the GSIB surcharge framework will systematically understate the interconnectedness of GSIBs that become major custodians of stablecoin reserves—precisely the institutions whose surcharges most need to reflect the actual run-risk profile of their funding base. Under the GENIUS Act's current trajectory, it could become material within the next two to three years.

iii. The Board Must Act Before Stablecoin Reserve Deposits Reach Systemic Scale

The Board should update the FR Y-15 instructions to require that stablecoin issuers be treated as financial institutions for purposes of the IFSA and IFSL indicators, and that reserve deposits held by GSIBs on behalf of PPSIs be reported as intra-financial system liabilities. The Board should further require that these deposits be reported on a look-through basis—meaning that if a stablecoin issuer routes reserves through a special purpose vehicle, trust, or intermediate custodial entity, the GSIB must report the economic exposure as though it held the reserve deposit directly. Without a look-through requirement, GSIBs could reduce their reported IFSL simply by inserting legal entities between the GSIB and the underlying stablecoin reserve, replicating the same structural evasion that has historically plagued off-balance-sheet risk measurement.

As Better Markets has noted in its comment letters on the OCC and FDIC GENIUS Act implementing proposals,[70] stablecoin reserve deposits pose systemic risks that existing prudential frameworks were not designed to capture. The GSIB surcharge framework is the Board's primary tool for ensuring that the largest banking organizations hold capital commensurate with their actual systemic footprint. That tool cannot perform its statutory function if it does not account for one of the most rapidly growing and acutely destabilizing categories of financial sector interconnectedness now entering the U.S. banking system.

The interconnectedness indicators are designed to capture the degree to which a GSIB's balance sheet has financial relationships with other financial sector counterparties in a manner that could transmit distress throughout the financial system in the event of the GSIB's failure. Crypto-asset entities are a growing portion of financial sector activity, and the largest GSIBs have materially expanded their exposures to these entities through custody arrangements, prime brokerage relationships, derivatives counterparty exposures, and lending facilities. In addition, under the GENIUS Act, stablecoins may use GSIBs for their reserves. Recent episodes of crypto market stress—including the failures of FTX, Celsius, and other crypto intermediaries, along with the depegging of USD Coin during the failure of SVB—have demonstrated that distress in crypto entities can propagate to traditional financial institutions with significant speed and severity.

Absent explicit inclusion, GSIBs' growing exposures to crypto counterparties may escape capture in the interconnectedness indicator, understating the systemic risk these exposures create. The Board should update the FR Y-15 instructions and make clear in the final rule that exposures to crypto-asset service providers, digital asset trading platforms, stablecoin issuers with systemic footprints, and crypto custodians are to be reported as intra-financial system assets and liabilities for GSIB surcharge purposes, consistent with their functional role in the financial system.

Better Markets has consistently expressed concern about the inclusion of cryptoassets in the banking regulatory perimeter.[71] The Board must be proactive in its administration of the GSIB surcharge framework to ensure that GSIBs are capturing all their relevant exposures to these risky and untested exposures. Consistent with Better Markets' previous comments on GENIUS Act proposals from the Office of the Comptroller of the Currency and the Federal Deposit Insurance

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70 *Supra* 61, 62, 63.

71 *See* Statement by Christopher Appel. "OCC GENIUS Act Proposal Fails to Address Stablecoin Risks, Raising the Chance Turmoil Spreads into The Broader Economy." (May 4, 2026), available at https://bettermarkets.org/newsroom/occ-genius-act-proposal-fails-to-address-stablecoin-risks-raising-the-chance-turmoil-spreads-into-the-broader-economy/.

Corporation[72], we will also comment on the Board's eventual proposal to implement its provisions of the Act.

B. The Board Should Update the Definition of Financial Institution to Explicitly Include Exposures to Private Credit

The Board should also explicitly include private credit exposures within the scope of the "financial institution" definition for purposes of the intra-financial system assets and intra-financial system liabilities indicators. Private credit has become a large, rapidly growing, and increasingly interconnected component of the financial system, with direct and indirect linkages to GSIBs through lending facilities, subscription lines, net asset value ("NAV") facilities, warehouse financing, derivatives, securitizations, risk-transfer arrangements, and exposures to asset managers, private funds, business development companies, insurers, and private equity sponsors.

Accordingly, Better Markets urges the Board to explicitly include private credit funds, business development companies, private credit securitization vehicles, private credit managers, and related private credit financing structures within the definition of financial institution on the FR Y-15's Interconnectedness Category. The Board should ensure that firms report on a look-through reporting basis for securitized, tranched, or intermediated private credit exposures and should ensure that the GSIB surcharge captures the systemic risk created when the largest banking organizations finance, structure, distribute, guarantee, or otherwise support the private credit ecosystem. The Board should work with the Basel Committee on Banking Supervision to ensure the reporting on its GSIB Assessment instructions includes these changes.[73]

The Board's GSIB surcharge framework is intended to measure the systemic consequences of failure at the largest and most systemic banking organizations, particularly the extent to which their balance sheets are interconnected with other financial institutions. Therefore, banking organizations' exposure to private credit financial entities is a critical transmission that must be fully included in the Interconnectedness category.

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[72] *See* Statement by Christopher Appel. "Reckless FDIC Stablecoin Proposal Prioritizes Industry Convenience Over Economic Stability for Main Street." (May 18, 2026), available at https://bettermarkets.org/newsroom/reckless-fdic-stablecoin-proposal-prioritizes-industry-convenience-over-economic-stability-for-main-street/ and Statement by Christopher Appel. "FDIC's Stablecoin Proposal Would Recklessly Import Crypto's Volatility Into The Federal Deposit Insurance Safety Net" (June 9, 2026), available at: https://bettermarkets.org/newsroom/fdics-stablecoin-proposal-would-recklessly-import-cryptos-volatility-into-the-federal-deposit-insurance-safety-net/.

[73] Better Markets recommends that the Board should not condition action on international consensus. If the Basel Committee were to fail to move with appropriate urgency on this issue, the Board should act unilaterally to address this urgent systemic risk issue.

The Treasury Secretary[74] and the Financial Stability Board[75] have recently warned that interconnections among private credit funds, banks, insurers, and private equity firms are deepening, while opacity, leverage, valuation uncertainty, liquidity mismatches, and complex funding structures may amplify stress in adverse scenarios. The Board has also documented significant growth in bank lending to private credit vehicles, finding that committed bank credit lines to private credit vehicles increased from approximately $8 billion in the first quarter of 2013 to approximately $95 billion by the fourth quarter of 2024.[76]

As Better Markets has consistently noted, large banking organizations' interconnections with private credit are likely to grow further under the agencies' proposed securitization framework.[77] If banking organizations are permitted to obtain more favorable capital treatment for securitized or tranched private credit exposures, GSIBs will have strong incentives to expand their private credit activities through structures that reduce reported risk-weighted assets while preserving economic exposure. These structures may include securitizations of private credit loans, rated feeder or fund finance structures, collateralized fund obligations, warehouse lines to private credit lenders, subscription and NAV facilities, synthetic risk transfers, credit-linked notes, and other arrangements that transform direct credit exposures into structured exposures held, financed, guaranteed, or distributed by GSIBs.

A GSIB that finances, warehouses, guarantees, hedges, securitizes, or provides liquidity support to private credit funds or private credit securitization vehicles is interconnected with the private credit ecosystem and may transmit stress to or from that ecosystem during periods of market disruption.

In addition to adding those specific types of financial institutions, the Board should update the instructions to ensure that the following types of exposures are included in the intra-financial system assets and liabilities indicators:

1. loans, credit lines, subscription facilities, NAV facilities, warehouse facilities, and other financing arrangements provided to private credit funds, business development

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74 *See* Yahoo Finance. "We are concerned: Scott Bessent says Treasury is keeping a close eye on the private credit market." (February 23, 2026), available at: https://finance.yahoo.com/news/we-are-concerned-scott-bessent-says-treasury-is-keeping-a-close-eye-on-the-private-credit-market-145117264.html?guccounter=1.

75 Financial Stability Board. *Report on Vulnerabilities in Private Credit* (May 6, 2026), available at: https://www.fsb.org/2026/05/report-on-vulnerabilities-in-private-credit.

76 *See* Berrospide et al. "Bank Lending to Private Credit: Size, Characteristics, and Financial Stability Implications" Federal Reserve FEDS Notes (May 23, 2025), available at: https://www.federalreserve.gov/econres/notes/feds-notes/bank-lending-to-private-credit-size-characteristics-and-financial-stability-implications-20250523.html. *See also* Board of Governors of the Federal Reserve System, Financial Stability Report (May 2026), available at: https://www.federalreserve.gov/publications/files/financial-stability-report-20260508.pdf.

77 *See* Better Markets. "The Main Street Economy Will Suffer if Capital Is Reduced for Wall Street's Eight Megabanks." (April 27, 2026), available at: https://bettermarkets.org/analysis/the-main-street-economy-will-suffer-if-capital-is-reduced-for-wall-streets-eight-megabanks/.

companies, nonbank mortgage lenders, finance companies and nonbank lenders more generally, private credit managers, private equity sponsors, private equity-owned companies, and related investment vehicles, including double counting of exposures in cases of "leverage on leverage" (e.g., with private equity net asset value-backed loans);

2. securities, securitization exposures, retained interests, structured notes, credit-linked notes, collateralized fund obligations, and other instruments backed by or referencing private credit loans, or private credit fund interests, or other nonbank credit intermediaries;
3. derivatives, total return swaps, guarantees, liquidity facilities, credit protection, and other contingent exposures referencing private credit funds, private credit loans, or securitizations backed by private credit assets;
4. equity investments, limited partnership interests, seed capital, co-investments, or other ownership interests in private credit funds or related vehicles;
5. exposures to insurers, asset managers, finance companies, or other nonbank financial institutions where the exposure is materially tied to private credit origination, financing, securitization, or risk transfer; and
6. any off-balance-sheet commitment, guarantee, or reputational-support arrangement that could require the GSIB to provide support to a private credit fund, securitization vehicle, or affiliated private credit platform during stress.

The Board should also require GSIBs to report private credit exposures on a look-through basis where the immediate counterparty is a special purpose vehicle, fund, feeder fund, securitization trust, collateralized fund obligation, or other intermediate structure whose underlying assets or economic exposure are materially private credit-related. Without a look-through requirement, GSIBs could reduce reported interconnectedness simply by inserting private funds, securitization vehicles, or other legal entities between the banking organization and the underlying private credit risk.

Finally, the Board should require separate disclosure of material private credit exposures in the FR Y-15 instructions and should evaluate whether those exposures warrant a distinct memorandum item. At minimum, the Board should collect data sufficient to assess the size, maturity, collateral, leverage, borrower concentration, sponsor concentration, credit quality, and loss-sharing structure of GSIB private credit exposures.

C. *The Board Should Update the Definition of Financial Institution To Explicitly Include Industrial Loan Companies*

The Board should also revise the FR Y-15 reporting instructions to explicitly include industrial loan companies ("ILCs") and their holding companies within the definition of 'financial institution' for purposes of the intra-financial system assets and intra-financial system liabilities indicators in the Interconnectedness Category.

As currently drafted, the FR Y-15's definitional perimeter for financial institutions is anchored to depository institutions as defined in the FR Y-9C, Schedule HC-C, item 2, and to bank holding companies subject to Federal Reserve supervision. Industrial loan company holding companies file neither the FR Y-9C nor are they subject to Federal Reserve oversight, creating a regulatory gap through which GSIB exposures to ILCs and their holding companies may escape classification as intra-financial system assets under the current FR Y-15 instructions. As the FDIC's ILC chartering initiatives—including those with fintech and commercial affiliations—continue to expand the population of deposit-taking, credit-extending institutions operating outside the Bank Holding Company Act's supervisory perimeter, this gap will only widen. The Board should require that exposures to ILCs and ILC holding companies be reported as intra-financial system assets regardless of whether those counterparties are themselves subject to Federal Reserve consolidated supervision, and should apply look-through reporting requirements to any structured, intermediated, or securitized exposures to such entities.

D. The Board Should Update the Definition of Financial Institution to Explicitly Include Trust Banks

The Board should similarly revise the FR Y-15 reporting instructions to explicitly include trust banks chartered by the Office of the Comptroller of the Currency within the definition of financial institution for purposes of the Interconnectedness Category indicators. An OCC-chartered trust bank is a national bank and therefore a depository institution, and GSIB exposures to such entities should, on their face, qualify as intra-financial system assets under the existing definition. However, as the OCC expands its trust bank chartering activity—including charters that may be issued to asset managers, custodians, and other non-traditional applicants with significant balance sheet relationships to the largest banking organizations—the Board should remove any ambiguity by explicitly enumerating OCC-chartered trust banks in the FR Y-15 instructions and requiring look-through reporting for exposures that are structured, intermediated, or held through affiliated vehicles.

E. Additional Indicator Amendments

Better Markets supports the following additional proposed amendments to systemic indicator measurement:

i. <u>The Board Should Incorporate Trading Volume to the Substitutability Category Immediately</u>

The Board's proposal to incorporate additional trading volume measures into the substitutability category is a welcome improvement that should enhance the framework's ability to capture the systemic role of large dealer banks in critical financial markets. Trading activity is a core function performed by many GSIBs, particularly those serving as market makers, liquidity providers, and intermediaries in Treasury, agency, corporate debt, foreign exchange, and derivatives markets. During periods of stress, disruptions at these firms can rapidly impair market functioning, reduce liquidity, amplify price volatility, and transmit distress throughout the financial system. Including trading volume measures in the substitutability category therefore better aligns the framework with the reality that some institutions perform market functions that are not readily replaceable by competitors during periods of financial stress.

At the same time, the Board deserves criticism for taking so long to adopt a measure that the Basel Committee has recognized as important for years. The Basel Committee first approved revisions to the GSIB assessment methodology in 2018 that added trading volume as a substitute indicator for underwriting activity and recognized that underwriting volumes alone no longer adequately captured the market-intermediation functions performed by the largest global dealers.[78] Since then, the international framework has incorporated trading volume metrics as part of the substitutability category used to assess systemic importance. Yet despite participating directly in the Basel Committee process and supporting the development of these revisions, the Board failed to update the U.S. framework for nearly a decade after the original GSIB rule and roughly seven years after the Basel revisions were finalized.

The Board provides no compelling explanation for this delay. Throughout the Proposal, the Board repeatedly justifies changes on the grounds that the existing framework has become stale, outdated, or less reflective of actual systemic risk. That rationale applies with particular force here. If trading activity is sufficiently important to systemic risk measurement that the Basel Committee revised the international framework in 2018, then the Board should explain why it took until 2026 to begin incorporating those changes into the U.S. methodology. During that period, U.S. GSIBs remained among the most significant dealers in global capital markets, the Treasury market experienced severe dysfunction in March 2020, and policymakers repeatedly emphasized the importance of dealer intermediation capacity to financial stability. The Board's failure to update the framework sooner likely resulted in years of undermeasurement of systemic importance among the largest dealer banks.

This delay is especially troubling because the Board now cites improvements in measurement accuracy as a justification for reducing GSIB surcharges. The Board cannot simultaneously argue that the framework has overstated systemic importance while also acknowledging that key systemic activities have been omitted from the methodology for years. If anything, the prolonged exclusion of trading volume measures raises the possibility that systemic importance has been understated for certain institutions and that current surcharge levels are lower than would have been appropriate had the Basel revisions been implemented on a timely basis. Before relying on recalibration to reduce capital requirements, the Board should quantify the historical effect of excluding trading volume measures and estimate how GSIB scores would have differed had the Basel Committee's methodology been incorporated when originally adopted internationally.

Accordingly, while we support the addition of trading volume measures to the substitutability category, the Board should provide a retrospective analysis quantifying the impact of its delayed implementation and explain why it failed to update the U.S. GSIB framework for nearly seven years after the Basel Committee determined that the existing

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78 *See* BCBS, Global Systemically Important Banks: Updated Assessment Methodology and the Higher Loss Absorbency Requirement (July 2018), available at: https://www.bis.org/bcbs/publ/d445.htm.

methodology no longer adequately measured the systemic importance of large dealer institutions.

ii. <u>The Board Should Automatically Incorporate Basel Committee Updates to the Currencies Included in the Substitutability Category Payments Activity Indicator</u>

The Board should revise the GSIB framework to ensure that the currencies included in the payments activity indicator—one of the substitutability indicators reported on Schedule C of the FR Y-15—are updated promptly and consistently with the Basel Committee's international GSIB methodology. Payments activity is intended to measure the systemic importance of a banking organization's role in facilitating large-value payments in major global currencies. Because that systemic function changes as global payment flows and foreign exchange activity evolve, the list of currencies included in the indicator must remain current.

The Board acknowledges that the payments activity indicator takes into account the Basel Committee's list of major currencies for purposes of the international GSIB surcharge standard, including updates typically announced every three years. The Board also acknowledges that the FR Y-15 collects payments data for memorandum item currencies to inform future selection of major currencies and monitor currencies that may become major currencies over time. Yet the Board's approach remains too ad hoc and is behind the Basel Committee's updates, that it in effect missed an entire 3-year cycle for updating the currencies. When the Basel Committee updates the major currencies used for the international GSIB framework, the Board should incorporate those updates into the U.S. GSIB calculation absent a clear, public, and empirically supported reason not to do so.

This is a significant reporting issue that has become exacerbated over time. Payments activity is part of the substitutability category, which is designed to capture the extent to which a firm provides critical services that other firms cannot readily replace during stress. A stale or inconsistent currency list can materially distort the measurement of that systemic function. It may understate the payment-system footprint of firms active in currencies that have become globally significant, while overstating or continuing to count currencies that no longer warrant inclusion. That undermines comparability across GSIBs, weakens the accuracy of the substitutability score, and introduces avoidable divergence between the U.S. and Basel frameworks.

The current Proposal exemplifies this problem. The Board proposes to update the payments activity systemic indicator to include the Singapore dollar and remove the Brazilian real, Mexican peso, and Swedish krona, while continuing to collect some currencies as memorandum items and removing Russian rubles and Brazilian real from FR Y-15 collection. These changes may be directionally appropriate, but they also demonstrate that the Board has allowed the domestic framework to lag behind evolving global currency activity rather than maintaining a standing mechanism for timely incorporation of Basel updates.

Accordingly, the final rule should require the Board to update the FR Y-15 Schedule C payments activity indicator automatically, or within a defined period, whenever the Basel Committee updates the major currencies included in the international GSIB methodology. If the Board declines to adopt a Basel update, it should be required to publish a written explanation identifying the empirical basis for that departure and quantifying the effect on each U.S. GSIB's substitutability score and total method 1 score. A GSIB framework that purports to measure systemic substitutability cannot rely on an outdated currency list simply because the domestic reporting form has not kept pace with the international standard.

iii. The Board Should Immediately Incorporate Derivatives Exposures to the Cross-Jurisdictional Activity Category

Better Markets strongly supports the proposed improvements to how cross-jurisdictional derivatives exposures are measured, consistent with Basel Committee methodology. The case for including derivatives in the cross-jurisdictional activity indicator rests on both the theoretical foundations of systemic risk measurement and the hard empirical lessons of the 2008 financial crisis. The cross-jurisdictional activity indicator exists in the G-SIB framework for a specific and well-articulated reason: to capture the degree to which a firm's distress would be transmitted across national borders, complicating resolution, overwhelming the capacity of any single jurisdiction's safety net, and forcing coordination among supervisors and resolution authorities who may have conflicting legal authorities and incentive structures. Derivatives exposures—particularly large, concentrated, cross-border derivatives books—are among the most potent transmission mechanisms for exactly this kind of contagion.

If the cross-jurisdictional activity indicator is to serve its intended purpose of measuring and constraining the international systemic footprint of the largest banking organizations, it must be extended to capture the derivatives dimension of that footprint—both because derivatives are a primary vector of cross-border contagion and because the current gap in coverage has created a structural incentive for institutions to concentrate their cross-border risk in precisely the form that the indicator does not measure. The agencies' tailoring risk indicator for cross-jurisdictional activity should also incorporate cross-jurisdictional derivatives. The agencies' 2019 tailoring rule foreshadowed the incorporation of more granular cross-jurisdictional measures into the Category II tiers and then failed to follow through—that omission has aged poorly, and the agencies should correct it now by amending both the G-SIB surcharge methodology and the tailoring framework to incorporate derivatives-based cross-jurisdictional exposures, including gross notional exposures, net current credit exposures, and potential future exposures across jurisdictions, as inputs into the categorization and scoring of all institutions whose international derivatives footprint generates meaningful cross-border systemic risk.[79]

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[79] *See* Federal Reserve Board, Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation. *Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements.* (November 1, 2019) at 59238, available at: https://www.federalregister.gov/documents/2019/11/01/2019-23800/changes-to-applicability-thresholds-for-regulatory-capital-and-liquidity-requirements#footnote-42-p59237. "The BCBS recently amended its measurement of cross-border activity to more consistently reflect derivatives, and the Board anticipates it will separately propose changes to the FR Y-15 in a manner consistent with this change. Any related changes to the proposed cross-jurisdictional activity indicator would be updated through those separately proposed changes to the FR Y-15."

iv. <u>The Board Should Consider Including Federal Home Loan Bank Exposures as Financial Institutions in the Interconnectedness Category</u>

The Board should also explain and defend its exclusion of the Federal Home Loan Banks ("FHLB") from the definition of financial institution for purposes of the intra-financial system assets and intra-financial system liabilities indicators. The FR Y-15 instructions classify the FHLBs as "public sector bodies" alongside central banks and multilateral development banks, thereby excluding GSIB exposures to the FHLB system from the interconnectedness scoring framework entirely. That classification is questionable given the entities are privately owned by their member institutions, generate profits, and pay dividends, and particularly so in light of the spring 2023 bank failures and the official responses that followed.

Official reports documenting the 2023 banking crisis have established that the FHLB system functioned as a transmission channel for stress. SVB increased its outstanding advances from the FHLB of San Francisco by 50 percent in the first days of March 2023, reaching $30 billion before its failure on March 10. Signature Bank held $11.2 billion in FHLB of New York advances at the time of its failure two days later. As for Treasury Under Secretary for Domestic Finance Nellie Liang observed at the 2024 OCC Bank Research Symposium, the FHLBs are "not well suited to be lenders of last resort"[80]— a point the Federal Housing Finance Agency ("FHFA") also made explicitly in its November 2023 comprehensive review of the FHLB system (which called for limiting FHLB access by troubled institutions).[81] The FHFA report noted that FHLBs funded $675.6 billion of advances in a single week in March 2023, the largest one-week advance volume in system history. The GAO similarly documented in March 2024 that the three failed banks increased their outstanding FHLB advances by 37 to 50 percent in the two weeks preceding their failures.[82]

The exclusion of FHLBs from the FR Y-15 interconnectedness indicators means that a GSIB's advances to, collateral pledged with, and funding obtained from the FHLB system generate no interconnectedness score whatsoever—even though that relationship is precisely the type of bilateral financial exposure the intrafinancial system assets and intrafinancial system liabilities indicators are designed to capture. The Board's public sector classification is inappropriately conflating lower credit risk with low interconnectedness risk. The FHLBs' implicit federal guarantee may reduce the probability that a GSIB suffers a loss on its FHLB-related exposures, but it does not reduce the systemic transmission risk that those exposures represent.

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80 See U.S. Department of the Treasury. Remarks by Under Secretary of the Treasury for Domestic Finance Nellie Liang. 2024 OCC Bank Research Symposium (June 2024), available at: https://home.treasury.gov/news/press-releases/jy2429.

81 *See* Federal Housing Finance Agency. *FHLBank System at 100: Focusing on the Future* (November 2023), available at https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/FHLBank-System-at-100-Report.pdf.

82 *See* Government Accountability Office. *Federal Home Loan Banks: Actions Related to the Spring 2023 Bank Failures*. GAO-24-106957 (December 17, 2025), available at: https://www.gao.gov/products/gao-26-107373.

The Board should either revise the FR Y-15 instructions to include FHLB exposures within the intra-financial system indicators or provide a reasoned explanation—consistent with the post-2023 official record—for why the current exclusion remains appropriate for measuring a GSIB's interconnections to the financial system.

VIII. The Board Must Address Its Inexplicable Decision on Netting in the Trading and AFS Securities Indicator

The proposed rule's failure to correct or address the Board's reported forbearance treatment of netting in the trading and available-for-sale ("AFS") securities indicator is a significant omission. Under the complexity category of the GSIB scoring framework, the trading and AFS securities indicator is supposed to measure the breadth and operational complexity of a bank's trading book and investment portfolio—a proxy for the opacity that makes large dealer banks uniquely risky and fragile when markets seize. The indicator, as currently computed on the FR Y-15[83] and the Basel Committee's GSIB assessment instructions[84], clearly does not permit netting:

FR Y-15 GSIB Instructions, Trading and AFS Securities, page 32:

> Report values on a gross long basis (i.e., do not net short positions against long positions). For long and short positions in the same CUSIP, report the long position prior to any CUSIP netting. For more information on AFS securities, refer to ASC Topic 320, Investments – Debt Securities, and the FR Y-9C Glossary entry for "securities activities."

Basel Committee end-2025 GSIB Instructions, paragraph 130 page 27:

> 130. All values reported should be at the reporting date and provided on a gross long basis (ie short positions should not be netted against long positions). Thus, for long and short positions in the same Committee on Uniform Securities Identification Procedures number (CUSIP), report the long position prior to any CUSIP netting or any other International Security Identification Number (ISIN) netting.

A bank holding both a $15 billion long position and a $12 billion short position in a security is not, from a resolution standpoint, equivalent to a bank with a $3 billion net position in the same instrument. The gross book requires operational infrastructure, margin management, counterparty relationships, and risk systems whose complexity scales with gross notional, not net notional. Permitting netting collapses a resolution-complexity metric into something closer to a market-risk

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83 *See* Federal Reserve Board. Systemic Risk Report. Reporting Form FR Y-15. Available at: https://www.federalreserve.gov/apps/reportingforms/Download/DownloadAttachment?guid=5726f7f0-f331-4b54-89cb-c0f2baca66be.

84 *See* Basel Committee on Banking Supervision. Instructions for the end-2025 G-SIB assessment exercise. (January 20, 2026), available at: https://www.bis.org/bcbs/gsib/instr_end25_gsib.pdf.

metric—a category error that has been embedded in the framework. The current FR Y-15 instructions and the Basel instructions clearly do not permit the Board's interpretation, and it is inexplicable why the Board has not clarified its stance.

The practical consequences of this policy mistake are significant. In January 2025, the International Consortium of Investigative Journalists reported that a whistleblower, a former JPMorgan Chase employee, alleged in a 35-page letter to JPMorgan Chase's board audit committee that JPMorgan Chase had "misrepresented" several complexity indicators used in the GSIB framework by engaging in a practice of prohibited netting, which the bank characterized internally as "internal operational elimination."[85]

The whistleblower alleged that this practice allowed JPMorgan to issue an additional $75 billion to $100 billion in loans by understating its complexity score, potentially generating an additional $2 billion in net income in a single year. The whistleblower further alleged that they had raised the issue internally in 2018, were subsequently laid off in 2022, and filed complaints with both the Board and the SEC that year. A separate source familiar with the matter indicated that other large U.S. banks subject to the capital surcharge had adopted similar practices. The Board, asked by the reporting organizations whether it had permitted banks to report complexity indicators using this methodology, did not deny doing so, instead pointing to overall higher U.S. capital surcharge levels and the advisory nature of international standards—neither of which is relevant to whether the reported indicator values comply with the Board's FR Y-15 reporting form. The Board was notified of these allegations in 2022. This proposed rule, published in March 2026, does not mention the whistleblower complaint, disclose whether the Board investigated it, describe any enforcement posture, or state the Board's legal position on "internal operational elimination" as a reporting methodology. In the meantime, it can be inferred that the GSIBs are not correctly reporting their Trading and AFS Securities indicator, a critical measure of systemic risk.

The Board should use this rulemaking to address both the structural and enforcement dimensions of this problem. As a structural matter, the final rule should require the trading and AFS securities indicator to be computed on a gross long basis, without deduction for short positions, for purposes of GSIB scoring, consistent with its own instructions. This would align the indicator with its underlying policy rationale and, as shown above, with the Basel Committee on Banking Supervision's framework. As an enforcement matter, the Board should state its legal position on the "internal operational elimination" methodology explicitly in the final rule or accompanying guidance, require GSIB chief risk officers and chief financial officers to attest that complexity indicators are reported on a gross basis consistent with the rule's requirements, and disclose the disposition of any pending whistleblower complaints related to the trading and AFS indicator.

The proposed rule's move to daily averaging for the trading and AFS indicator, while

85 *See* David Kenner and Josephine Moulds. "Whistleblower accuses JPMorgan Chase of violating cash reserve rules meant to protect the financial system. (January 23, 2025), available at: https://www.icij.org/news/2025/01/whistleblower-accuses-jpmorgan-chase-of-violating-cash-reserve-rules-meant-to-protect-the-financial-system.

welcome as a check on year-end window-dressing, does not cure a definitional manipulation embedded in the standing reporting methodology. Averaging a tainted figure more frequently produces only a more precise version of a wrong answer.

IX. The Board Must Correct Its Treatment of Guarantees in the Interconnectedness and Complexity Indicators for CCP and Clients in the Agency Model

The Board should correct the Proposal's unaddressed treatment of guarantees of client performance in the interconnectedness and complexity indicators. In its 2023 GSIB proposal, the Board appropriately recognized that guarantees of client performance create contingent exposures and interconnected obligations that are highly relevant to systemic risk measurement and therefore warranted inclusion in the calculation of the GSIB surcharge. Yet, without adequate explanation or empirical support, the current Proposal appears to retreat from that correct position. This unexplained reversal would result in the Board's framework continuing to systematically understate the complexity and interconnectedness of the largest U.S. banking organizations, particularly dealer banks with substantial clearing, settlement, prime brokerage, and derivatives intermediation activities. The omission is especially problematic because these guarantees can rapidly transform into direct balance sheet exposures during periods of market stress, precisely when the G-SIB framework is intended to capture systemic externalities.

The Proposal's inconsistent treatment is even more indefensible because the Board already recognizes these exposures elsewhere in its leverage ratio requirement for the largest banks. Most notably, the SLR framework appropriately captures guarantees of client performance in the FR Y-15 and related exposure measures because such guarantees expose banking organizations to material contingent liabilities and interconnected counterparty risk. The Board therefore cannot credibly claim these exposures are immaterial, operationally difficult to measure, or unrelated to systemic risk. To the contrary, the Board's existing reporting and leverage capital rules already demonstrate that these exposures are measurable, reportable, and sufficiently significant to warrant inclusion in prudential capital requirements. The Proposal's failure to maintain consistent treatment across prudential frameworks risks creating distortions, undermining comparability, and encouraging regulatory arbitrage.

The Board's unexplained departure from the 2023 approach is also inconsistent with ongoing international efforts to improve the treatment of guarantees of client performance in the Basel framework. The Basel Committee has been actively evaluating shortcomings in the current methodology and considering revisions designed to ensure these exposures are appropriately reflected in systemic risk measurement and leverage exposure calculations. The Proposal therefore moves in precisely the wrong direction at the very moment international standard setters are attempting to strengthen the G-SIB framework. Given the Board's dominant role within the Basel process, the Proposal raises serious concerns that U.S. regulators may be impeding international efforts to close known gaps in the G-SIB framework and systemic risk measurement regime.

The Board provides no meaningful justification for narrowing the scope of these indicators, nor does it attempt to quantify the impact of excluding guarantees of client performance on individual G-SIB scores, surcharge levels, or systemic risk measurement more broadly. This omission is particularly troubling given the concentrated nature of these activities among the largest and most systemically important firms. The Board should therefore, at a minimum, publish institution-specific quantitative impact analyses showing the effect of excluding guarantees of client performance from the interconnectedness and complexity indicators, including the resulting reductions in method 1 and method 2 G-SIB scores and surcharge requirements.

Accordingly, the final rule should restore the broader treatment reflected in the 2023 proposal and ensure that guarantees of client performance are consistently captured across the G-SIB framework, FR Y-15 reporting, and related prudential capital standards.

v. The Board Must Eliminate the Increasingly Critical Substitutability Cap That Masks Actual Systemic Risk

Better Markets strongly recommends that the Board abandon the substitutability cap in method 1 of the GSIB surcharge framework. The cap, since its inception, has artificially suppressed the measured systemic importance of custody banks and payment intermediaries despite overwhelming evidence that these firms have become more—not less—critical to the functioning of the U.S. financial system since the framework was adopted in 2015.

The substitutability category exists for a straightforward reason: some firms provide services so operationally concentrated and difficult to replace that their distress or failure would impose immediate and catastrophic disruption on the broader financial system. Custody, clearing, settlement, asset servicing, tri-party repo intermediation, and payment processing activities are among the clearest examples of such systemic functions. The more concentrated those activities become, the greater the expected impact of failure and the stronger the prudential justification for higher capital requirements.

Yet the Board's substitutability cap has prevented the GSIB framework from accurately measuring precisely this form of systemic risk. The cap functions as an arbitrary and unjustified ceiling on the amount of systemic importance that can be recognized from custody and payment concentration, regardless of how large those activities become in absolute terms or how operationally irreplaceable the firms become over time. As a result, the framework intentionally understates the systemic importance of firms whose distress would likely create the most immediate operational contagion across Treasury markets, money markets, mutual funds, pension funds, broker-dealers, and payment systems.

This distortion is especially indefensible under the current Proposal because the Board simultaneously proposes to materially weaken method 2 through downward coefficient recalibration and GDP indexing. Historically, the Board could at least claim that flaws in one portion of the framework were offset elsewhere. That argument no longer holds under the Proposal. By reducing method 2 scores and narrowing the divergence between method 1 and method 2 surcharges, the Proposal would cause method 1 to bind more frequently for several firms (including, it appears, State Street and Bank of New York Mellon). If method 1 becomes the binding constraint, the substitutability cap becomes outcome-determinative for custody banks because the cap directly suppresses the indicator category where those institutions pose their greatest systemic threat.

The irrationality of the cap is now particularly evident because, as noted above, Bank of New York Mellon and State Street will increasingly face similar method 1 and method 2 surcharge outcomes despite substantial growth in the concentration and systemic importance of their custody, clearing, and settlement activities since 2015. The Proposal therefore allows a known measurement flaw to continue suppressing measured systemic risk at the very moment the rest of the framework is being weakened.

The Board provides no persuasive justification for retaining this artificial limitation. If the concern is excessive volatility in scores, the Proposal already addresses volatility through averaging mechanisms and narrower surcharge bands. If the concern is excessive capital requirements for custody banks, the Board fails to explain why firms that occupy uniquely irreplaceable operational positions in core financial markets should receive preferential treatment under a framework specifically designed to measure systemic impact. The GSIB surcharge exists because some firms would impose greater damage on the economy upon failure. Custody banks are among the clearest examples of that principle.

The Board's continued reliance on the substitutability cap is especially troubling because it effectively preserves a known data error in the framework. The cap does not reflect an empirical finding that substitutability risk plateaued in 2015 or that custody concentration no longer matters above a certain threshold. Instead, it reflects an arbitrary policy choice to stop measuring systemic importance once the result becomes politically or operationally inconvenient. Prudential regulation should not intentionally blind itself to growing concentration risk in systemically critical market utilities.

The Treasury market disruptions of March 2020 further demonstrated the central role that custody banks and clearing intermediaries play in the functioning of U.S. financial markets. Since then, the concentration of Treasury clearing, collateral custody, settlement, and asset servicing activities has only increased. At the same time, the Board, Treasury Department, and SEC have repeatedly emphasized the importance of resilient Treasury market infrastructure. It is therefore incoherent for the Board to simultaneously acknowledge the increasing systemic importance of these market functions while retaining a prudential framework feature specifically designed to suppress recognition of that importance in capital requirements.

Accordingly, the Board should eliminate the substitutability cap and permit the substitutability indicators to fully reflect the actual systemic footprint of covered firms. At a minimum, the Board should publish institution-specific quantitative analyses showing how the cap alters method 1 scores, surcharge buckets, and final GSIB surcharge outcomes for each covered institution on an annual basis. The public cannot meaningfully evaluate the Proposal while the Board continues to not account for the extent to which the substitutability cap artificially lowers measured systemic risk in method 1.

X. The Board's Policy Positions in Deliberations on the Basel Committee's GSIB Framework Must be Disclosed to the U.S. Congress in Advance

The Board participates in the Basel Committee on Banking Supervision as a member of that body's governing structure and contributes directly to the development of international capital standards, including the GSIB surcharge methodology that forms the basis for method 1 of the domestic GSIB surcharge framework.

The Board's participation is consequential because changes to the Basel Committee's GSIB assessment methodology often (and due to current international norms) flow directly into the method 1 scores that determine surcharge buckets for the largest U.S. banking organizations. These changes, therefore, can affect tens of billions of dollars in required capital without any intervening act of Congress and, as recent events have demonstrated, without meaningful public notice or comment.

The Basel Committee's handling of the European Banking Union ("EBU") decision in 2022 exemplifies the serious governance issues with the Basel Committee and the Board's participation in that important process. As background, the Committee announced that it would exclude intra-eurozone exposures from the cross-jurisdictional activity indicator used in the GSIB score calculation—a change that directly reduces the GSIB scores of GSIBs headquarters in the Euroarea and, through the competitive dynamics of the surcharge framework, creates pressure on U.S. regulators to provide offsetting relief to domestic institutions.[86] That hugely consequential decision was made without a public comment period as required under the Basel Committee Charter[87], without published quantitative impact analysis, without a formal consultative document,

[86] *See* Basel Committee on Banking Supervision. "Basel Committee finalise principles on climate-related financial risks, progresses work on specifying cryptoassets' prudential treatment and agrees on way forward for G-SIB assessment methodology review." (May 31, 2022), available at: https://www.bis.org/press/p220531.htm. *"The Committee has completed its targeted review of the treatment of cross-border exposures within the EBU on the methodology for G-SIBs. The Committee recognises the progress that has been made in the development of the EBU. It agreed to give recognition in the G-SIB framework to this progress through the existing methodology, which allows for adjustments to be made according to supervisory judgment. Under the agreement, a parallel set of G-SIB scores will be calculated for EBU-headquartered G-SIBs and used to adjust their bucket allocations. The parallel scores recognise 66% of the score reduction that would result from treating intra-EBU exposures as domestic exposures under the G-SIB scoring methodology. The Committee's agreement will not affect the classification of any banks as G-SIBs or the scores or bucket allocations of banks outside of the EBU."*

[87] *See* Basel Committee Charter. Public Consultation Process, Section VIII, Paragraph 17. Available at: https://www.bis.org/bcbs/charter.htm. "In principle, the BCBS seeks input from all relevant stakeholders on policy proposals. The consultation process will include issuing a public invitation to interested parties to provide comments in writing to the Secretariat on policy proposals issued by the Committee, within a specified timeframe. The consultation period shall normally last 90 calendar days, but could exceptionally be shorter or longer. The consultation period for technical amendments to standards shall normally last 45 calendar days, but could exceptionally be shorter or longer. As a general rule, responses to public invitations for comments shall be published on the BCBS website, unless confidential treatment is requested by respondents. **This process is compulsory for BCBS standards.**"

and without any mechanism for affected parties—including U.S. banking organizations[88], their counterparties, and the public, including Better Markets[89]—to evaluate the methodological justification for the change before it took effect. The Board participated in that process and presumably supported the outcome given the Basel Committee operates by consensus.

Importantly, the U.S. Congress was also not made aware of a material change to the capital framework governing the world's most systemically important financial institutions, made through a body that operates outside the APA, outside the Congressional Review Act, and outside any statutory framework that guarantees public participation or legislative awareness. For several U.S. GSIBs, the method 1 GSIB surcharge is now equivalent to the method 2 surcharge and, therefore, both would equally be considered the "binding" GSIB capital constraint that determines their surcharge bucket and minimum CET1 capital requirement. A change to the Basel Committee's scoring methodology that reduces a U.S. GSIB's method 1 score—whether by modifying indicator weights, adjusting denominators, expanding exclusions, or recalibrating bucket thresholds—can reduce that institution's required capital by billions of dollars. That outcome is functionally equivalent to a domestic rulemaking that cuts capital requirements, but it arrives through an international process that provides none of the procedural safeguards that domestic rulemaking requires.

i. <u>The Board Should Be Required to Notify Congress Before Supporting or Acquiescing in Any Material Change to the Basel GSIB Methodology</u>

Better Markets urges the Board to commit, through this rulemaking, to the following disclosures and procedural safeguards with respect to its participation in Basel Committee deliberations on the GSIB surcharge methodology.

First, the Board should notify the relevant Congressional committees—at minimum the Senate Banking, Housing, and Urban Affairs Committee[90] and the House Financial Services

88 *See* for example, Sean Campbell, Financial Services Forum. "The Unlevel Playing Field Gets Even Steeper: Changes to the GSIB Surcharge for European Banks and Implications for the United States. (June 9, 2022), available at: https://fsforum.com/the-unlevel-playing-field-gets-even-steeper-changes-to-the-gsib-surcharge-for-european-banks-and-implications-for-the-united-states/.

89 *See* Better Markets. Phillip Basil. "Federal Reserve Must Explain its Role in Basel Committee Reducing Capital on European GSIBs Without the Required Public Input." (June 21, 2022), available at: https://bettermarkets.org/newsroom/federal-reserve-must-explain-its-role-in-basel-committee-reducing-capital-on-european-gsibs-without-the-required-public-input/. *See also* Letter to Jerome Powell and Michael Gibson. available at: https://bettermarkets.org/wp-content/uploads/2022/06/Better_Markets_Letter_Federal_Reserve_BCBS_European_GSIBs.pdf

90 *See* Senate Banking, Housing, and Urban Affairs Committee. The Semiannual Monetary Policy Report to Congress. (June 22, 2022), available at: https://www.banking.senate.gov/hearings/the-semiannual-monetary-policy-report-to-congress. At 1:12:10 questions by Senator Rounds to Chair Powell on the Board's position on the EBU at the Basel Committee.

Committee[91]—before casting any vote, expressing any formal position, or acquiescing by silence in any proposed change to the Basel Committee's GSIB assessment methodology that would, if implemented in the U.S. via domestic regulation, change the method 1 score of any U.S. GSIB, change the surcharge bucket applicable to any U.S. GSIB, or change the aggregate required capital of U.S. GSIBs by any material amount if such a change were effect a firm's method 1 surcharge[92] due to a change in the FR Y-15 report. Notification must occur before the Board's position is communicated to the Basel Committee, not after the fact. Congress cannot exercise meaningful oversight of capital adequacy policy if it learns of consequential international decisions only after those decisions have been made.

The inexplicable EBU decision is the precise example of why this notice requirement is necessary: a change that the Board might characterize to Congress or the public as a technical adjustment to cross-jurisdictional indicator methodology is, in substance, a significant decision about how much capital the world's largest banks must have against their cross-border exposures. Changes, particularly reductions, to capital requirements for other GSIBs identified by the Basel Committee can impact the financial stability of the U.S. In fact, addressing that externality is a key premise of why the U.S. sends representatives to the Basel Committee. Therefore, these critical decisions should be communicated to the U.S. Congress.[93]

The Board should also publish, contemporaneously with any Basel Committee consultative document or working paper that proposes changes to the GSIB methodology, a domestic impact analysis quantifying the effect of the proposed change on the method 1 scores and surcharge buckets of each U.S. GSIB. The Basel Committee's practice of publishing consultative documents—when it follows that practice, which the EBU decision demonstrates it does not always do—does not substitute for a domestic impact analysis, because the Committee's documents do not disaggregate effects by institution or jurisdiction in a manner that permits meaningful public evaluation of the domestic consequences.

ii. <u>The EBU Decision Demonstrates That the Current Process Is Inadequate and Must be Reformed</u>

The procedural failures surrounding the EBU decision are a predictable consequence of a structural gap in the oversight framework for international standard-setting bodies. The Basel Committee has no obligation to publish consultative documents before making methodology

91 *See* House Committee on Financial Services. Hearing on *Importing Global Governance: Examining the Dangers of Ceding Authority Over American Financial Regulation*. (March 21, 2024), available at: https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=409201. At minute 40 of video series of questions on the EBU by Chairman McHenry to Director Gibson.

92 *See* 12 CFR Part 217, Subpart H, § 217.403, available at: https://www.ecfr.gov/current/title-12/chapter-II/subchapter-A/part-217/subpart-H/section-217.403

93 *See* Letter from Senator Warren, Senator Kim, and Senator Blunt Rochester to Vice Chair for Supervision Michelle Bowman (November 4, 2025), available at: https://www.banking.senate.gov/imo/media/doc/letter_to_bowman_re_gsib_surcharge.pdf.

changes, even though its Charter requires it to. Similarly, it has no obligation to quantify the distributional effects of those changes across member jurisdictions to provide a comment period, or to respond to public comments (unlike the Board's obligations under the APA). The Board, as a participant in the Basel process, currently operates under no domestic legal obligation to disclose its positions, its votes, or the domestic capital consequences of the decisions it supports before those decisions are made.

The result is a framework in which the most consequential decisions about U.S. bank capital adequacy—how much capital the eight largest U.S. financial institutions and their most similar foreign competitors must be required to have to account for their systemic risk—can be made through a process that provides less procedural protection than a minor amendment to a Board data reporting form. That inversion of consequences versus procedural requirements is not defensible, and the Board has the authority to correct it unilaterally by committing to the disclosure practices described above as a matter of domestic regulatory policy regardless of what the Basel Committee's own internal policies and procedures require.

iii. The Statutory Basis for Congressional Notification Is Clear

Congress enacted the enhanced prudential standards framework in Section 165 of Dodd-Frank and the capital planning requirements in Section 166 with the explicit purpose of ensuring that the largest U.S. financial institutions maintain capital adequate to their systemic importance.[94] Congress included these requirements explicitly because the Board failed to use its discretionary authority to adequately safeguard the financial system in the lead-up to the 2008 crash. The GSIB surcharge is the primary instrument through which those statutory requirements are operationalized for the most systemically significant institutions. When the Board participates in an international process that can reduce the surcharge applicable to those institutions or their foreign peers (whose subsidiaries operate in the U.S.) without domestic notice or comment, it is making decisions that affect the implementation of a statutory mandate without the transparency that mandate requires.

Better Markets urges the Board to treat Congressional notification and domestic public comment on Basel Committee GSIB surcharge policy decisions as non-negotiable conditions of its continued participation in Basel Committee deliberations on the GSIB methodology. The alternative—continued participation in a process that can reduce U.S. GSIB capital requirements through international consensus without domestic accountability—is inconsistent with the Board's statutory obligations and with the basic requirements of democratic governance over financial regulation.

[94] *Supra* 4.

XI. Conclusion

Better Markets has provided the Board with notice of eight significant and urgent legal and procedural deficiencies in the Proposal that must be remedied in a separate notice issued for public comment prior to the issuance of any final rule. Each deficiency is independently sufficient to render a final rule that includes the method 2 coefficient reduction or uncapped GDP indexing arbitrary and capricious. Taken together, they reflect a rulemaking that has moved faster than the evidentiary record can support and in a direction that the Board's own post-2015 regulatory and supervisory experience does not justify.

The empirical record compiled since the GSIB surcharge framework was adopted in 2015 does not support the conclusion that current surcharge levels overstate systemic risk. To the contrary, every major episode of financial stress since the framework's adoption—the 2019 repo market disruption, the March 2020 Treasury market crisis, the Archegos failure, the 2022 LDI crisis, the 2023 failures of SVB, Signature Bank, and First Republic, and the emergency sale of Credit Suisse—ended with extraordinary government intervention, emergency central bank support, systemic risk exception determinations, or government-facilitated acquisitions. The Board has not identified a single institution, failure, or market disruption demonstrating that GSIB surcharges are too high. The Proposal does not contain that evidence because it does not exist.

The 2023 failures of SVB and Signature are dispositive. The USG's invocation of the systemic risk exception for institutions with method 1 scores far below the GSIB threshold reveals that the Board's 2015 reference bank assumption was wrong by at least a factor of roughly eight. If the GSIB surcharge framework is calibrated to equalize the expected impact of GSIB failure with the government's actual intervention threshold, then the post-2023 record implies substantially higher surcharges—not lower ones. The Board is proposing to move in precisely the opposite direction, permanently and automatically, without first correcting the foundational calibration error that SVB and Signature exposed.

Better Markets does support immediate finalization of certain elements of the Proposal. The removal of RWA from the STWF denominator is conceptually sound and should be adopted immediately. The introduction of data averaging based on an average of daily values to address window dressing—a practice that has been documented, quantified, and publicly acknowledged by the CEO of the largest GSIB for years—is long overdue and should be finalized without further delay. The structural improvements to systemic indicator measurement, including the cross-jurisdictional derivatives amendments, the trading volume additions to the substitutability category, and the payments activity currency updates, are appropriate and should proceed.

Better Markets further urges the Board to use the final rule to address the growing gaps in the FR Y-15's interconnectedness indicators and to make a good faith effort to measure the intra-financial system assets and intra-financial system liabilities indicators in a manner that reflects the full scope of each GSIB's financial relationships with the entities and structures identified in this letter. The FR Y-15's definitional perimeter has not kept pace with the financial system as it actually exists, and the result is a framework that systematically undercounts the interconnectedness that matters most for systemic risk. Specifically, the Board should:

- **First,** explicitly enumerate private credit funds, business development companies, private credit securitization vehicles, and private credit managers within the financial institution definition, and require look-through reporting for securitized, tranched, and intermediated private credit exposures to ensure the surcharge captures the systemic risk created when the largest banking organizations finance, structure, distribute, guarantee, or otherwise support the private credit ecosystem.
- **Second**, include industrial loan companies and their holding companies within the definitional perimeter, regardless of whether those counterparties are subject to Federal Reserve consolidated supervision, and apply look-through reporting requirements to any structured, intermediated, or securitized exposures to such entities.
- **Third**, remove any ambiguity regarding the treatment of OCC-chartered trust banks by explicitly enumerating them within the financial institution definition and requiring look-through reporting for exposures held through affiliated vehicles.
- **Fourth**, include stablecoin issuers and crypto-asset entities—including PPSIs, centralized and decentralized crypto exchanges, crypto custodians, and crypto brokers—within the financial institution definition before their reserve deposits and counterparty exposures reach systemic scale, and require look-through reporting for stablecoin reserve deposits routed through intermediate legal entities.
- **Fifth**, either revise the FR Y-15 instructions to include Federal Home Loan Bank exposures within the intra-financial system indicators or provide a reasoned explanation—consistent with the post-2023 official record establishing that the FHLB system functioned as a transmission channel for stress rather than a circuit breaker—for why the current exclusion remains appropriate.
- **Sixth**, clarify and confirm the broader treatment of guarantees of client performance reflected in the Board's 2023 proposal and ensure that these exposures are consistently captured across the GSIB framework, FR Y-15 reporting, and related prudential capital standards.
- **Seventh**, eliminate the substitutability cap and permit the substitutability indicators to fully reflect the actual systemic footprint of custody banks and payment intermediaries whose concentration and operational irreplaceability have only grown since 2015.
- **Eighth**, correct the treatment of the trading and AFS securities indicator to require gross long reporting without deduction for short positions, consistent with the Board's own FR Y-15 instructions and the Basel Committee's framework, and address the disposition of pending whistleblower complaints related to the prohibited netting practice the Board has allowed to persist.
- **Ninth**, given the significant policy stakes of the Board's deliberations with the Basel Committee on the international GSIB surcharge, the Board should disclose its policy positions to the U.S. Congress in advance.

Taken together, these reforms reflect a common and fundamental concern that the FR Y-15's interconnectedness indicators are systematically undercounting the financial relationships that matter most for systemic risk.

In conclusion, the GSIB surcharge is the USG's most direct and consequential tool for ensuring that the largest and most systemically important banking organizations in the U.S. have capital levels commensurate with the risks they pose to the U.S. economy. Its premise that the expected cost of GSIB failure should be internalized by the institutions that generate that risk, rather than socialized onto taxpayers, is sound, empirically supported, and more important today than it was when the framework was adopted. These core tenets of this Proposal would weaken that tool, and it constitutes a serious policy mistake by the Board. Better Markets urges the Board to recognize it as such and to act accordingly.

Sincerely,

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XII. Appendix

Better Markets Responses to Specific Questions in the Proposal:

Question 7:

The Board should publish updated method 2 coefficients together with aggregate global indicator amounts in the fourth quarter of each calendar year. Simultaneous publication is essential for public transparency and meaningful comment. Alternatively, piecemeal or sequential disclosure would make it effectively impossible for outside parties to verify the Board's calibration choices or identify scoring errors before they affect firms' surcharge levels. The Board should disclose all indicator figures together, in machine-readable format, with sufficient lead time to permit public scrutiny prior to any surcharge adjustment taking effect.

Question 10:

The Board's proposed shift to an absolute level of weighted short-term wholesale funding is the correct approach. Using risk-weighted assets as the denominator has created a perverse dynamic: as a firm's RWAs rise (often reflecting genuine increases in systemic risk), its STWF score mechanically falls, understating the firm's systemic footprint at precisely the moment it is most dangerous. Replacing RWAs with total assets would replicate this same flaw. The Board should finalize the absolute-level approach. A change of this magnitude, however, cannot be finalized without reproposing if the Board materially alters the methodology from what was proposed, as the APA requires an opportunity to comment on the rule as it will actually operate.

Question 17:

The Board should make every reasonable effort to align with the Basel Committee's approach to data averaging frequency, but international consensus cannot be used as a ceiling on domestic standards or as a justification for further delay. The Board has previously (wisely) adopted supervisory requirements that exceed Basel minimums (e.g., the supplementary leverage ratio calculation frequency) and accordingly should not treat the Basel Committee's consultative process and consensus requirement as a constraint on its own rulemaking timeline to address this glaring flaw in its G-SIB framework. The Board must finalize a robust averaging approach now and can revisit alignment with international standards in a subsequent rulemaking if the Basel Committee's final position warrants further adjustment to the domestic approach. Waiting for Basel consensus is not a legally adequate basis for inaction, nor would it be a prudent policy approach.

Question 18:

The Board should use annual average exchange rates rather than year-end spot rates to convert aggregate global indicator amounts from euros to U.S. dollars. Annual averaging reduces arbitrary volatility in GSIB scores driven by currency movements unrelated to a firm's actual systemic footprint.

In 2015, Credit Suisse and UBS, for example, had their combined GSIB scores increase by approximately 10 percent in a single day as a result of FX movements, a result that reflected nothing about either firm's systemic importance on a global basis.[95] Annual averaging is also consistent with the proposal's use of a twelve-month look-back period for other indicators and would produce a more coherent and internally consistent framework overall.

Question 19:

The Board should adopt the proposed method 2 approach to reduce cliff effects and more granularly reflect firms' systemic risk profiles in their surcharges. Better Markets further urges the Board to advocate within the Basel Committee for parallel changes to method 1, so that the two methods converge toward a more continuous and accurately calibrated framework. The current bucket structure for method 1 creates very limited incentives for firms to reduce their systemic footprints. Specifically, the penalty for approaching but not crossing a bucket threshold is negligible, while the benefit of crossing back down is discontinuous and substantial. The Board should use this rulemaking to press for method 1 reform at the international level, not merely address the cliff-effect problem domestically in method 2.

Question 22:

Better Markets supports updates to the definition of certificate of deposit and the Board's proposed improvements to the identification and inclusion of financial sector counterparties. An expanded definition that captures companies predominantly engaged in financial activities—consistent with the functional prong in 12 CFR 217.2—would more accurately measure firms' true interconnectedness with the financial system, including their exposures to nonbank financial intermediaries whose growth poses increasing systemic risk. The Board's primary obligation, however, is not definitional refinement but continuous policy and supervisory follow-through.

The Board must conduct targeted examinations of the application of the interconnectedness category to ensure that firms are applying the financial sector counterparty scope consistently and accurately, since inconsistent application of this critical indicator undermines the integrity of the entire scoring framework.

Question 24:

The Board should make no changes to the FR Y-15 to permit recognition of cross-product netting or offsetting across derivatives and securities financing transactions for purposes of any systemic indicator. Such changes would be inconsistent with the Basel Committee on Banking Supervision's assessment methodology, which deliberately requires gross reporting of exposures across the interconnectedness, size, and complexity indicators precisely because those indicators are designed to measure a firm's systemic footprint—the breadth of its market presence, the number and scale of its counterparty relationships, and the operational complexity of unwinding its positions under stress—rather than its net market risk.[96]

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95 *See* Bank for International Settlements. BIS Working Papers No. 660. "Informal one-sided target zone model and the Swiss Franc. (August 2017), available at: https://www.bis.org/publ/work660.pdf.

96 *See* BCBS, Higher loss absorbency requirements for G-SIBs. (December 15, 2019), available at: https://www.bis.org/basel_framework/chapter/RBC/40.htm?inforce=20191215&published=20191215.

A firm that holds a large derivatives exposure and an offsetting securities financing transaction within the same legal netting set may have limited net credit risk to its counterparty under normal market conditions, but it remains fully exposed to the operational, legal, and liquidity risks associated with managing both legs of that position through a period of stress or resolution. Netting sets exist to manage bilateral credit exposure. Importantly, they do not reduce a firm's systemic importance, its interconnectedness with the broader financial system, or the difficulty a resolution authority would face in unwinding its positions. Permitting cross-product offsetting in the GSIB indicators would conflate credit risk mitigation with systemic risk reduction—a category error that would systematically understate the complexity and interconnectedness of the largest and most active dealer banks, which are precisely the firms whose scores the GSIB framework most needs to measure accurately.

Better Markets has also commented in response to the other two concurrent capital proposals against recognizing cross-product netting in SA-CCR, noting that the agencies did not provide sufficient data or explanation for commenters to assess the potential impact on financial markets and regulatory capital of the proposed change. That concern also applies to the GSIB surcharge framework, where the consequences of this potential change are likely even more significant and unknown to comment.

Further, the SA-CCR changes in the capital proposals serve a different regulatory purpose in a different regulatory context and should not be imported into the GSIB scoring framework. The Board should affirmatively state in the final rule that cross-product netting of the kind described in Question 24 is not permitted for FR Y-15 reporting purposes, and that this prohibition applies regardless of whether such netting is recognized under other components of the capital rule. Allowing the answer to that question to be resolved implicitly—through firms' own interpretive choices, without public guidance, in the manner apparently permitted with respect to the "internal operational elimination" methodology described in prior whistleblower disclosures—would repeat precisely the supervisory failure this rulemaking should be working to correct.

Question 30:

Better Markets supports updating the CPMI reference in the payments activity indicator footnote. However, the Board's failure to correct this error for over 12 years—since the CPMI updated its standards in 2014—is itself a supervisory failure that the Board should acknowledge directly rather than treat as a routine technical correction.[97]

More importantly, the Board should undertake targeted examinations of GSIBs' payments activity reporting given documented instances of massive data errors, including Citigroup's

[97] *See* Bank for International Settlements. *History of the CPMI.* available at: https://www.bis.org/cpmi/history.htm. The FR Y-15 instructions reference to the CPSS has not been correct since 2014. "*In September 2013, in the light of the Committee's standard-setting activities and the associated greater public scrutiny, the CPSS reviewed its mandate. The new mandate was approved by the GEM, which also endorsed the renaming of the CPSS as the Committee on Payments and Market Infrastructures (CPMI). Both changes became effective as of 1 September 2014.*"

erroneous crediting of $81 trillion.[98] Accurate payments activity data is a core input into the GSIB scoring framework, and errors of this magnitude call into question whether the Board has adequately supervised this indicator's reporting by GSIBs.

Question 35:

Better Markets supports the removal of Schedules H through N from the FR Y-15. However, consistent with other changes that have been long overdue, if these schedules impose a genuine reporting burden on foreign banking organizations without producing supervisory information of commensurate value, they should have been removed years ago (given the tailoring framework was finalized in 2019)[99].

Accordingly, the Board should explain why this change was not proposed immediately following the tailoring changes, rather than continuing to apply unnecessary burden to large foreign banking organizations operating in the U.S. for years. Going forward, the Board should establish a regular process for reviewing FR Y-15 reporting requirements and eliminating obsolete elements promptly rather than waiting for a broader rulemaking vehicle to address them.

Question 37:

The Board should require full implementation of the proposed changes that Better Markets supports finalizing as soon as possible and by the end-2027 G-SIB assessment at the latest. A longer implementation timeline would allow firms to operate under a framework the Board has already determined to be inaccurate and miscalibrated—an outcome that is difficult to justify on safety-and-soundness grounds and that would be difficult to defend under arbitrary-and-capricious review.

Question 39:

The Board should update its reference bank to reflect SVB's method 1 score and a proxy method 1 score for Signature. It is critical for the Board to assess Signature's systemic importance given the application of the systemic risk exception to a large regional bank. This often-overlooked element of the 2023 banking crisis demonstrates that in a crisis period, the line for systemically important is often much lower than the Board or Congress has deemed it in statute.

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98 *See* Financial Times. "Citigroup erroneously credit client account with $81tn in 'near miss'. (February 28, 2025), available at: https://www.ft.com/content/9921925e-5a32-48cc-a3e3-3f77042477d2?syn-25a6b1a6=1.

99 *See* Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation. *Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations*. 84 FR 59032 (November 1, 2019); and *Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements* 84 FR 59230 (November 1, 2019). In 2019, the agencies adopted rules establishing four categories of capital standards for U.S. banking organizations, including foreign banking organizations, with $100 billion or more in total assets and foreign banking organizations with $100 billion or more in combined U.S. assets. available at: https://www.federalregister.gov/documents/2019/11/01/2019-23662/prudential-standards-for-large-bank-holding-companies-savings-and-loan-holding-companies-and-foreign and https://www.federalregister.gov/documents/2019/11/01/2019-23800/changes-to-applicability-thresholds-for-regulatory-capital-and-liquidity-requirements.

The continued and inexplicable use of the prior reference bank from 2015—selected eight years before either SVB's failure or Signature's—has been completely overtaken by real-life events and undermines the credibility of the Board's calibration analysis and entire regulatory capital framework for large banking organizations.

The Board cannot finalize a major modification to the GSIB surcharge framework (its first material change since 2015) premised on a reference bank, which actual experience has demonstrated was incorrectly calibrated without explaining, with specificity, why the SVB and Signature failures do not require a revised calibration. That explanation is owed to the public as a matter of basic reasoned decisionmaking under *State Farm*.[100]

Question 40:

Taken together, the reforms to the intra-financial system assets and intra-financial system liabilities indicators recommended in this letter (i.e., explicitly adding private credit funds, business development companies, private credit securitization vehicles, and private credit managers within the definition of financial institution; requiring look-through reporting for securitized, tranched, and intermediated exposures; including industrial loan companies and their holding companies within the definitional perimeter; clarifying the treatment of OCC-chartered trust banks; and requiring the Board to defend or revise its exclusion of the Federal Home Loan Banks) reflect a common concern that the FR Y-15's interconnectedness indicators (which have not been updated for over a decade) are systematically undercounting the financial relationships that currently matter most for measuring systemic risk and specifically interconnectedness.

The Board should make a good faith effort to attempt to measure the intra-financial system assets and intra-financial system liabilities indicators in a manner that reflects the full scope of a GSIB's financial relationships with the entities and structures identified in this letter. Better Markets recognizes that some of these exposures may be difficult to measure, that reporting infrastructure takes time to build, and that international coordination with the Basel Committee may be necessary to ensure that revised FR Y-15 definitions do not create competitive disparities between U.S. GSIBs and their foreign counterparts.

The Board has both the statutory authority and the supervisory infrastructure to demand better data from the eight GSIBs. Because the FR Y-15 is a Board reporting form, the Board can revise its instructions, expand its definitions, and impose look-through reporting requirements without waiting for congressional action, interagency or international consensus. Better Markets urges the Board to do so, and to treat the final rule as an opportunity to ensure that the underlying measurement framework captures the financial system as it actually exists—not as it existed when the FR Y-15 was amended in 2015.[101]

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100 *Supra* 9.

101 *See* FR Y-15 Banking Organization Systemic Risk Report. (December 2015), available at: https://www.federalreserve.gov/apps/reportingforms/Download/DownloadAttachment?guid=54f3cff7-024a-4ed6-9cde-8ba0ba0c159c.

Basis for Method 1 Reference Bank Surcharges in Section III:

Analytical Methodology for the Implied Surcharge Tables

The implied surcharge figures presented in Section III are derived directly from the expected-impact framework established in the Board's 2015 calibration white paper.[102] The methodology, substitution, and calculation are set out here so that the Board, commenters, and reviewing courts can verify the results.

[102] *Supra* 33.

The Expected Impact Framework

The Board's GSIB surcharge framework requires that the expected systemic loss from a GSIB's failure be equalized to the expected systemic loss from the failure of a non-systemic "reference bank." Expected systemic loss is defined as the product of the probability of failure and the systemic loss given default, proxied by the method 1 score *S*. The surcharge k imposes additional capital that reduces the probability of failure. Setting expected losses equal:

$P(\text{default} \mid k) \times S\_GSIB = P(\text{default\_ref}) \times S\_ref$

The Log-Linear Calibration

The Board estimated the relationship between capital and default probability using a standard structural credit model. Under that approximation, adding capital k reduces the log-probability of default proportionally. Solving the equality condition yields:

$$k = \sigma \times \ln(S\_GSIB / S\_ref)$$

Where σ is the calibration scaling parameter estimated from the relationship between capital and default probability for large bank holding companies, and S_ref is the method 1 score of the reference bank. This formula appears in the white paper's derivation of the surcharge schedule and is directly implied by the method 1 bucket thresholds established in table 1 to 12 CFR 217.403. The Board noted in the white paper that systemic harm likely increases more than proportionally with size and interconnectedness, meaning the log-linear formula produces conservative (lower-bound) estimates.

Calibration Check Against the Existing Schedule

Using JPMorgan Chase's 2015 method 1 score of 473 basis points and its corresponding bucket surcharge of 2.5 percent under 12 CFR 217.403, with the original reference bank score of 130 basis points:

$2.5\% = \sigma \times \ln(473 / 130) = \sigma \times 1.293 \rightarrow \sigma \approx 1.93\%$

Using Goldman Sachs at 248 basis points with a 1.5 percent bucket surcharge:

$1.5\% = \sigma \times \ln(248 / 130) = \sigma \times 0.646 \rightarrow \sigma \approx 2.32\%$

The range $\sigma \in [1.93\%, 2.32\%]$ is consistent across GSIB calibration points given the fixed structure of the 100-basis-point bucketing approach. Better Markets uses this range—[1.93%, 2.32%]—for all implied surcharge calculations below. These bounds are conservative. The Board has acknowledged that the upper end of the nonlinearity element of its analytical approach would produce higher figures.

Substituting SVB as the Reference Bank

SVB's estimated method 1 score at year-end 2022 was approximately 19 basis points—a figure derived from SVB's publicly available FR Y-15 data and the Board's published global indicator denominators.[103] The USG's invocation of the systemic risk exception for SVB reveals that the actual intervention threshold would include a banking organization approximately a method 1 score of 19 basis points, not the 130 basis points used as the reference bank in the 2015 white paper.

Substituting S_ref = 19 basis points into the formula:

For example, for JPMorgan Chase's 2015 method 1 score of 473 basis points.
$k = \sigma \times \ln(473 / 19) = \sigma \times \ln(24.89) = \sigma \times 3.215$
At $\sigma = 1.93\%$: $k = 6.2\%$
At $\sigma = 2.32\%$: $k = 7.5\%$
→ Range: ***6.2%–7.5%***

See also for State Street (2015 score: 146 basis points):
$k = \sigma \times \ln(146 / 19) = \sigma \times \ln(7.68) = \sigma \times 2.038$
At $\sigma = 1.93\%$: $k = 3.9\%$
At $\sigma = 2.32\%$: $k = 4.7\%$
→ Range: ***3.9%–4.7.2%***

The full tables by GSIB are included in Section III for all eight U.S. GSIBs using 2015 and 2025 method 1 scores. The 2025 estimated method 1 figures are slightly higher because GSIB systemic footprints (as measured by the method 1 framework) have continued to expand, further widening the ratio S_GSIB / S_ref.

Signature Bank, which also triggered the USG's systemic risk exception in March 2023, would have had an even lower estimated method 1 score (however, the firm did not have a holding company and thus was not required to file the FR Y-15). Using Signature as the reference bank would imply even higher required surcharges under method 1. Better Markets used SVB—the larger of the two—as the conservative reference point. Using Signature Bank as the revealed intervention threshold would imply even higher Method 1 surcharge levels).

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103 *See* SVB FR Y-15 (4Q22) and Federal Reserve Board 2022 GSIB denominators. available at: https://elischolar.library.yale.edu/cgi/viewcontent.cgi?article=6336&context=ypfs-documents2 and https://public-inspection.federalregister.gov/2022-27207.pdf.