United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510–6075

January 18, 2024

The Honorable Michael S. Barr
Vice Chair for Supervision
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Martin J. Gruenberg
Chair
Federal Deposit Insurance Corporation
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Mr. Michael J. Hsu
Acting Comptroller
Office of the Comptroller of the Currency
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Vice Chair Barr, Chair Gruenberg, and Acting Comptroller Hsu:

On July 27, 2023, your agencies proposed a key regulatory capital rule to complete adoption of the Basel standards, strengthen the resiliency of our financial system, and ensure that American consumers, workers, and businesses are better protected from future economic distress. We urge you to quickly adopt a strong final rule consistent with the proposal.

I. Why bank capital matters.

Capital is the linchpin of safety and soundness in our banking system. When a bank uses more capital to fund its investments and activities instead of debt, it is investors and shareholders, not workers and taxpayers, that take a hit if the bank faces challenges. Strong capital is the shock absorber on banks' balance sheets during economic downturns. It allows banks to keep making loans exactly when businesses and households might need an economic lifeline the most.

Banks that conduct business without capital levels that reflect their risk and complexity present an outsized threat to our financial system and economy. After it investigated the 2008 crisis, the Financial Crisis Inquiry Commission put the problem in clear terms: "Too many of these institutions acted recklessly, taking on too much risk, with too little capital."[1] The consequences of that recklessness was enormous: millions of people lost their jobs,[2] families lost trillions of dollars of wealth in their homes,[3] and many workers still struggled to find work ten years later.[4] Congress and your agencies responded to that catastrophe by requiring higher capital levels so that if banks took such risks again, they—and not the taxpayers—would bear the consequences.

Our banking system has become more resilient since then, but there are still loopholes that need to be closed and rules that must be strengthened to protect against risk to our financial system. We saw earlier this year that when poor risk management and rising interest rates led to accumulating investment losses, Silicon Valley Bank (SVB) needed more capital. SVB's failed attempt to raise this capital was a key factor in its collapse, which then rippled throughout the economy, spooking depositors at other institutions and jeopardizing the stability of our financial system.[5] When the bank's $150 billion of uninsured deposits were in limbo, some of those deposits belonged to companies who suddenly did not know if their funds were safe and whether they would be able to pay their employees. Similarly, SVB had developed a track record of financing affordable housing projects in California and Massachusetts that were thrown into uncertainty by its failure. The government ultimately intervened with extraordinary measures to limit the effects of these failures on the real economy, by ensuring that companies could continue paying their employees and that affordable housing projects financed by failed banks would continue to be developed. This unfortunate series of events demonstrated why it is so important to continue to enhance the capital and prudential framework for the largest banks.

The small group of banks that the proposed rule covers are among the largest and most complex financial institutions in the world. Some are behemoths with trillions of dollars in assets. The institutions that would be affected the most focus on sales and trading activity that primarily serve Wall Street and other large institutions. Especially for these large and complex institutions, capital is what keeps risky bets at banks from transforming into layoffs, depleted savings, and fewer wealth-building opportunities for workers, small businesses, and communities. The proposal, when implemented, will increase capital requirements by 19% for the U.S. Global Systemically Important Banks (G-SIBs), which consist of only eight banks. For nearly all other large banks with over $100 billion in assets, capital requirements will increase by 6%. In aggregate, the proposal will increase capital requirements by 16% for all banks with more than $100 billion in assets, thereby impacting fewer than 50 banks that operate in the U.S.

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[1] Financial Crisis Inquiry Commission, "Financial Crisis Inquiry Report", January 2011, xviii.

[2] Stephanie Hugie Barello, "Consumer Spending and U.S. Employment from the 2007–2009 Recession through 2022," *Monthly Labor Review (U.S. Bureau of Labor Statistics)*, October 2014.

[3] U.S. Government Accountability Office, "Financial Regulatory Reform: Financial Crisis Losses and Potential Impacts of the Dodd-Frank Act," January 2013, 20-21.

[4] Arne L. Kalleberg and Till M. von Wachter, "The U.S. Labor Market During and After the Great Recession: Continuities and Transformations," *RSF: The Russel Sage Foundation Journal of the Social Sciences*, April 2017, 3.

[5] *Recent Bank Failures and the Federal Regulatory Response, Hearing Before the Banking, Housing, and Urban Affairs Committee of the U.S. Senate*, 118th Cong. 1 (2023) (testimony by Michael S. Barr, Vice Chair for Supervision, Board of Governors of the Federal Reserve System), 3.

II. Comments on key issues.

Capital supports access to credit. Banks need capital so that they can support the economy and lend to families and businesses consistently, through good times and bad. When banks are undercapitalized and become distressed, they restrict lending to the customers they are chartered to serve, and may even threaten those customers' financial future if the bank is suddenly forced to close.[6] And when banks pull back on lending, it's often underserved communities and households who are the first ones cut off from services and products like affordable mortgages.[7] Strong overall capital levels support, not threaten, sustained access to affordable credit for the people and places historically left behind.

We urge you to adopt overall capital requirements that will allow the largest banks to serve their communities through all market cycles. Americans deserve affordable homeownership, prosperous communities served by local small businesses, and a clean energy future powered by good wages. When operating safely, banks can and should consistently fund investments that support all of these priorities. As you consider comments with respect to individual risk weights on specific assets, we urge you to ensure that risk weights encourage banks to prioritize traditional banking activities that benefit the members of the community they're chartered to serve—including affordable mortgage and small business credit for underserved communities; investments in community development and resilience; and investments in projects and businesses that will reduce energy costs and carbon emissions while creating well-paying jobs. We also encourage you to ensure that weights sufficiently account for the risk of the most speculative trading activities that provide little if any benefit to working customers and small businesses but will put them at risk if a bank's bets fail, as well as for operational risks from poor internal controls and external threats.

The capital proposal closes important loopholes for banks like Silicon Valley. We appreciate that the proposed rule strengthens financial stability by closing regulatory gaps for banks in the $100 billion to $250 billion range, while still reflecting the differences between banks of varying sizes and complexity. All of the banks covered under the proposed rule have assets of at least $100 billion, and several have trillions of dollars in assets. Even though this is a wide range, these are all large banks with the potential to cause real harm to depositors and workers if they run into trouble. The proposal includes reasonable measures that would apply to banks within this range, such as calculating capital requirements with the same general methodology as larger banks, adopting capital buffers that respond to economic volatility, accounting for unrealized losses in regulatory capital, and using a minimum amount of capital relative to total assets. They close some of the loopholes that applied to SVB, which ultimately collapsed and was resolved under the systemic risk determination. Moreover, using a risk-based approach means that the banks engaging in the riskiest activities will have to build the most capital—which is often the largest,

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6 Dan Burns, Ann Saphir, and Howard Schneider, "The Fed Sees a Looming Credit Crunch. What's That?" *Reuters*, March 24, 2023; Claudia Ayanna Sharygin, "Class and Color in the Credit Crunch," *Urban Institute*, October 2013.
7 See e.g., Joint Center for Housing Studies of Harvard University, "The State of the Nation's Housing: 2016," 2016, 22-23; Arthur Acolin et al., "Borrowing Constraints and Homeownership Over the Recent Cycle," via *Social Science Research Network,* March 2016.

most complex institutions. As a result, the proposed rule would still leave the most stringent requirements for the G-SIBs.

Stronger capital rules fit your agencies' mandate and position American banks to compete over the long run. It is U.S. regulators' jobs to make sure that the guardrails put in place are attuned to the structure, risks, and other characteristics unique to the U.S. banking system. While respecting international standards is important because of our interconnected, global financial system, the Basel Committee set minimum standards, not a cap. Additionally, strong rules that mitigate risks contribute to a resilient American economy and global prominence of the U.S. banking system. Safer, well-capitalized banks are better for investors; when a crisis strikes, it is the safest banks who are able to keep deposits secure, keep issuing loans, and still serve their customers and communities. Stronger, better capitalized banks promote, not hinder, their competitive edge.

III. Conclusion.

Banks are unique and important institutions. We trust them to safeguard our money and provide the credit that builds homes, supports businesses, and creates jobs—critical functions that support the entire economy and affect practically every American. That is why Congress has empowered your agencies to enact prudential standards that help insulate the banking system from economic distress and protect the financial well-being of American workers, families, and businesses. We urge you to finalize a strong capital rule that meets that mandate.

Sincerely,

[redacted]

Sherrod Brown
Chairman
Senate Committee on
Banking, Housing, and Urban
Affairs

[redacted]

Jack Reed
United States Senator

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Elizabeth Warren
United States Senator

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