February 16, 2024

The Honorable Jerome Powell
Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

The Honorable Michael 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 Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Mr. Michael Hsu
Acting Comptroller
Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Washington, DC 20219

Chair Powell, Vice Chair Barr, Chairman Gruenberg, and Acting Comptroller Hsu:

We write regarding your efforts to strengthen capital requirements for the largest banks, specifically through the proposed rule to implement the Basel III endgame and the proposed rule to strengthen the capital surcharge for global systemically important banks (G-SIBs).[1] We believe strong capital rules are the cornerstone of an effective prudential regulatory framework that promotes financial stability and the safety and soundness of our banking system. This is because capital helps shield banks from unexpected losses, preventing their failure, while serving as a source of funding that banks use, along with other sources of funds like deposits, to operate and make loans in good times and in bad.[2] While you are to be commended for the methodical process you have engaged in – including the Fed's holistic capital review,[3] providing the public nearly six months to provide feedback, and proposing to gradually phase in the implementation over multiple years – we believe it is important to finalize these

[1] Fed, FDIC, OCC, *Agencies request comment on proposed rules to strengthen capital requirements for large banks* (Jul. 27, 2023). *Also see* FDIC, *July 27, 2023, FDIC Board Meeting* (Jul. 27, 2023).
[2] *See* Stephen Cecchetti and Kim Schoenholtz, *Ignore the bank lobby, regulators. It's high time for banking reform*, *Washington Post* (Jan. 10, 2023). Research has also shown that higher capital levels has resulted in more bank lending, and that better capitalized banks lend more compared to other banks. *See* Stephen Cecchetti and Kim Schoenholtz, *Better capitalized banks lend more and lend better* (Dec. 5, 2016), and *Setting Bank Capital Requirements* (Oct. 12, 2020).
[3] *See* Fed Vice Chair for Supervision Michael Barr, *Holistic Capital Review* (July 10, 2023); Fed Vice Chair Barr, *Making the Financial System Safer and Fairer* (Sep. 7, 2022); and Fed Vice Chair Barr, *Why Bank Capital Matters* (Dec. 1, 2022).

rules this year to ensure we have a banking system that will promote stable economic growth for the benefit of constituents in our congressional districts and communities across the country.

Your agencies made strides following the 2008 global financial crisis to strengthen the safety and soundness of our banking system, especially by increasing large bank capital requirements, as you implemented provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act along with the initial stages of Basel III capital reforms. Indeed, capital levels in terms of tier 1 leverage ratio for U.S. G-SIBs rose from 5% in 2008 to 9% by the end of 2016.[4] And yet, according to extensive research from the Fed and others, that level was arguably insufficient.[5] In 2017, former Fed Governor Dan Tarullo gave remarks as he stepped down from the Fed, observing that based on this research, bank capital requirements were at the "lower end" of a range of "capital requirements that best balances the benefits associated with reduced risk of financial crisis with the costs of banks funding with capital rather than debt."[6]

Instead of increasing bank capital levels further to better balance the costs and benefits of the policy, Trump-appointed regulators reversed course and advanced a series of rollbacks that amounted to what Mr. Tarullo described as, "a kind of low-intensity deregulation, consisting of an accumulation of non-headline-grabbing changes and an opaque relaxation of supervisory rigor."[7] In response, 19 Members of Congress sent a letter led by Ranking Member Maxine Waters and Rep. Ed Perlmutter in September 2018, urging the Fed to maintain appropriately strong capital requirements for G-SIBs.[8] In December 2020, Ranking Member Waters also wrote to then President-elect Biden, and urged that his regulatory appointees "immediately take action to restore and enhance regulatory safeguards that put consumers, investors and taxpayers first, and ensures the financial system is better prepared for unexpected events. For example, your appointees should immediately reverse harmful rules that have eased prudential requirements for the largest banks, including the stress capital buffer, swap margin, and leverage rules. Based on the considerable research showing banks should maintain even higher levels of capital to appropriately reduce the risk of a future financial crisis, your appointees should further issue new rules to strengthen the capital regulatory framework especially for megabanks."[9]

Unfortunately, Trump-era deregulation set in motion a significant reduction in large bank capital levels and pushed our banking system to the brink of collapse last March. The tier 1 leverage ratio for U.S. G-SIBs steadily fell from 9% in 2016 to 7% by 2023,[10] which represents a loss of *half* of the gains made in large bank capital levels following the 2008 financial crisis. G-SIBs currently maintain 2-3% less capital in terms of tier 1 leverage ratio compared to what community banks and regional banks maintain.[11] Moreover, the Trump-era rollbacks contributed to the second, third, and fourth largest bank failures in U.S. history last March. In its internal review report regarding the failure of Silicon Valley Bank (SVB), the Fed highlighted that due to a Trump-era rollback, SVB was able to opt-out of capital requirements relating to accumulated other comprehensive income (AOCI), which allowed the bank to

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[4] *See* Federal Reserve Bank of Kansas City, *Bank Capital Analysis* (accessed Jan. 11, 2024), and *Semiannual Update* (Nov. 17, 2023).

[5] *See* Simon Firestone, Amy Lorenc and Ben Ranish, *An Empirical Economic Assessment of the Costs and Benefits of Bank Capital in the U.S.* (2017), Federal Reserve Board; International Monetary Fund, *Benefits and costs of bank capital* (2016); Federal Reserve Bank of Minneapolis, *The Minneapolis Plan to End Too Big to Fail* (Dec. 2017); and James Barth and Stephen Matteo Miller, *Benefits and Costs of a Higher Bank Leverage Ratio* (2017), Mercatus Working Paper, George Mason University.

[6] Remarks of Former Federal Reserve Governor Daniel K. Tarullo, *Departing Thoughts* (April 4, 2017).

[7] Remarks by former Fed Governor Daniel K. Tarullo, *Taking the Stress out of Stress Testing*, Americans for Financial Reform Conference on Big Bank Regulation Under the Trump Administration. (May 21, 2019).

[8] FSC, *Waters, Perlmutter and 17 Other Democrats Call on Fed to Maintain Capital Requirements for Megabanks* (Sep. 21, 2018)

[9] FSC, *Waters Provides Recommendations to President-Elect Biden on Trump Actions to Reverse* (Dec. 4, 2020);

[10] *See* Federal Reserve Bank of Kansas City, *Bank Capital Analysis* (accessed Jan. 11, 2024), and *Semiannual Update* (Nov. 17, 2023).

[11] *Id*.

seem better capitalized than it was with a large amount of unrealized losses in their securities portfolio.[12] The Fed estimated this AOCI opt-out inflated SVB's capital ratio by nearly 2%,[13] making them appear stronger than they really were.

Last summer, your agencies proposed rules that would strengthen large bank capital requirements, including one to implement the final components of Basel III agreed to by Basel Committee on Banking Supervision (BCBS) in 2017, referred to as the "Basel III endgame."[14] The proposal would reduce the ability of large banks to use internal models for measuring capital requirements, replacing those with a standardized approach set by regulators, and modestly increase capital requirements by an average of 16% for the largest banks through improved capital calculations. Specifically, we are glad this rule is focused on the largest banks with more than $100 billion in total assets, ensuring that community banks will not be impacted,[15] while also correcting the AOCI opt-out issue to ensure regional banks like SVB are not undercapitalized in the future. Additionally, this rule is responsive to recommendations made by financial regulatory experts, the Financial Stability Oversight Council (FSOC), and other stakeholders.[16] Furthermore, the Fed's rule to strengthen the G-SIB capital surcharge will help ensure it better reflects a G-SIB's systemic risk and prevent them from gaming the requirements to lower their capital buffers.[17]

While some have raised alarm about the Basel III endgame rule's impact on access to credit, we appreciate that you have explained that the funding impact on a large bank's average lending portfolio is estimated to be incredibly small – roughly an increase of 0.03% to their cost of capital to support their current lending activities.[18] That adjustment is arguably insignificant compared to many other factors that affect lending, like when the Fed raises interest rates by 0.5% or even 0.25% in a single Federal Open Market Committee meeting. Moreover, you have been clear you support access to credit in a prudent way. For example, the rule explicitly states that, "The agencies are supportive of home ownership and do not intend the proposal to have a disparate impact on home affordability or homeownership opportunities, including for low- and moderate-income (LMI) home buyers or other

[12] *See* Fed, *Fed announces the results from the review of the supervision and regulation of Silicon Valley Bank, led by Vice Chair for Supervision Barr* (Apr. 28, 2023); and Seeking Alpha, *SVB Financial: Incompetence Allowed By Flawed Regulations* (Mar. 12, 2023).
[13] *Id*.
[14] In addition to the interagency Basel III endgame proposal, the Fed also issued a second proposed rulemaking to modify the capital surcharge that applies to Global Systemically Important Banks (G-SIBs). For both proposals, *see* Fed, *Agencies request comment on proposed rules to strengthen capital requirements for large banks* (Jul. 27, 2023). *Also see* FDIC, *July 27, 2023, FDIC Board Meeting* (Jul. 27, 2023).
[15] Market risk provisions of the proposals would apply to smaller banks only to the extent they engage in significant trading activities. Also see ICBA, *ICBA Commends Fed Vice Chair Barr for Targeting Regulatory Capital Reforms on Largest Institutions* (Jul. 10, 2023).
[16] In FSOC's 2022 annual report, FSOC recommended that "banks and banking supervisors assess the adequacy of their capital, including unrealized losses on securities portfolios." In FSOC's 2023 annual report, it stated that "The Council encourages efforts to complete the Basel III reforms to further enhance the resilience of the banking system." *Also see* Former FDIC Chairman Sheila Bair, *The truth about proposed bank capital rules*, *Financial Times* (Sep. 2, 2023); Stephen Cecchetti and Kim Schoenholtz, *Ignore the bank lobby, regulators. It's high time for banking reform*, *Washington Post* (Jan. 10, 2023); Americans for Financial Reform (AFR), *Letters to Regulators: Strong Basel Capital Standards Support Growth* (Jan. 16, 2024); Better Markets, *More Capital Will End Wall Street Megabank Bailouts, Protect Main Street Families, Small Businesses, and the Entire Economy* (Jan. 16, 2024); Comment Letter from 30 Scholars of Banking and Finance (Jan. 18, 2024); Comment Letter from Public Citizen (Jan. 16, 2024); Comment Letter from CFA Institute's Systemic Risk Council co-chaired by Simon Johnson and Erkki Liikanen; Senate Banking Committee, *Brown, Colleagues Urge Strong Capital Rules to Protect Americans' Money* (Jan. 19, 2024); Testimony from Simon Johnson, Ronald A. Kurtz (1954) Professor of Entrepreneurship, MIT Sloan School of Management, at FSC hearing (Feb. 15, 2024); Testimony from The Honorable Janet Yellen, Secretary, U.S. Department of the Treasury, at FSC hearing (Feb. 6, 2024); Testimony from Jeremy Kress, Assistant Professor of Business Law, Stephen M. Ross School of Business University of Michigan, at FSC hearing (Jan. 31, 2024); Testimony from Renita Marcellin, Advocacy and Legislative Director, AFR, at FSC hearing (Nov. 7, 2023); Testimony from Mayra Rodríguez Valladares, Managing Principal, MRV Associates, at FSC hearing (Sep. 19, 2023); and Testimony from Alexa Philo, Senior Policy Analyst for Banking, Systemic Risk, Economic Justice & Racial Equity, AFR, at FSC hearing (Sep. 14, 2023).
[17] *See* Senate Committee on Banking, Housing, and Urban Affairs, *Brown, Colleagues Urge Federal Reserve to Strengthen Guardrails for the Biggest Banks* (Nov. 30, 2023), and Comment Letter from Professors Anat Admati, Jeremy Kress, and Jeffery Zhang (Jan. 16, 2024).
[18] *See* Remarks by Fed Vice Chair Barr, *Capital Supports Lending* (Oct. 9, 2023).

historically underserved markets."[19] We appreciate that you have offered options and been very open to taking feedback from stakeholders, including on provisions related to mortgage loans, small business loans, and clean energy investments. We believe this sensible approach will help you choose appropriate options and targeted refinements so you can finalize these rules quickly to support access to credit, especially for underserved communities, and protect the economy.

In closing, we reiterate our belief that it would be beneficial if these rules are promptly implemented and if you reject industry-led attacks to materially weaken if not block the implementation of these safeguards. After all, these rules would help address glaring weaknesses with bank capital rules, including those that apply to the type of regional banks that failed less than a year ago. Moreover, some experts have suggested the capital increases may even be too modest,[20] which was underscored by Vice Chair Barr's comments indicating that most banks *already* have enough capital to meet the new standards, and those that don't could do so in a relatively short period of time.[21] Nonetheless, these rules will help ensure we have better capitalized banks that are well positioned to serve consumers and small businesses in good times and in bad, while reducing the odds we have another costly financial crisis resulting in trillions of dollars in economic loss with millions of foreclosures and jobs lost. We look forward to the timely completion of these important rules.

Sincerely,

[redacted]

Maxine Waters
Ranking Member, Committee
on Financial Services

[redacted]

Becca Balint
Member of Congress

[redacted]

Jamaal Bowman, Ed.D.
Member of Congress

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André Carson
Member of Congress

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Greg Casar
Member of Congress

[19] Fed, FDIC, OCC, *Agencies request comment on proposed rules to strengthen capital requirements for large banks* (Jul. 27, 2023).
[20] *See* Center for American Progress, *CAP Comments on Regulators' Proposals To Increase Bank Capital Requirements* (Dec. 14, 2023); Better Markets, *More Capital Will End Wall Street Megabank Bailouts, Protect Main Street Families, Small Businesses, and the Entire Economy* (Jan. 16, 2024); and Comment Letter from Professor Anat Admati (Jan. 16, 2024).
[21] Reuters, *Fed plans to boost US banks' reserve requirements; industry gripes* (Jul. 10, 2023).

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