WRITTEN STATEMENT OF

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PRIORITIZING MAIN STREET: EVALUATING THE IMPACT OF CAPITAL PROPOSALS ON ECONOMIC GROWTH AND AMERICAN COMMUNITIES

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I am a partner in the law firm of Davis Polk & Wardwell, LLP, based in our New York office, where I began my legal career in 1985. As a member of our firm's financial institutions group, I advise U.S. and non-U.S. banking organizations and other financial institutions on a variety of matters, including M&A transactions, capital markets transactions, and a wide range of regulatory issues, including advising on the U.S. bank capital rules from the Basel I version onwards.

I am here today in my individual capacity and not on behalf of any client. The views I express are my own, and not those of my firm or any client of the firm.

Introduction

Chairman Hill, Ranking Member Waters, and members of the Committee, thank you for the opportunity to participate in this hearing. I am honored to testify before this Committee.

The perspective I bring to this hearing today is that of a lawyer who advises U.S. and non-U.S. banking organizations that are subject to the U.S. bank capital rules and how they apply to various types of transactions, including loans, debt and securities, securitizations, and transactions secured by collateral.

The federal banking agencies' proposed rules are intended to update the existing U.S. bank capital rules, which were largely issued in 2013 to implement the Basel III revisions to the international bank capital standards developed by the Basel Committee on Banking Supervision.[1] Since then, the Basel Committee did more work to revise and finalize various aspects of the Basel III standards, which ultimately resulted in a revised Basel Framework with an effective date of January 1, 2023. [2]

There are three main components to the banking agencies' proposed rules:

First, a set of rules that apply to the largest and most complex banking organizations in the United States, Category I and II firms, as well as firms with significant trading activities.[3] These rules include:

- (i) an Enhanced Risk-Based Approach (or ERBA) for calculating capital requirements for credit risk, counterparty credit risk, and operational risk, primarily to determine the risk-weighted assets (RWAs) that are the denominator for minimum risk-based capital ratios and applicable risk-based capital buffers. ERBA would replace the current Advanced Approaches for calculating RWAs for credit, counterparty credit and operational risk based on banks' internal models. It is a more complex and risk-sensitive

[1] OCC, FEDERAL RESERVE SYSTEM AND FDIC, Risk-Based Capital Guidelines: Market Risk, 77 Fed. Reg. 53060 (Aug. 30, 2012); OCC AND FEDERAL RESERVE SYSTEM, Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, 78 Fed. Reg. 62018 (Oct. 11, 2013). As a technical matter, the FDIC finalized separately.

[2] BASEL COMMITTEE ON BANKING SUPERVISION, The Basel Framework, available at https://www.bis.org/basel_framework/ (accessed Apr. 20, 2026).

[3] In general for U.S. banking organizations, Category I refers to the eight U.S. global systemically important banking organizations (GSIBs), Category II refers to non-GSIBs with $700 billion or more in total assets or $100 billion or more of total assets and $75 billion or more of cross-jurisdictional activity; Category III refers to other banking organizations with $250 billion or more in total assets or $100 billion or more of total assets and $75 billion or more of certain other measures; and Category IV refers to other banking organizations with $100 billion or more in total assets. *See* 12 C.F.R. §252.5.

standardized approach compared to the current Standardized Approach for calculating credit and counterparty credit risk based on regulator-defined risk weights and other parameters. ERBA would mandatorily apply to Category I and II firms, the largest and most complex banking organizations in the United States. Other firms that are smaller or less complex, such as Category III and IV firms or firms that are below the category thresholds of asset size and other metrics, would have the option to adopt ERBA.[4]

- (ii) a new rule for calculating RWAs for market risk, which would apply to Category I and II bank holding companies (BHCs) and to any other firm, including the bank subsidiaries of any Category I and II firms, if those firms exceed the applicable minimum thresholds for trading activity. The market risk rule replaces the current model-based market risk rule and contains both a standardized measure of market risk (based on parameters prescribed by the regulators) and a models-based measure (based on bank models), with the latter applicable solely to model-eligible trading desks with prior supervisory approval;[5] and

- (iii) a new rule for calculating RWAs for CVA risk[6], which would apply to Category I and II firms and any other firm that is both subject to the market risk rule and exceeds the applicable minimum threshold for OTC derivatives gross notional amounts. The CVA risk rule would replace the current CVA rule in the Advanced Approaches (which can use one of two methodologies, one standardized and one model-based) and uses two different standardized approaches (based on risk eights and other parameters prescribed by the regulators) to measuring CVA risk, one of which requires supervisory approval. [7]

Second, revisions to the current Standardized Approach for calculating capital requirements for credit risk and counterparty credit risk. The revised Standardized approach would apply to Category III and IV firms, as well as smaller firms, except for any such firms that opt into ERBA and qualifying community banks (below $10 billion in

[4] OCC, FEDERAL RESERVE SYSTEM AND FDIC, Regulatory Capital Rule: Category I and II Banking Organizations, 91 Fed. Reg. 14952 (Mar. 27, 2026).

[5] 91 Fed. Reg. at 15016

[6] CVA risk is designed to capture the risk of mark-to-market accounting losses due to changes in the credit valuation adjustment for OTC derivative contracts, which can arise due to: (1) increases in counterparty credit spread from the deterioration of the creditworthiness of the counterparty, and (2) increases in the banking organization's expected future exposure to the counterparty. *See* 91 Fed. Reg. at 15078.

[7] *Id.*

total consolidated assets) that would continue to use the simpler Community Bank Leverage Ratio. These revisions are intended to capture some of the more risk-sensitive requirements for certain credit exposures from ERBA as well as other improvements made by ERBA.[8]

Third, revisions to the requirements in the Federal Reserve's capital rules for calculating GSIB scores and the related risk-based GSIB surcharges (which are capital buffer requirements on top of the minimum risk-based capital requirements) for Category I firms. These revisions would consist primarily of changes to the calculation of Method 2 GSIB scores, which is the binding method for determining the final GSIB scores and is unique to the United States, and set narrower bands of GSIB surcharges resulting from the ranges of GSIB Method 2 scores.[9]

The proposed rules and accompanying explanatory text and analyses are very complicated and voluminous, covering 538 pages in the Federal Register in three-column text, tables, formulas and footnotes. Because of the different categories of banking organizations to which they apply and the different business models of those banking organizations, it is candidly difficult for me -- in assessing the potential impact of the proposed rules within the confines of this written statement -- to do anything more than provide some high-level observations.

I will group my observations into four main themes. While I do not intend in any way to underestimate the importance of the proposed changes to the market risk capital requirements or the calculation of GSIB scores, my observations are focused primarily on the impact of the ERBA and revised Standardized Approach proposals as they are the most broadly applicable components of the proposed rules:

1. **Overdue Modernization**. The proposed rules, in particular ERBA for credit risk and counterparty credit risk, and the proposed revisions to the Standardized Approach, are an overdue modernization of the capital rules to make them more accurately reflect the risks of various exposures compared to the current Standardized Approach.

2. **Adaptation of International Standards**. The proposed rules are better than the 2023 proposal at avoiding add-ons on to the U.S. capital requirements, and at addressing specific U.S. policy objectives or differences in the U.S. banking and financial sector, compared to the Basel Framework.

[8] OCC, FEDERAL RESERVE SYSTEM AND FDIC, Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets, 91 Fed. Reg. 15332 (Mar. 27, 2026).]

[9] OCC, FEDERAL RESERVE SYSTEM AND FDIC, Regulatory Capital Rule (Regulation Q): Risk-Based Capital Surcharges for Global Systemically important Bank Holding Companies, 91 Fed. Reg. 14908 (Mar. 27, 2026).

3. **Addressing Overlaps**. The banking agencies acknowledge the need to address overlaps between the risks that are intended to be captured in the proposed rules, which determine the minimum capital requirements, and those that are intended to be captured in the Federal Reserve's supervisory stress testing and stress capital buffer framework, which determines an additional capital buffer requirement on top of the minimum requirements.

4. **More Detailed Impact Analysis**. Compared to the 2023 proposal, in my view the banking agencies have performed a more thorough impact and economic analysis of both the proposed rules and the cumulative impact of other final or proposed rules relating to the capital framework, including the potential trade-offs between the potential benefits and costs of the proposed rules.

I. Overdue Modernization of the Capital Rules

Both the ERBA and revised Standardized proposals would update the capital rules and improve the risk-sensitivity of various types of exposures compared to the current Standardized Approach. These changes would result in capital requirements for credit risk and counterparty credit risk that are affected by a broader range of factors than those in the current rules, including for residential mortgages, loans to individuals and small businesses, and loans to corporates. (I am using these exposure types as examples of the greater risk sensitivity, but the changes in ERBA and the revised Standardized proposals go well beyond these exposure types.)

Many of the risk weights[10] and other factors that determine capital requirements under the current Standardized Approach rules are effectively still those that were first set in the original Basel I capital guidelines, which were finalized in the United States in 1989.[11] For example, first-lien residential mortgages on one-to-four family residential

[10] Risk weights are multipliers that are applied to the amount of an exposure to determine its risk-adjusted amount, or risk-weighted asset (RWA). For example, a loan of $1 million that is risk weighted at 50% will result in an RWA of $500,000. A loan of $1 million that is risk weighted at 100% will result in an RWA of $1 million. Risk-based capital requirements are based on risk-based capital ratios: Common Equity Tier 1 (CET 1) to RWAs, Tier 1 (CET 1 + Additional Tier 1, such as preferred shares) to RWAs, and Total (CET 1 + Additional Tier 1 + Tier 2, such as subordinated debt) to RWAs. In the examples above, if a bank were managing itself to a CET 1 ratio of, e.g., 9%, for the 50% risk weighted asset it would need to hold $45,000 of CET 1 capital against the $500,000 RWA and $90,000 of CET 1 capital against the $1 million RWA.

[11] *See generally* 12 C.F.R. Part 225, Appendix A – Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure (Federal Reserve Basel I guidelines); 54 Fed. Reg. 4209 (Jan. 27, 1989) (same).

properties generally have a 50% risk weight and corporate exposures generally have a 100% risk weight, in each case the same as under the Basel I guidelines.[12]

Residential Mortgages

Under ERBA, risk weights for qualifying residential mortgages (defined as "regulatory residential real estate exposures" would be determined by two factors:

- the mortgage's loan-to-value (LTV) ratio[13], which decreases as the loan is repaid; and

- whether repayment of the loan is dependent on cash flows from the real estate or on other resources of the borrower (i.e., generally whether it is an investment property or not).[14]

Compared to the flat 50% risk weight for qualifying residential mortgages under the current Standardized Approach, the risk weights for these exposures range from 20% to 70% for exposures not dependent on the property's cash flows and from 30% to 105% for exposures dependent on the property's cash flows, depending on the applicable LTV ratios. The risk weights therefore reflect the lesser or greater degree of risk resulting from LTV ratios and the potential sources of repayment, and result in lower risk weights applying over the life of a performing loan as its repayments reduce the LTV ratios. These risk sensitivities are not captured under the current Standardized Approach.

The proposed revisions to the Standardized Approach would make similar changes to the treatment of regulatory residential real estate exposures, but the risk weights would be 5 percentage points higher (i.e., from 25% to 75% and from 35% to 110%) than under ERBA to account for the different treatment of operational risk between ERBA and the revised Standardized Approach.[15]

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[12] *Compare* 12 C.F.R. §§217.32(f)(1) (Federal Reserve Basel III Standardized Approach – corporate exposures – 100%) and (g)(1) (Federal Reserve Basel III Standardized Approach – residential mortgage exposures – 50%) *with* 12 C.F.R. Part 225, Appendix A, Sections III.C.3 (Federal Reserve Basel I -- residential mortgage exposures – 50%) and 4 (Federal Reserve Basel I -- all assets not assigned to other risk weight categories, including corporates – 100%). For the sake of simplicity, citations to the current Basel III capital rules are to the Federal Reserve's version. The OCC's and FDIC's Basel III capital rules are substantively identical.

[13] The LTV ratio is the extension of credit divided by the value of the property. 91 Fed. Reg. at 15422. It would not include any private mortgage insurance (PMI). 91 Fed. Reg. at 14971, 15339.

[14] 93 Fed. Reg. at 15160 – 61.

[15] 91 Fed. Reg. at 15423 – 24. Because there would be no separate calculation of RWAs for operational risk in the revised Standardized Approach, while there would be under ERBA, the risk weights

Loans to Individuals and Small Businesses

The current Standardized Approach does not distinguish, in terms of assigned risk weights, between loans to individuals (or small businesses) and loans to corporates. Both generally receive flat risk weights of 100% while they are performing.[16]

Under ERBA, retail exposures that are not mortgages or commercial real estate loans would be recognized as a distinct type of credit exposure to individuals and to qualifying small businesses (defined as "small or medium-sized entity (SME)"), with exposures to SMEs needing to satisfy product and exposure limit criteria.[17] Retail exposures would be sub-divided into three categories, each with its own assigned risk weight, which would depend primarily on the type of product, the borrower's repayment history, and size of the exposure:

- **Regulatory Retail Exposures**: These are the drawn amounts under revolving credits or lines of credit, or term loans or leases (such as auto loans), subject to an aggregate exposure limit for all retail exposures to the same borrower (and any affiliates of the borrower) of $1 million.
    - Transactor Exposures: For regulatory retail exposures that are (i) credit facilities where the balance has been repaid in full on each scheduled repayment date in the previous 12 months and (ii) overdraft facilities where there has been no drawdown in the previous 12 months – 45% risk weight;
    - Non-Transactor Regulatory Retail Exposures: 75% risk weight;
- **Other Retail Exposures:** For retail exposures that are not regulatory retail exposures – 100% risk weight.

As a result, smaller retail loans under credit cards, charge cards, installment loans and leases are risk weighted based on the borrower's history of usage or repayment. A borrower that uses and repays the full amount of revolving or other credit facilities on time and does not go into overdraft benefits from the most favorable capital treatment. A borrower that carries ongoing balances or that goes into overdraft, but continues to perform on the loans, is assigned a higher risk weight. Larger retail loans of any kind

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for regulatory residential real estate exposures in the revised Standardized Approach would include an operational risk component in the risk weights. 91 Fed. Reg. at 15340-41 & n.39.

[16] 12 C.F.R. §§217.32(f)(1) (Federal Reserve Basel III Standardized Approach – corporates) and (*l*)(5) (Federal Reserve Basel III Standardized Approach – other assets not specifically assigned risk weights).

[17] 91 Fed. Reg. at 15157 (definitions of "retail exposure" and "small or medium-sized entity").

receive the highest risk weight. These risk sensitivities are not captured under the current Standardized Approach.

The proposed revisions to the Standardized Approach would not create a new category of retail exposures, but would revise the assigned risk weight for other assets, which would include exposures to individuals, to be 90% instead of the current 100%.[18]

Corporate Exposures[19]

Under ERBA, the risk weights for corporate exposures would be subject to a differentiated treatment based on the relative creditworthiness of the corporate, the ranking in priority of the exposure, and the source of repayment for the exposure. In contrast, the current Standardized Approach treats all corporate exposures alike and assigns them a 100% risk weight.[20]

For senior exposures that are investment grade, based not only on the existing qualitative definition of "investment grade" in the capital rules[21] but on a banking organization's internal credit risk rating system that meets a series of requirements, including incorporating benchmark default data covering at least the preceding five years, the assigned risk weight under ERBA is 65%.[22]

The risk weights for other types of corporate exposures under ERBA include:

[18] 91 Fed. Reg. at 15341 & n.40, 15424. The 90% risk weight would include an operational risk add-on of approximately 10 percentage points. 91 Fed. Reg. at 15341.

[19] Corporate exposures generally refer to credit exposures (i.e., loans or debt instruments) to corporates that are not banks or central counterparties, and that are not investments in the equity of corporates or investment funds. Corporate exposures that are not part of a banking organization's trading assets and liabilities and are not otherwise market risk positions are treated as credit risk exposures.

[20] 12 C.F.R. §217.32(f)(1) (Federal Reserve Basel III Standardized Approach – corporates).

[21] "Investment grade" means that the entity to which the banking organization is exposed "has adequate capacity to meet financial commitments for the projected life of the asset or exposure. Such an entity . . . has adequate capacity to meet financial commitments if the risk of its default is low and the full and timely repayment of principal and interest is expected." 12 C.F.R. §217.2 (definition of "investment grade"). This qualitative definition resulted from the requirement in Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 to eliminate references to external credit ratings from federal regulations.

[22] 91 Fed. Reg. at 15162. This could also cover exposures to SMEs that are not otherwise regulatory retail exposures, provided that the SME otherwise meets the requirements.

- 100% to exposures for the purpose of acquiring or financing equipment or physical commodities where repayment is dependent on the physical assets being financed or acquired,

- 100% for a project finance exposure in its operational phase,

- 130% for a project finance exposure that is not in its operational phase; and

- 150% for an exposure to subordinated debt or preferred stock that is not an equity exposure and TLAC-eligible debt securities.[23]

None of these risk differentiating factors is captured in the current Standardized Approach. Compared to the current Standardized Approach, with its flat 100% risk weight, ERBA's risk differentiating factors result in risk weights ranging from 65% for senior exposures to the most creditworthy corporates, based on a bank's own internal credit rating system, to 150% for subordinated debt, and as a result banking organizations will be subject to a broader range of capital requirements for corporate exposures.

The proposed revisions to the Standardized Approach would not adopt ERBA's risk differentiating factors, but would revise the assigned risk weight for corporate exposures to be 95% instead of the current 100%.[24]

Other Improvements

In addition to the proposed changes to the three main types of exposures listed above, ERBA and the proposed revisions to the Standardized Approach would make a series of other changes that are designed to improve the accuracy of the capital rules in measuring credit risk, especially in the case of counterparty credit risk arising from collateralized transactions. These changes include:

- Correcting a long-standing flaw in the rules for recognizing collateral under the simple approach for collateralized transactions, which effectively prevented banking organizations from shifting the risk of an exposure from a counterparty to collateral that benefits from a lower risk weight (e.g., U.S. Treasuries or agency securities).[25] The flaw prevented banking organizations

[23] 91 Fed. Reg. at 15162-63.

[24] The 95% risk weight would include an operational risk add-on of approximately 10 percentage points. 91 Fed. Reg. at 15341

[25] ERBA and the revised Standardized Approach would replace the requirement for the transaction to be subject to a collateral agreement that would be enforceable against a counterparty in bankruptcy without being subject to any stay in the event of the counterparty's bankruptcy with a requirement that the legal mechanism by which financial collateral is pledged or transferred provides the

from recognizing the benefit of any collateral at all, with the effect that certain secured loans had the same capital requirements as unsecured loans.

- Adding prepaid credit protection (such as credit-linked notes) meeting specified requirements as a credit risk mitigant permitting a banking organization to shift the risk from the counterparty to the prepaid credit protection arrangement, similarly to an eligible credit derivative or eligible guarantee, including in synthetic securitizations.[26]

- Updating the formula for measuring the exposure amount, net of collateral, in the rules for recognizing collateral under the collateral haircut approach for "repo-style transactions"[27] and eligible margin loans by recognizing a greater degree of netting between the same types of securities in the underlying transactions and the benefits of risk diversification over a greater number of different securities, coupled with adjustments to the required haircuts for the types of securities lent, borrowed, posted or received as collateral.[28]

- Recognizing the benefits of cross-product netting agreements in the standardized approach for measuring counterparty credit risk for OTC derivatives (SA-CCR) covering both OTC derivatives and repo-style transactions.[29] This allows banking organizations with netting sets consisting of both collateralized OTC derivatives and, for example, securities lending and borrowing transactions with the same counterparty to calculate a single net exposure amount for both types of nettings sets instead of having to calculate two separate exposure amounts that would not recognize any netting benefit between them.

These improvements all relate to loans, securities financing transactions and derivatives transactions that are secured or backed by financial collateral (i.e., cash and liquid securities), and are intended to reflect more accurately the lower risk of these transactions compared to transactions that are not secured by any collateral. The changes make it easier for a banking organization (i) to shift the risk to the financial

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banking organization with an enforceable contractual right to enforce its rights in the collateral "in a timely manner" in the event of the counterparty's bankruptcy. 91 Fed. Reg. at 15180, 15425.

[26] 91 Fed. Reg. at 15180-81, 15182, 15426-27, 15429.

[27] Repo-style transactions refer to transactions under repurchase and reverse repurchase agreements and securities lending and borrowing transactions. 12 C.F.R. §217.2 (definition of "repo-style transaction").

[28] 91 Fed. Reg. at 15172-75, 15427-28.

[29] 91 Fed. Reg. at 15164, 15428-29.

collateral (or the prepaid cash in prepaid credit protection) or (ii) to more accurately measure the exposure amount (if any) remaining to the counterparty after netting the relevant transactions against each other and reducing the exposure by the amount of financial collateral posted by the counterparty. In each case, in the event of a counterparty default, the banking organization would be able to take possession of and liquidate the collateral.

II. Adaptation of International Standards to the United States

As noted above, some aspects of the proposals – ERBA, the market risk rule and the CVA rule – are intended to implement the international Basel Framework. While the majority of these proposed rules are consistent with the Basel Framework, there are deviations from the Basel Framework, some of which are inevitable in light of applicable U.S. laws and some of which are intended to address specific U.S. policy objectives or differences between the U.S. banking and financial sector and those of other countries. My overall impression is that the proposed rules do a better job of addressing these differences and making adaptations to the international Basel Framework to suit the U.S. market compared to the proposed rules in 2023. Nevertheless, some of the remaining differences would continue to produce higher capital requirements under the U.S. bank capital rules compared to their counterparts in jurisdictions that have adopted capital rules consistent with the Basel Framework.

First, the proposed rules reflect a greater effort to reduce add-ons to or more conservative treatments than the Basel Framework – which would have resulted in higher capital requirements than under the Basel Framework -- compared to the 2023 proposed rules. For example:

- **Regulatory Residential Real Estate and Retail Exposures**. The proposed risk weights under ERBA for Regulatory Residential Real Estate Exposures and Retail Exposures would now be in line with those of the Basel Framework. Under the 2023 proposed rules, the risk weights for Regulatory Residential Real Estate Exposures would have been 20 percentage points higher than the Basel Framework and those for Retail Exposures would have been 10 percentage points higher than the Basel Framework.[30] In the 2023 proposed rules the banking agencies did not provide any explanation for these add-ons compared to the Basel Framework.[31]

[30] *Compare* 91 Fed. Reg. at 15160 – 62 (Proposed Rule §_ .111(f)(5) *with* Basel Framework, CRE 20.82 (regulatory residential real estate exposures not dependent on cash flows) and CRE 20.84 (regulatory residential real estate exposures dependent on cash flows).

[31] *See* 88 Fed. Reg. at 64048 (Sep. 18, 2023).

- **Securitization Exposures**. The proposed treatment of securitization exposures[32] in ERBA and the revised Standardized Approach is a hybrid adaptation of the Basel Framework that would be less punitive compared to the 2023 proposed rules.

    - The current U.S. Basel III capital rules apply a multiplier (p factor) of 0.5 in the relevant formula for calculating capital requirements for securitization exposures, which effectively increases capital requirements for securitization exposures on average (for all the tranches of the securitization) by 50% compared to the capital requirements for holding all of the underlying exposures, in recognition of the potential additional complexity of securitization structures.[33]

    - The Basel Framework kept the p factor at 0.5 for so-called simple, transparent and comparable (STC) securitizations (generally traditional securitizations based on credit claims and receivables that are homogeneous), and increased it to 1.0 for other securitizations[34]. The Basel Framework also reduced the minimum risk weights for securitization exposures from 20% to 10% for STC securitizations and 15% for other securitizations.[35]

    - The 2023 proposals did not adopt the STC category of the Basel Framework and increased the p factor to 1.0 for <u>all</u> securitization exposures, effectively doubling the capital requirements for securitization exposures (from 0.5 to 1.0) compared to the capital requirements for

[32] Securitization exposures refer to transactions in which (i) banks sell assets to securitization vehicles (SPVs) that then issue debt with different credit tranches to investors (traditional securitizations) or (ii) banks transfer the credit risk of on-balance sheet assets to SPVs or other counterparties through credit derivatives, guarantees or prepaid protection instruments (synthetic securitizations). In either type of securitization banks can derecognize or lower their RWAs for the portion of the credit risk transferred to their counterparties. Securitizations are commonly used mechanisms for reducing credit risk on mortgage and other loans, credit card receivables and other types of underlying financial exposures.

[33] 12 C.F.R. §217.43(b)(5) (Federal Reserve Basel III Standardized Approach – Simplified Supervisory Formula Approach).

[34] Basel Framework, CRE 41.21 (STC securitization exposures) and CRE 41.12 (non-STC securitization exposures that are not resecuritization exposures). Under the Basel Framework, the risk weight floor for STC securitization exposures is 10% for senior tranches and 15% for non-senior tranches.

[35] Basel Framework, CRE 41.22 (STC securitization exposures) and CRE 41.15 (non-STC securitization exposures that are not resecuritization exposures). The minimum risk weights for securitization exposures, which are generally lower than the risk weights for the corresponding underlying on-balance sheet exposures, reflect the lower risk of incurring losses on the more senior credit tranches of securitizations than the more junior tranches (which generally incur losses before the more senior tranches).

holding all of the underlying exposures, while reducing the minimum risk weights for securitizations to 15%.[36]

- The 2026 ERBA and revised Standardized Approach proposals do not adopt the Basel Framework's STC category, but they keep the p factor at 0.5 under the new formula for calculating the capital requirements for securitization exposures, which is otherwise consistent with the formula in the Basel Framework , and reduce the minimum risk weights for securitizations to 15%.[37]

- The 2026 ERBA and revised Standardized Approach proposals therefore effectively adopt the Basel Framework treatment of the p factor from the STC category, but apply the risk weight floor of 15% from the Basel Framework's treatment of other securitizations. As neither the federal banking agencies nor commenters on the 2023 proposed rules identified any empirical evidence that the probability of banking organizations incurring losses on securitization exposures has increased since the existing U.S. Basel III rules were finalized in 2013, this seems to be a reasonable approach for the banking agencies to take in the 2026 proposed rules.

- **Operational Risk**. The 2026 ERBA proposal uses a modified version of the Basel Framework's standardized measure for calculating capital requirements for operational risk that would be less punitive compared to the 2023 proposed rules and more tailored to the actual history of operational risk losses from certain agency and advisory activities of large U.S. banking organizations and large U.S. intermediate holding companies of foreign banking organizations.

  - The ERBA proposal would fix the Internal Loss Multiplier (ILM) component of the formula for calculating operational risk capital requirements at 1. Under the Basel Framework formula, a banking organization's Business Indicator Component (BIC – calculated based on the business indicator, a dollar amount proxy for the volume of a firm's business activities) is multiplied by the ILM (which is based on historical operational risk losses relative to its BIC).[38] This effectively means that a

[36] 88 Fed. Reg. at 64212, Proposed Rule §_.133(a)(4) (risk weight floor) and (a)(5)(i) (parameter *p*) (Sep. 18, 2023).

[37] 91 Fed. Reg. at 15185, 15433.

[38] Basel Framework, OPE 25.27 (calculation of BIC) and 25.8 (calculation of ILM). Under the Basel Framework, the calculation of BIC is based on marginal coefficient thresholds denominated in euro.

banking organization's operational risk charge is solely a function of its BIC and is a permissible option under the Basel Framework.[39]Another permissible option under the Basel Framework is to permit an ILM to fall below or rise above 1, based on changes in a firm's measure of historical operational risk losses. The 2023 proposed rules would have floored the ILM at 1, meaning it could only increase but never fall below 1 – a more conservative treatment than under the Basel Framework.[40]

- Compared to the Basel Framework and the 2023 proposed rules, the ERBA proposal would reduce the impact of the noninterest income component of the BIC in two ways: (1) it would allow the netting of noninterest income and noninterest expense (instead of using the greater of gross fee and commission income and fee and commission expense, plus the greater of gross other operating income and other operating expense), and (2) it would reduce by 70% the net noninterest income or expenses from investment management, investment services, and non-lending treasury services included in the BIC. These reductions would be offset by adding total operational losses to the noninterest component.[41]

- The 70% reduction for net noninterest income or expenses from investment management, investment services and non-lending treasury services is based on the banking agencies' analysis of historical operational risk losses from these activities from Q1 2009 to Q2 2025, and therefore is tailored to reflect the actual historical experience of relevant U.S. and non-U.S. banking organizations in providing these generally balance-sheet light agency and advisory activities.[42]

- At the same time, it is still the case that the ERBA proposal continues to require, consistent with the Basel Framework, the BIC to increase at increasingly higher rates based on the dollar amount of a banking organization's business indicator, i.e., 12% up to $1 billion, an incremental 15% between $1 billion and $30 billion, and an incremental 18% above $30 billion.[43] As a result, regardless of a banking

[39] 91 Fed. Reg. at 15009 & n.216, 15188. *See* Basel Framework, OPE 25.11 (providing that, "at national discretion, supervisors may set the value of ILM equal to 1 for all banks in their jurisdiction").

[40] 88 Fed. Reg. at 64216, Proposed Rule § _.150(e)(2) (Sep. 18, 2023).

[41] 91 Fed. Reg. at 15011-13, 15188-89.

[42] 91 Fed. Reg. at 15011-13.

[43] 91 Fed. Reg. at 15013-14, 15188.

organization's actual experience in managing its operational risk, a banking organization's operational risk capital requirements increase at a higher rate as its business indicator exceeds each relevant threshold.[44]

Second, the proposed rules also reflect a willingness on the part of the banking agencies to deviate from the Basel Framework to address U.S. policy objectives, such as removing disincentives for banking organizations to engage in mortgage lending and related activities. For example, the ERBA and revised Standardized Approach proposals would both modify the treatment of mortgage servicing assets (MSAs) compared to the current U.S. bank capital rules and the Basel Framework.

Under the current U.S. bank capital rules, MSAs may be recognized as assets, risk weighted at 250%, up to thresholds, measured as a percentage of a banking organization's CET 1 capital adjusted for certain deductions, above which any additional MSAs must be fully deducted from CET 1 capital.[45] The ERBA and revised Standardized Approach proposals would remove the deduction thresholds applicable to MSAs and would instead require a banking organization to risk weight all of its MSAs at 250%.[46]

The banking agencies explain that this treatment is intended to make it easier for banking organizations to maintain their relationships with mortgage customers even after transferring the underlying loans and to avoid discouraging banking organizations

[44] For example, even if a banking organization's total operational losses added to its noninterest component were to remain constant, indicating the ability to manage its operational risk on a consistent basis, its operational risk capital requirements would still increase if, as a result of the banking organization's success in growing its business at a greater rate than the index applied to business indicator thresholds, its business indicator would cross into the next business threshold range. While consistent with the Basel Framework, this may be a counterintuitive result.

[45] MSAs are contractual rights held by a banking organization to service for a fee mortgages owned by third parties. 12 C.F.R. §217.2 (definition of "mortgage servicing assets"). Category I and II banking organizations must deduct from CET 1 capital the amount of MSAs exceeding two thresholds, (i) 10% of CET 1 capital for all MSAs held by the firm, and (ii) 15% of CET 1 capital for the aggregate amount of MSAs, certain deferred tax assets (DTAs) and certain investments in the capital of unconsolidated financial institutions held by the firm. 12 C.F.R. §§217.22(d)(2). Other banking organizations must deduct from CET 1 capital the amount of MSAs exceeding a single threshold, 25% of CET 1 capital for all MSAs held by the firm. Because of the punitive capital treatment of deductions from CET 1 capital (i.e., a dollar-for-dollar reduction of CET 1 capital for the deductible amount of MSAs), the deduction thresholds can act as effective limits to the amount of MSAs held by banking organizations. The treatment of MSAs for Category I and II banking organizations is consistent with the Basel Framework for deductions of certain assets. *See* Basel Framework, CAP 30.32 – 34.

[46] 91 Fed. Reg. 14962, 15163 (ERBA proposal) and 91 Fed. Reg. 15335 (Standardized Approach proposal).

from creating economies of scale, which could hinder their ability to compete in the mortgage underwriting and servicing businesses.[47]

Third, some deviations from the Basel Framework are inevitable in light of applicable U.S. laws, including deviations from the Basel Framework's internal ratings-based (IRB) approach to calculating RWAs (the equivalent of the U.S. Advanced Approaches) and the Basel Framework's assignment of risk weights based on external credit ratings.

The Dodd-Frank Act Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) requires generally applicable risk-based capital requirements to act as floors to the current Advanced Approaches for calculating RWAs.[48] Under the current U.S. bank capital rules, Category I and II banking organizations, which are mandatorily subject to the Advanced Approaches, must calculate risk-based capital ratios under both the Standardized Approach and the Advanced Approaches and report, for each risk-based capital ratio, the lower of the ratios calculated under both approaches.[49] This requirement effectively means that the Standardized Approach acts as a 100% output floor for the calculation of a Category I or II banking organization's RWAs under the Advanced Approaches.

The 2026 ERBA proposal would eliminate the Advanced Approaches and therefore would require the calculation of RWAs for credit risk, counterparty credit risk and operational risk solely under ERBA's new standardized methodologies.[50] While acknowledging that ERBA may be less risk-sensitive than the Advanced Approaches, the banking agencies concluded that removing the Advanced Approaches would simplify the U.S. bank capital framework without reducing the resilience of Category I and II banking organizations and would be more consistent with the stress capital buffer framework, which applies solely to Standardized Approach capital requirements.[51]

In contrast, the Basel Framework applies a 72.5% Standardized Approach output floor for the calculation of RWAs under the IRB, which means that under the Basel Framework a banking organization's IRB RWAs can be lower than its RWAs under the Standardized Approach, but no lower than 72.5% of Standardized Approach RWAs.[52] This means that banking organizations outside the United States that use the IRB for

[47] 91 Fed. Reg. at 14962, 15336.

[48] 12 U.S.C. §5371(b)(2).

[49] 12 C.F.R. §217.10(d).

[50] 91 Fed. Reg. at 14958-59.

[51] 91 Fed. Reg. at 14959.

[52] *See* Basel Framework, RBC 20.4.

calculating their RWAs are subject, if their national jurisdiction adopts the Basel Framework's 72.5% output floor, to lower minimum risk-based capital requirements compared to U.S. Category I and II banking organizations.

The Dodd-Frank Act also required the removal from any federal regulations of references to external credit ratings and their replacement by appropriate standards of creditworthiness.[53] As a result, none of the risk weights under the current U.S. bank capital rules, and none of the risk weights under the ERBA or revised Standardized Approach proposals, are assigned by reference to external credit ratings.

In contrast, the Basel Framework's standardized approach for credit risk continues to assign risk weights for credit exposures based on external credit ratings.[54] The Basel framework's risk weights based on external credit ratings generally produce a lower end of the range of risk weights than those proposed in ERBA or the revised Standardized components of the proposal. For example:

- For banks, a 20% (AAA to AA-) risk weight under the Basel Framework compared to 30% or 40% under the ERBA proposal.[55]

- For corporates, 20% (AAA to AA-) and 50% (A+ to A-) risk weights under the Basel Framework compared to 65% for investment grade corporates meeting the bank's internal credit risk rating requirements under the ERBA proposal.[56]

Banking organizations in jurisdictions outside the United States that use the Basel Framework standardized approach for credit risk and that permit reliance on external credit ratings would therefore benefit from lower risk weights for the most creditworthy banks and corporates than would be the case for U.S. banking organizations under the ERBA or revised Standardized Approach proposals.

[53] Public Law 111-203, Section 939A (Jul. 10, 2010).

[54] *See* Basel Framework, CRE 20.7, 20.11, 20.15, 20.18, 20.38 and 20.43. While CRE 20 also contains provisions for assigning risk weights based on a standardized credit risk assessment approach (SCRA) for jurisdictions that do not allow the use of external credit ratings for regulatory purposes, I am unaware of any jurisdiction other than the United States that requires banking organizations to use the SCRA.

[55] Basel Framework, CRE 20.18.

[56] Basel Framework, CRE 20.43.

III. Addressing Overlaps between Minimum Capital Requirements and Stress Testing Framework

In my view the potential impact of the ERBA and revised Standardized Approach proposals components cannot be assessed solely on a stand-alone basis, as the overall impact on U.S. bank organizations' capital requirements will also be affected by how the banking agencies address overlapping capital requirements for potentially similar risks between ERBA and Standardized on the one hand, and the stress capital buffer requirements, which are based on the results of supervisory stress tests conducted by the Federal Reserve, on the other, including for market risk and operational risk. The banking agencies themselves clearly acknowledge the need to address this issue in the preamble to the ERBA proposal.[57]

Overlap between Proposed Market Risk Rule and Global Market Shock (GMS)

Under the current capital rules, the market risk rule is a Value at Risk (VaR)-based measure.[58] The GMS component of supervisory stress testing, which is based on an instantaneous shock in severely adverse conditions, may capture losses resulting from those stressed conditions that would not be fully captured in the stressed VaR component of the current market risk capital requirements.[59]

The proposed market risk rule moves to an expected shortfall measure based on historic stress conditions and with longer liquidity horizons than those assumed under the current market risk rule.[60] Compared to a VaR-based measure, an expected shortfall measure estimates expected losses beyond a specific percentile of probability based on

[57] 91 Fed. Reg. at 14959-60.

[58] VaR generally estimates the threshold amount of loss of an asset or portfolio of assets over a defined period of time at a specified level of probability (confidence) under certain distributions of market conditions. The current market risk rule in the U.S. capital rules requires the VaR-based measure to be calculated daily using a one-tail (meaning it only considers losses, not gains), 99.0% confidence level and a 10-business day holding period, based on a historical observation period of at least one year. 12 C.F.R. §217.205(b). The rule also requires a stressed VaR measure, which must use the same models, confidence level and holding period for the VaR-based measure, but with model inputs based on historical data from a continuous 12-month period that reflects a period of significant financial stress. 12 C.F.R. §217.206(b).

[59] Federal Reserve System, Supervisory Stress Test Documentation: Final 2026 Global Market Shock Component, 4 (Feb. 2026), *available at* https://www.federalreserve.gov/supervisionreg/files/2026-final-gms-model.pdf.

[60] 91 Fed. Reg. 15016, 15245. The expected shortfall measure used to calculate the models-based component of market risk capital requirements is calculated based on the one-tail, 97.5th percentile confidence level and a base liquidity horizon of 10 days, subject to adjustment up to 120 days for certain risk factors. In general terms, a liquidity horizon is the assumed period of time for a banking organization to liquidate or otherwise hedge a market risk position during a period of market stress.

historical periods of stress and is intended to better capture tail risk (i.e., the financial risk of rare, extreme events.)[61] As a result, there is a greater likelihood of the proposed market risk rule and the GMS component of supervisory stress testing capturing overlapping risks of losses from market risk.

It does not appear as if the proposed market risk rule's capital requirements have been revised to address any overlaps with GMS. Instead, the Federal Reserve has proposed changes to the GMS component of its supervisory stress test to address this issue, including by shortening the GMS liquidity horizons to be consistent with (1) the GMS assumption that losses are recognized in the first quarter of the stress testing projection horizon and (2) those used in the proposed new market risk rule, if necessary using weighted averages of the horizons where the market risk rule may use different liquidity horizons within the same asset class compared to GMS.[62]

It remains to be seen whether the proposed changes to the GMS will in fact eliminate or mitigate any overlap in risks with the final version of the market risk rule that is ultimately implemented. Equally important to banking organizations' ability to manage their capital planning, it remains to be seen whether that result would remain stable or would be subject to ongoing changes in the Federal Reserve's supervisory stress test models for market risk or the assumed GMS shocks in future stress testing cycles.

Overlap between Proposed Operational Risk Component of ERBA and Supervisory Stress Testing

Under the current capital rules, operational risk capital requirements apply under the Advanced Approaches to calculating capital requirements and not under the Standardized Approach.[63] The SCB, however, is a buffer requirement that is calculated and applied on top of Standardized Approach capital requirements, not the Advanced Approaches (under the Advanced Approaches there is a flat 2.5% capital conservation buffer).[64] The Federal Reserve's supervisory stress tests are therefore designed to

[61] *See* 91 Fed. Reg. 15016 (noting that the proposed measures of market risk capital requirements "would improve risk-sensitivity… by replacing the VaR-based measure of market risk with an expected shortfall-based measure that better accounts for extreme losses").

[62] FEDERAL RESERVE SYSTEM, Enhanced Transparency and Public Accountability of the Supervisory Stress Test Models, 90 Fed. Reg. 51856, 51929 (Nov. 18. 2025) (stating its intention to "amend its Scenario Design Policy Statement to use shock liquidity horizons that are broadly consistent with the proposed standards in the Basel Committee on Banking Supervision's Fundamental Review of the Trading Book").

[63] *See, e.g.*, 12 C.F.R. § 217.2 (*comparing* the definition of "advanced approaches total risk-weighted assets" *with* the definition of "standardized total risk-weighted assets").

[64] *See, e.g.,* 12 C.F.R. § 217.11(a)(2)(vi).

estimate operational risk losses under stressed conditions and incorporate the impact of those estimated losses in calculating a firm's SCB.[65]

As already explained above, the ERBA proposal would include a operational risk capital requirements based on a standardized methodology. The banking agencies explain that these requirements are based in part on the historical record of operational risk losses arising from the global financial crisis.[66]. As a result, just as with market risk, there is a greater likelihood of the proposed operational risk capital requirements in ERBA and the operational risk models used in supervisory stress testing capturing overlapping risks of losses from operational risk.

It does not appear as if the ERBA proposal's operational risk capital requirements have been revised to address any overlaps with supervisory stress testing. Again, the Federal Reserve has instead proposed changes to its supervisory stress test models for operational risk to address this overlap, including by moving from a model based in part on a macreoconmoic regression, which captures correlations between operational losses and macroeconomic variables, to a distributional model benchmarked to historical operational losses.[67]

I have the same reaction to this approach as I have to the proposed approach to address overlaps for market risk. It remains to be seen whether the proposed changes to the Federal Reserve's supervisory stress testing models for operational risk will in fact eliminate or mitigate any overlap in risks with the final version of the ERBA operational risk capital requirements that are ultimately implemented, and whether that result would remain stable or would be subject to ongoing changes in the Federal Reserve's supervisory stress test models for operational risk.

IV. More Detailed Analysis of the Impact of the Proposed Rule

The 2023 proposed rules were issued by the banking agencies with an impact and economic analysis summary that was eight pages long and without the benefit of an extensive data collection effort to measure the potential impact of the proposed rules on affected banking organizations' RWAs.[68] In contrast, the three 2026 proposed rules

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[65] *See* FEDERAL RESERVE SYSTEM, Supervisory Stress Test Model Documentation: Operational Risk Model (Oct. 2025), *available at* https://www.federalreserve.gov/supervisionreg/files/operational-risk-model.pdf.

[66] 91 Fed. Reg. at 15008-09.

[67] *See* FEDERAL RESERVE SYSTEM, Supervisory Stress Test Model Documentation: Operational Risk Model, 16 (Oct. 2025),

[68] *See* 88 Fed. Reg. at 64167–73 (Impact and Economic Analysis section of 2023 capital rule proposal); 88 Fed. Reg. at 60396–98 (Impact section of 2023 GSIB surcharge proposal). The data collection effort was launched on October 20, 2023, almost three months after the 2023 proposed rules were issued

include an impact and economic analysis summary that is 95 pages long and that takes into account the results of the data collection effort from 2023 as well as data reported by banking organizations on various regulatory reports through June 2025.[69]

The banking agencies' impact and economic analysis summarizes not only the expected impact of the 2026 proposed rules, but also the cumulative impact of other final or proposed changes to bank capital requirements, such as the final rule modifying the Enhanced Supplementary Leverage Ratio (eSLR) and the proposed changes to various aspects of the Federal Reserve's stress testing and stress capital buffer framework.[70] As part of their analysis, the banking agencies consider the potential impacts of the proposed rules on, among other aspects:

- the capital requirements of the affected banking organizations (RWAs as well as levels of CET1 and other regulatory capital),
- the effects on lending activities (credit cards, residential mortgages, and corporate loans)
- the effects on trading activities, including the impacts on end users, and
- the effects on the competitiveness of U.S. banking organizations both within the United States and internationally, as well as with nonbank financial intermediaries.[71]

The proposed rules, if finalized as proposed, would obviously affect banking organizations differently based on their size and complexity, business models, including the extent to which they engage in trading activities, and the extent to which they are subject to supervisory stress testing and the stress capital buffer framework. They would also have different impacts on the calculation of RWAs, depending on whether RWAs are being calculated for credit and counterparty credit risk, operational risk,

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on July 23, 2023. *See* Federal Reserve System, Press Release: *Federal Reserve Board launches data collection to gather more information from the banks affected by the large bank capital proposal it announced earlier this year* (Oct. 20, 2023), available at, https://www.federalreserve.gov/newsevents/pressreleases/bcreg20231020b.htm.

[69] *See* 91 Fed. Reg. at 15097–148 (Estimated Impact on Capital Requirements and Economic Analysis sections of 2026 ERBA and market risk proposal); 91 Fed. Reg. at 15365–82 (Estimated Impact on Capital Requirements and Economic Analysis sections of 2026 Standardized Approach proposal); 91 Fed. Reg. 14930–44 (Economic Analysis section of 2026 GSIB surcharge proposal).

[70] *See, e.g.,* 91 Fed. Reg. at 15101, 15118.

[71] 91 Fed. Reg. at 15097-148 (primarily focused on Category I and II banking organizations), 15365-392 (primarily focused on Category III, IV and smaller banking organizations).

market risk, or CVA risk, and whether they are being calculated for BHCs or their bank subsidiaries.

For example, the banking agencies estimate that, for Category I and II BHCs on a consolidated basis, compared to the current Standardized Approach, total RWAs under the proposed rules would increase by 1.9%, reflecting the impacts of:

- a 0.9% increase in credit and counterparty credit risk, operational risk and CVA risk, which in turn reflects a 14.8% decrease in RWAs for credit risk, more than offset by the recognition of RWAs for operational risk and CVA risk in ERBA compared to the absence of any such RWAs in the current Standardized Approach, and

- a 20.5% increase in market risk RWAs.[72]

For the bank subsidiaries of Category I and II banking organizations, compared to the current Standardized Approach, total RWAs under the proposed rules would decrease by 3%, reflecting the impacts of:

- a 3.8% decrease in credit and counterparty risk, operational risk and CVA risk, which in turn reflects a 16.3% decrease in RWAs for credit risk, partially offset by the recognition of RWAs for operational risk and CVA risk in ERBA compared to the absence of any such RWAs in the current Standardized Approach, and

- a 20.7% increase in market risk RWAs.[73]

The estimated impact of the ERBA proposal (and the proposed rules for market risk and CVA risk) on the aggregate amount of CET 1 capital held by Category I and II BHCs on a consolidated basis would be an increase of 1.4%.[74] This increase would be more than offset by the cumulative impact of the GSIB surcharge proposal and the proposed changes to the Federal Reserve's supervisory stress testing and stress capital buffer requirements, which would ultimately yield a net decrease of 4.8% in the aggregate amounts of CET 1 capital for Category I and II BHCs on a consolidated basis.[75]

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[72] 91 Fed. Reg. at 15099.

[73] *Id.*

[74] 91 Fed. Reg. at 15098.

[75] *Id.*

For Category III and IV BHCs and smaller BHCs on a consolidated basis, the proposed revisions to the Standardized Approach would reduce their total RWAs as follows:

- Category III and IV: 9.5% decrease
- Total assets >$10 BN < $100 BN: 7.9% decrease
- Total assets < $10 billion: 7.5% decrease.[76]

The banking agencies also compare the aggregate impact of the proposed rules, as well as the proposed changes to the Federal Reserve's supervisory stress testing and stress capital buffer framework, to aggregate levels of CET 1 capital held by the U.S. banking system, compare it to various academic studies estimating what optimal levels of bank capital should be, and conclude that the resulting aggregate CET 1 ratio of approximately 12.9% would be within the range of 10% to 14% of tangible common equity (a less conservative measure than CET 1) to RWAs estimated by the Basel Committee's 2010 study of optimal capital levels.[77]

The banking agencies note that the Basel Committee's study focused on the potential trade-off between (1) the costs of higher capital requirements, including increased costs of funding (common equity is generally the most expensive form of capital to raise) that can lead to higher interest rates charged for lending activities and thus to lower economic activity, and (2) the benefits of higher capital requirements, including a reduced probability of a financial crisis.[78] As part of their assessment of the costs and benefits of the proposed rules, the banking agencies estimate that:

- The ERBA and revised Standardized Approach proposals would have a generally favorable impact in incentivizing increased levels of residential mortgage lending, including potential downward pressure on pricing;[79]
- The revised Standardized Approach proposal would create additional capacity for retail lending, including potential downward pressure on pricing, while the ERBA proposal, by adopting a more risk-sensitive approach to retail exposures, widening the scope of undrawn credit card commitments that

[76] 91 Fed. Reg. at 15374. The results for their bank subsidiaries would be comparable.

[77] 91 Fed. Reg. at 15127-30. The banking agencies also discuss a series of other studies of optimal capital levels, which show a very wide range of results (from 6% to 31% CET 1 ratios). *See also* 91 Fed. Reg. at 15389-90.

[78] 91 Fed. Reg. at 15128. *See also* 91 Fed. Reg. at 15132.

[79] 91 Fed. Reg. at 15132-37.

would attract a capital charge, and adding a separate calculation of operational risk capital requirements, would likely incentivize banking organizations to differentiate among credit card exposures based on repayment behavior;[80]

- The ERBA and revised Standardized Approach proposals would have a generally favorable impact in incentivizing increased levels in lending to corporates, including potential downward pressure on pricing;[81] and

- The proposed market risk rule would significantly increase RWAs for trading activities, but the banking agencies estimate that the impact of that increase, for at least the largest banking organizations, would be partially mitigated by the Federal Reserve's proposed changes to its supervisory stress testing and stress capital buffer framework, including changes to the GMS.[82] The banking agencies also expect that market risk capital requirements would be less procyclical because of the change from a VaR-based measure to an expected shortfall measure based on historic stressed market conditions. They estimate that market risk capital requirements would not increase as much in actual stressed conditions compared to the requirements under the current market risk rule, which would help preserve the availability of trading intermediation activities during periods of market stress.[83]

My own impression is that these analyses are more transparent, thorough and balanced than the cursory impact and economic analysis summaries the banking agencies published as part of the 2023 proposed rules. They obviously benefited from the extensive data collected from banking organizations in late 2023, an effort that evidently would have been better to conduct before the publication of the 2023 proposed rules.

In conclusion, and at the risk of stating the obvious, the impact of the proposed rules will ultimately be measured by the extent to which they accurately reflect the various risks to which banking organizations are exposed and the extent to which they enable banking organizations to play their important role in contributing to U.S. economic activity. I respectfully submit that those are the issues on which the members of this Committee and commenters on the proposed rules should rightly focus their attention.

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[80] 91 Fed. Reg. at 15132, 15385.

[81] 91 Fed. Reg. at 15137, 15385.

[82] 91 Fed. Reg. at 15138-39.

[83] 91 Fed. Reg. at 15139.

Thank you again for the opportunity to participate in this hearing. I look forward to answering your questions.