



MORTGAGE BANKERS ASSOCIATION

October 22, 2025

Office of the Comptroller of the Currency
12 CFR Chapter I
Docket ID OCC-2023-0016

Federal Reserve System
12 CFR Chapter II
Docket No. OP-1828

Federal Deposit Insurance Corporation
12 CFR Chapter III
RIN 3064-ZA39

RE: Joint Agencies' Notice of Proposed Rulemaking: Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996

Ladies/Gentlemen:

The Mortgage Bankers Association (MBA)¹ appreciates the opportunity to comment on the notice of proposed rulemaking (NPR)² issued jointly by the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (the Fed), and the Federal Deposit Insurance Corporation (FDIC) (jointly, the Agencies) on the Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA").

I. EXECUTIVE SUMMARY

MBA looks forward to working with the Agencies to identify areas where changes to the current rules affecting insured depository institutions would eliminate outdated, unnecessary, or unduly burdensome regulatory requirements. We appreciate the Agencies'

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

² Available at: <https://www.federalregister.gov/documents/2025/07/25/2025-14060/regulatory-publication-and-review-under-the-economic-growth-and-regulatory-paperwork-reduction-act>

commitment to engaging industry on the various policy issues affecting insured depository institutions participating in commercial and residential real estate markets.

The MBA focused most of our comments on issues pertaining to Capital and the Community Reinvestment Act (CRA) as requested by the Agencies. Our letter highlights various policy issues brought to us by our members from both the residential and commercial real estate mortgage industries.

II. BACKGROUND

Under Section 2222,³ EGRPRA requires that not less frequently than every ten years, the Federal Financial Institutions Examination Council (FFIEC) and the Agencies conduct a review of their regulations to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions. EGRPRA requires the FFIEC or the Agencies to publish in the Federal Register a summary of the comments received, identifying significant issues raised and commenting on those issues. Subsequently, it directs the Agencies to eliminate unnecessary regulations, as appropriate. Lastly, the statute requires the FFIEC to submit a report to Congress that summarizes any significant issues raised in the public comments and the relative merits of those issues. The report must include an analysis of whether the Agencies are able to address the regulatory burdens associated with such issues or whether those burdens must be addressed by legislative action.

The Agencies grouped regulations covering insured depository institutions into the 12 categories listed in alphabetical order: Applications and Reporting; Banking Operations; Capital; Community Reinvestment Act; Consumer Protection;⁴ Directors, Officers and Employees; International Operations; Money Laundering; Powers and Activities; Rules of Procedure; Safety and Soundness; and Securities. These categories are consistent with previous EGRPRA reviews.

The Agencies specifically invite comments on the issues as they pertain to the Agencies' Banking Operations, Capital, and the Community Reinvestment Act rules. The Agencies' EGRPRA review poses a series of nineteen questions for commenters. MBA's comments and recommendations are below.

III. MBA COMMENTS

A. Community Reinvestment Act

The Community Reinvestment Act serves as a strong catalyst for certain bank activities and is therefore important to tailor properly. We appreciate the decision to rescind the 2023

³ 12 U.S.C. 3311.

⁴ The Agencies are seeking comment only on consumer protection regulations for which they retain rulemaking authority for insured depository institutions and holding companies under the Dodd-Frank Wall Street Reform and Consumer Protection Act, [Public Law 111-203](#), 124 Stat. 1376 (2010) (Dodd-Frank Act).

Rule and reconsider how to best modernize the rules and look forward to working with the regulators on a re-proposal. Examples of areas that should be addressed include:

i. Workforce Housing

One important consideration is how the Rule credits organizations for lending in support of workforce housing. Banks should receive CRA consideration for unsubsidized affordable housing that is not located in either an LMI geography or a geography where the median renter is LMI, so long as the rent is affordable. This would appropriately incentivize institutions to, for example, finance workforce housing that would allow teachers, police officers, firefighters, and others to live close to the communities they serve.

ii. List of Qualifying CRA Lending Activities

As MBA noted in its previous CRA comment letter, we also believe communities would benefit from the Agencies' publishing a non-exhaustive list of qualifying CRA community lending activities on a quarterly basis. Such a list would eliminate uncertainty about what activities receive CRA credit and promote lending for those purposes. Situations in which one bank views a particular activity as meeting CRA lending requirements while another does not should be held to a minimum.

B. Bank Capital

MBA applauds the regulators for their thoughtful consideration of capital requirements for depository institutions and looks forward to working with the Agencies on issues affecting bank capital. As Treasury Secretary Bessent recently noted, "there is a lot of work to do in terms of bringing this back down to commonsense levels." We look forward to working with regulators as they refine the current system. Among the areas ripe for focus are:

i. Basel III

Overall, MBA found some aspects of the Agencies' 2023 proposal,⁵ including the adjustment of risk weights based on the loan-to-value ratios of commercial mortgages, to be positive and likely to promote appropriate commercial real estate lending while ensuring adequate capital reserves. Some other aspects of the Rule, however, including unworkable provisions designating certain performing loans as in default, were troubling, leading to concerns about the overall effort. We appreciate the Agencies' efforts to reform Basel III and look forward to continuing to engage on finalization.

ii. Statutory Multifamily Mortgages

Another area of opportunity regarding bank capital relates to statutory multifamily mortgages. In general, Federal Banking Agencies require institutions to assign a 50 percent risk weight to a statutory multifamily mortgage.⁶ Lowering the risk weight for statutory multifamily mortgages would promote additional bank activity in the financing and

⁵ 2023-19200 (88 FR 64028)

⁶ Federal Reserve - 12 CFR Part 217 Subpart D, OCC - 12 CFR Part 3 Subpart D, FDIC - 12 CFR Part 324 Subpart D

development of multifamily housing, driving down costs and resulting in more affordable housing units. The strong performance of multifamily loans and their loss history supports consideration of capital requirements that are lower than what is allowable under statutory multifamily.

iii. Construction Loans

Construction loans have also long been under additional scrutiny by regulators. In general, CRE loans issued by banks are assigned a risk weight of 100 percent. Additionally, a certain subset of CRE loans, considered High Volatility Commercial Real Estate (HVCRE), are assigned a risk weight of 150 percent. We ask the Agencies to re-consider whether these risk weights are serving their intended purpose -- or unnecessarily forcing lenders to forego market participation due to the unnecessarily heightened capital requirements.

iv. Different Forms of Credit Extension

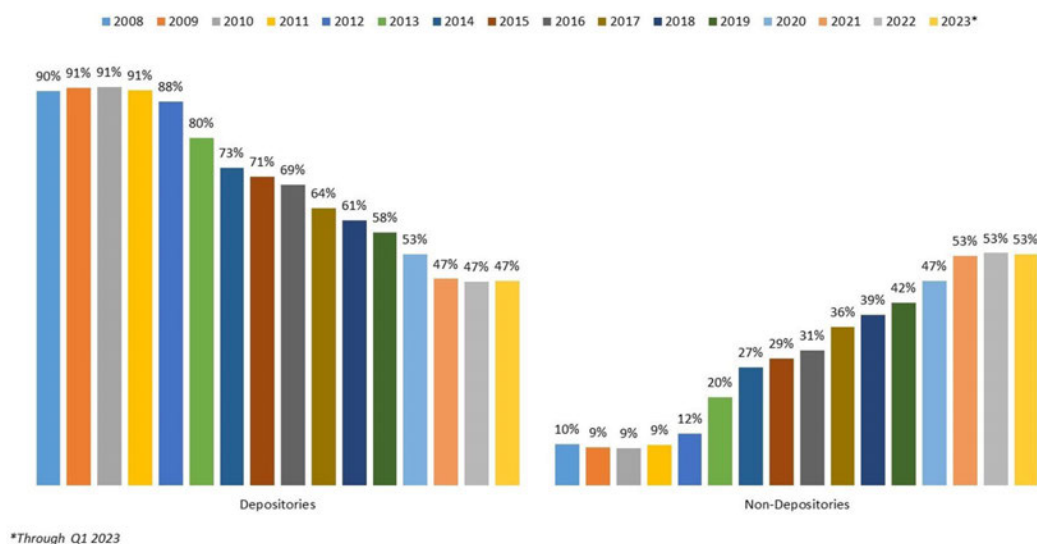
In any review of capital requirements, we also ask the Banking Agencies to consider the relative capital requirements and risks of different forms of credit extension. With CRE lending taking place both within and outside the banking system, it is important to ensure that bank balance sheet lending is not unduly penalized relative to other extensions of credit. As noted below relative to warehouse lines in the single-family mortgage market, various structures and forms of on- and off-balance sheet lending should be supported in a way that does not put depositories at a disadvantage.

v. Mortgage Servicing Rights (MSR) Risk Weights

The current punitive 250% risk weight on MSRs has been cited by many analysts – including the Financial Stability Oversight Council – as a primary contributor to banks' exodus from the mortgage servicing market.⁷ In 2012, the year before the current bank regulatory rules were put in place, banks held 88% of all servicing assets; today they hold about 47%. The decline has been consistent since the 250% risk weight was put in place, and plateaued only after the agencies raised the Tier 1 cap on MSRs to 25%.

⁷ [FSOC 20230421 Minutes.pdf \(treasury.gov\)](#); page 7.

Who Are the Mortgage Servicers?



Source: NDS: MBA's National Delinquency Survey www.mba.org/nds

MBA has long advocated for a reduction in the punitive risk weight assigned to MSRs under Basel III, and we continue to urge the Agencies to work with industry to understand the implications of such punitive treatment,⁸ such as the harmful downstream impacts on the mortgage market and consumers.

MSRs play a key role in enabling banks and independent mortgage bankers (IMBs) to provide mortgage credit to their community. The servicing business is not just about collecting and advancing payments but also establishing and deepening relationships with borrowers and managing forbearance and loss mitigation. These relationships help banking institutions strengthen their ties with the communities in which they are located and enable them to be a better resource to the local economy. These relationships are especially meaningful during distressed times, such as the recent pandemic, when banks' ability to understand and address the needs of their existing borrowers became a useful tool in helping consumers navigate the unprecedented impact of the pandemic on household finances. By making the capital treatment for servicing assets unattractive, banks have continued to reduce their appetite for mortgage origination and servicing, resulting in declines in MSR values and higher interest rates for borrowers.

MBA is concerned that the Agencies continue to take the erroneous and outdated position that MSRs are extremely risky and difficult to value. More than 15 years after the Great Financial Crisis, the mortgage servicing market has changed significantly. Today, the MSR asset is a well-managed and controlled asset and holders of MSRs engage in various

⁸ For many years now, MBA has been urging the Agencies to amend Basel III rules for all banks and increase the cap to 50%, eliminate the 15% aggregate cap for threshold items, and reduce the risk weighting of MSRs to 130%.

activities – including hedging and regular marking-to-market – to better manage volatility risk.

While the process of selling MSRs may take longer than some other asset classes, this is a byproduct of the processes that have been put in place by regulators and government sponsored enterprises to protect borrowers, guarantors and investors. For instance, the process includes the time that is needed to obtain Ginnie Mae, Fannie Mae or Freddie Mac approval for the sale, as well as the regulatory requirement to send letters to borrowers from both the transferor and the transferee alerting them to the change in servicers.

Furthermore, the sale process includes buyer due diligence as well as physical and electronic transfers of files and information. These required and prudent procedures that accompany the sale of the asset should not be used as a reason or justification to punish holders of the asset.

Great strides have been made over the last several years to better understand, control, and manage MSRs. This has not only reduced the risk of the asset class but has also improved the ability of banks to value the asset, resulting in a well-functioning and actively traded market for MSRs. Even as the Agencies raised questions and concerns in a 2016 Report about the riskiness and liquidity of MSRs, they did acknowledge that of the 518 banking institutions that failed between 2007 and 2015, 66 had MSRs on their books at the date of failure, and “problems with MSRs” was identified as a significant factor leading to the failure of only one institution and as “contributing” to the failures of three others. It is therefore unclear why the Agencies continue to take the same position on MSRs years later, despite clear evidence of improvement in the management of, valuation of, and active market for the asset. It is also extremely difficult to understand how the Agencies could determine that, certain assets with “unspecified credit risks” or even very high risk assets, including “junk bonds,” be risk weighted lower than MSRs.

The negative impact of the current punitive risk weight on MSRs cannot be overemphasized. For instance, in addition to forcing banks to reduce their MSR holdings, the current rules reduce their appetite for originating, purchasing and selling home mortgages in the secondary market, and also result in banks pulling back from lending against the MSR asset. Inevitably, the overall effect increases costs for all borrowers.

Therefore, MBA strongly recommends that the Agencies reduce the current 250% punitive risk weight assigned to MSRs to no more than 130% as MBA has been advocating for many years; and apply this recommended risk weight for MSRs to all banks, regardless of size, given that the characteristics of the asset do not change depending on who owns it.

vi. Warehouse Line Risk Weights

The current capital framework assigns a 100 percent risk weight to warehouse lines – a change that occurred in 2014 from previous interpretations that assigned a 50 percent risk weight to warehouse lines structured as repurchase facilities. This 2014 capital guidance was led by the OCC pursuant to an accounting policy change that we believe ignores the substance of the transaction. Instead, the OCC guidance focuses on the form to arrive at

the higher risk weight because the bank does not “own” for GAAP accounting purposes the collateral backing the line. As a result, the OCC concluded that the warehouse line cannot be assigned the same 50 percent weight as the collateral, despite the fact that the warehouse bank has direct control over the collateral.

This change has caused strains in the market when IMBs are not able to respond efficiently to consumers when origination demand is high. In such times, warehouse lenders are not able to supply sufficient lines of credit to even the strongest IMBs in a timely manner. As the Agencies are aware, the U.S. mortgage market experiences significant demand volatility. With bank warehouse lines providing funding for more than 60% of single-family mortgage originations, it's important that capital requirements accurately reflect the underlying risk. If capital requirements are set too high, warehouse lenders may not be able to supply the necessary liquidity to meet spikes in demand, increasing the cost of lending to all borrower segments, but especially low-to-moderate income borrowers and first-time homeowners.

Warehouse lines are generally backed by mortgages that are pre-sold to Fannie Mae, Freddie Mac (together “the GSEs”) and Ginnie Mae for ultimate securitization, which then become GSEs/Ginnie securities (i.e., agency securities).

The warehouse lender/bank does not “own” the collateral for accounting purposes. However, for all other purposes, including most importantly, for the purpose of mitigating any loss on the warehouse line, the bank controls and is in possession of the collateral. If the IMB borrower fails, the bank is able to claim the collateral and turn it into cash by delivering it to the committed investors to avoid losses on the warehouse line. Therefore, while the bank does not own the collateral for accounting purposes, the bank *controls* the collateral for the most important purpose – to mitigate any loss on the warehouse line. Alternatively, the bank can retain the mortgages on balance sheet – at the lower 50% risk weight.

In the current economic environment, maintaining the stability of the housing finance market is critical. MBA believes that reducing the risk weight assigned to mortgage warehouse facilities will help increase liquidity for the residential mortgage market, which will in turn help maintain the stability of the housing market, without negatively impacting safety and soundness of the banking system. As harsher capital rules over the last few years continue to drive banks away from mortgage origination and servicing activities, banks have provided billions in liquidity to IMBs, which has been vital to facilitate home ownership for consumers, including LMI borrowers.

Therefore, MBA recommends that the Agencies reduce the risk weight on warehouse lines of credit to mirror the risk weight of the underlying mortgage loans securing the line.

vii. Community Bank Leverage Ratio (CBLR)

Congress directed the Agencies to develop a CBLR of not less than 8% and not more than 10% for qualifying community banks to correspond to the well-capitalized category under the Prompt Corrective Action (“PCA”) capital framework. The Agencies established a CBLR level of “greater than 9%.” In effect, a qualifying institution with greater than 9% CBLR would be considered well-capitalized and eligible to opt into the CBLR framework. In

establishing a CBLR of greater than 9%, the Agencies noted that “an 8 percent CBLR would allow more banking organizations to opt into the CBLR framework...” However, the assumption that a lower CBLR “could incentivize a large number of CBLR banking organizations to hold less regulatory capital than they do today” played a major role in setting this higher CBLR level. There is no evidence that an 8% CBLR would undermine the safety and soundness of the banking system.

MBA strongly recommends that the Agencies revise the current CBLR level, and establish an 8% CBLR. The current CBLR (as noted by the Agencies) operates to exclude many qualified institutions from opting into the CBLR framework, thereby negating Congress’ goal of making available a simplified regulatory capital framework for the smallest and least complicated community banks. Moreover, an 8% CBLR would help achieve the Agencies’ stated goals of burden reduction, and in fact, allow more community banks to qualify for the CBLR framework – without impacting the safety and soundness of the banking system.

C. Banking Operations

i. Examinations

MBA appreciated the Agencies’ 2023 Policy Statement on Prudent Commercial Real Estate Loan Accommodations and Workouts⁹ which specified “financial institutions that implement prudent CRE loan accommodation and workout arrangements after performing a comprehensive review of a borrower’s financial condition will not be subject to criticism for engaging in these efforts, even if these arrangements result in modified loans with weaknesses that result in adverse classification.”

Furthermore, the OCC’s 2024 Bulletin on Commercial Lending: Refinance Risk¹⁰ stated, “Loans that are adequately protected by the current sound worth and debt service ability of the borrower, guarantor, or the underlying collateral generally are not adversely classified.¹¹ Similarly, loans to sound borrowers that are modified in accordance with prudent underwriting standards are generally not adversely classified unless well-defined weaknesses exist that jeopardize repayment. Such loans, however, could be flagged for management’s attention or for inclusion in designated watch lists.”

Building on such guidance, we recommend the Agencies assess loans in the context of their current performance and conditions, not previous expectations or performance.

For example, examiners may lean on a loan’s “performance to plan” in their assessments – penalizing a performing loan because it varies from initial expectation even if it continues to show progress and positive trends. Similarly, modified, re-performing CRE loans should not come under additional scrutiny from bank examiners because of their past performance but rather should be considered based on their current characteristics and conditions.

⁹ 88 FR 43115

¹⁰ OCC Bulletin 2024-29

¹¹ For more information on risk ratings, refer to the “Rating Credit Risk” booklet of the Comptroller’s Handbook.

In all of this, it is worth remembering the value of precise, actionable comments from examiners. Feedback on how to address Supervisory Recommendations and Matters Requiring Attention with step-by-step instructions for remediation allows banks to address matters in a timely manner. MBA remains supportive of efforts to simplify exams for the Agencies' examiners while ensuring financial stability and appreciates the FDIC and OCC's recent Notice of Proposed Rulemaking to Define "Unsafe or Unsound Practice" and to Revise the Framework for Issuing Matters Requiring Attention.

ii. Thresholds Related to Capital and Supervision

Starting October 1, 2025, the OCC classifies banks in three distinct groups for supervision: Large and Global Financial Institutions (>\$500B), Regional and Midsize Financial Institutions (\$30B to \$500B), and Community Banks (up to \$30B).¹² MBA encourages the Agencies to work together to ensure banks of similar sizes are supervised in a manner consistent across all of the Agencies in order to avoid regulatory fragmentation.

iii. Thresholds for Establishing Capital Standards

Under the current capital framework, the Agencies have established asset thresholds for categorizing banks for purposes of capital and liquidity requirements (i.e., Category I, II, III and IV thresholds). While there is justification for thresholds, which allows the Agencies to impose more stringent supervisory and regulatory requirements as banks grow in size, the fact that the thresholds are static acts as a hinderance to economic growth and flexibility. For instance, the lack of indexing has created a situation that penalizes even the most modest (and necessary) bank growth, which in essence, discourages activities that could be beneficial for banks and the economy in general. A bank's size was never intended to be the dispositive factor for determining the appropriate level of supervision, but if size is to be used as a metric for changes in regulatory requirements, it should, at a minimum reflect the current market environment, to be adjusted on an ongoing basis, for example, every 5 years.

MBA strongly recommends that the Agencies address this issue by indexing the current regulatory thresholds, which will ensure appropriate supervision that is tailored with growth in mind, ultimately promoting economic growth and opportunity. In fact, Governor Bowman rightfully noted that while she supports the tailoring of the capital rules based on bank size and business model, the Agencies need to "prioritize the identification and remediation of issues that may pose long-term structural problems to the banking system and the critical markets it supports..." In essence, lack of indexing impedes activities that should in fact, be encouraged and supported through every cycle as a way to encourage economic growth and stimulation (such as mergers, consolidations, new product offerings that would increase a bank's asset size) and instead has forced institutions to at times avoid organic growth so

¹² <https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-89.html>

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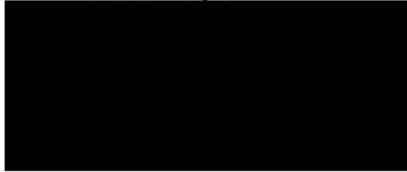
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that they do not cross regulatory categories and fall within heightened regulatory requirements and burdens.

IV. CONCLUSION

MBA thanks the Agencies for undertaking this important review and hopes they will continue to take steps that encourage banks to participate in the residential and commercial real estate mortgage markets. We appreciate the opportunity to comment on EGRPRA and look forward to continuing dialogue with the Agencies on issues affecting insured depository institutions. Please do not hesitate to contact John Lammle [REDACTED] or Fran Mordi [REDACTED] if you have further questions. Thank you.

Sincerely,



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